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Wednesday
April 30, 1997

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FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1997–7]

Recordkeeping and Reporting by Political Committees: Best Efforts

AGENCY: Federal Election Commission.

ACTION: Final Rule; Transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is revising its regulations implementing the requirement of the Federal Election Campaign Act (''FECA'') that treasurers of political committees exercise best efforts to obtain, maintain and report the complete identification of each contributor whose contributions aggregate more than $200 per calendar year. The new rules change the required statement that must accompany solicitations for contributions. The revisions also state that separate segregated funds must report contributor information in the possession of their connected organizations. Further information is provided in the supplementary information which follows.

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

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rosemary C. Smith, Senior Attorney, 999 E Street N.W., Washington, D.C. 20463, (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the text of revisions to its regulations at 11 CFR 104.7(b)(1) and (b)(3), which set forth steps needed to ensure that political committees use their best efforts to obtain, maintain and submit the names, addresses, occupations and employers of contributors whose donations exceed $200 per year. These regulations implement section 432(i) of the Federal Election Campaign Act of 1971, as amended (''the Act'' or ''FECA''). 2 U.S.C. 432(i).

On October 9, 1996 the Commission issued a Notice of Proposed Rulemaking (NPRM) in which it sought comments on proposed revisions to these regulations. 61 F.R. 52901 (Oct. 9, 1996). The comment period was subsequently extended to January 31, 1997. 61 F.R. 68688 (Dec. 30, 1996). Written comments were received from the Center for Responsive Politics (CRP), the Republican National Committee (RNC), Washington State Coalition Against Violent Crime (WSCAV), the Internal Revenue Service (IRS), Hervey W. Herron, and a joint comment from Seafarers Political Activity Donation (SPAD) and Seafarers International Union (SIU).

Since these rules are not major rules within the meaning of 5 U.S.C. 804(2), the FECA controls the legislative review process. *See* 5 U.S.C. 801(a)(4), Small Business Regulatory Reform Enforcement Fairness Act, Public Law 104–121, section 251, 110 Stat. 857, 869 (1996). Section 438(d) of Title 2, United States Code, requires that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on April 25, 1997.

Explanation and Justification

The FECA specifies that reports filed by political committees disclose ''the identification of each * * * person (other than a political committee) who makes a contribution to the reporting committee * * * whose contribution or contributions [aggregate over $200 per calendar year] * * * together with the date and amount of any such contribution.'' 2 U.S.C. 434(b)(3)(A). For an individual, ''identification'' means his or her full name, mailing address, occupation and employer. 2 U.S.C. 431(13). Treasurers of political committees must be able to show they have exercised their best efforts to obtain, maintain and report this information. 2 U.S.C. 432(i).

The Commission's regulations at 11 CFR 104.7(b), which implement these requirements of the FECA, are being revised to resolve two issues. The first concerns the phrasing of the request for contributor identifications and other information which must be included in all political committee solicitations. The second concerns the measures separate segregated funds should take if they do not receive the necessary information from contributors.

Section 104.7(b)(1)

The Commission's current regulations at 11 CFR 104.7(b)(1) require the inclusion of the following statement on all solicitations: ''Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of $200 in a calendar year.'' Recently, the Court of Appeals for the D.C. Circuit concluded that this mandatory statement is inaccurate and misleading. *Republican National Committee* v. *Federal Election Commission,* 76 F.3d 400, 406 (D.C. Cir. 1996), *cert. denied,* 117 S.Ct. 682 (1997). The court pointed out that the FECA only requires committees to use their best efforts to collect the information and to report whatever information donors choose to provide. Other provisions of the ''best efforts'' regulations were upheld by the court.

Consequently, the NPRM proposed revising paragraph (b)(1) of section 104.7 by requiring political committees to include in their solicitations an accurate statement of the statutory requirements. The notice indicated that either of the following two examples would satisfy this requirement, but would not be the only allowable statements: (1) ''Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 in a calendar year.'' (2) ''To comply with Federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 per calendar year.'' Alternatively,

comments were also sought on whether it would be preferable to simply require all political committees to use one or the other of these two formulations.

The public comments reflected a variety of reactions to this proposed rule. Two commenters misunderstood the proposed rule in that they believed political committees would be penalized if they fail to use one of the FEC-prescribed statements. As explained, below, that would not be the case, as long as political committees use an accurate statement of the law. One commenter expressed concerns as to the statutory authority and constitutionality of the Commission's proposed rule. These considerations have already been resolved in *Republican National Committee* v. *Federal Election Commission*, 76 F.3d 400, 406 (D.C. Cir. 1996), *cert. denied*, 117 S.Ct. 682 (1997). Another commenter expressed general concerns regarding the impact of contributions in political campaigns and urged various legislative changes. The Internal Revenue Service found no conflict between the FEC's proposed rules and the Internal Revenue Code or IRS rules promulgated thereunder.

Another commenter urged the adoption of stronger measures, such as notifying contributors that their contributions will not be deposited and must be returned if they do not provide complete contributor identifications. This commenter believes that differences in reporting rates are attributable to variations in the seriousness of different committees' efforts to comply with the statutory requirements. It is concerned that the Commission's present best efforts rules are inadequate in ensuring sufficient disclosure. The Commission has previously considered and rejected this approach because it is beyond the statutory authority granted to the Commission at this time. *See* Explanation and Justification 58 F.R. 55727–28 (Oct. 27, 1993). The commenter also urged the Commission to prohibit the use of ''vague'' descriptions of occupations such as ''business owner,'' ''chairman,'' ''administrator,'' ''manager,'' and ''self-employed.'' The Commission is reluctant to bar the use of the titles the commenter believes to be vague because many of them are commonly-used official titles which provide meaningful information in combination with the name of the contributor's employer.

In the final rules which follow, paragraph (b)(1) of section 104.7 states that solicitations must contain an accurate statement, and provides two examples of statements that will be acceptable. However, for the reasons raised by the commenters, the Commission has decided not to require political committees to use only the statements listed. Consequently, the final regulations have been revised to allow for the use of other accurate statements of federal law regarding best efforts. Thus, the Commission has made every effort to ensure that committees have as much flexibility as possible. Nevertheless, please note that statements such as ''Federal law requires political committees to ask for this information,'' without more, do not provide contributors with a complete statement regarding Federal law, and hence, do not meet the requirements of revised 11 CFR 104.7(b)(1).

Section 104.7(b)(3)

The NPRM proposed revising paragraph (b)(3) of section 104.7 to indicate that separate segregated funds are expected to report contributor information in the possession of their connected organizations. This includes corporations (including corporations without capital stock), labor organizations, trade associations, cooperatives and membership organizations. In some situations, it may be more efficient for separate segregated funds to obtain the missing contributor information from their connected organizations than from the contributors.

One commenter supported this proposal. The Internal Revenue Service found no conflict between the FEC's proposed rules and the Internal Revenue Code or IRS rules promulgated thereunder. Another commenter expressed concerns that this proposal would alter the resolution reached by the Commission in Advisory Opinion 1996–25, issued to the Seafarers Political Activity Donation and its connected organization, the Seafarers International Union.

The Commission has decided to add the proposed new language to 11 CFR 104.7(b)(3). This will ensure that contributor identifications are reported as accurately and as completely as possible. Since many separate segregated funds are already reporting most, if not all, of this information, the effect of this provision should be minimal. Given that connected organizations establish, administer and financially support their separate segregated funds, it is reasonable for them to provide necessary information in their records when the contributors do not do so. Please note that it is not the Commission's intention at this time to modify or supersede AO 1996–25. Thus, the procedures described in A0 1996–25 will continue to satisfy the revised best efforts regulations for those entities entitled to rely on that opinion.

Certification of no Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that a portion of the attached rules will provide any small entities affected with greater flexibility in complying with the best efforts requirements of the Act by giving them new options as to the statement to be included in their solicitations. Small entities will be affected by the remaining portion of the attached rules only if they are separate segregated funds. Experience has shown that the large majority of these separate segregated funds are already in compliance with the requirements on reporting contributor information. Thus, obtaining missing contributor information from their connected organizations will not have a significant economic effect on a substantial number of these small entities.

List of Subjects in 11 CFR Part 104

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

For the reasons set out in the preamble, Subchapter A, Chapter I of Title 11 of the *Code of Federal Regulations* is amended as follows:

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

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

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

2. Section 104.7 is amended by revising paragraphs (b)(1) and (b)(3) to read as follows:

§ 104.7 Best efforts (2 U.S.C. 432(i)).

* * * * *

(b) * * *

(1) All written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the collection and reporting of individual contributor identifications. The following are examples of acceptable statements, but are not the only allowable statements: ''Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose

contributions exceed $200 in a calendar year;'' and ''To comply with Federal law, we must use best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed $200 per calendar year.'' The request and statement shall appear in a clear and conspicuous manner on any response material included in a solicitation. The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation and response materials, or if the printing is difficult to read or if the placement is easily overlooked.

* * * * *

(3) The treasurer reports all contributor information not provided by the contributor, but in the political committee's possession, or in its connected organization's possession, regarding contributor identifications, including information in contributor records, fundraising records and previously filed reports, in the same two-year election cycle in accordance with 11 CFR 104.3; and

* * * * *

Dated: April 25, 1997.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 97–11183 Filed 4–29–97; 8:45 am]

BILLING CODE 6715–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule modifies the examination fees charged to small business investment companies (SBICs). The revised fee schedule eliminates the disproportionate burden on certain classes of licensees (particularly those with the largest amount of total assets) and results in fee assessments that more closely reflect the level of effort and time associated with the examination process.

DATES: This final rule is effective April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Leonard W. Fagan, Investment Division, at (202) 205–7583.

SUPPLEMENTARY INFORMATION: On January 31, 1996, the Small Business Administration (SBA) published final regulations which, among other things, increased the examination fees charged to SBICs. See 61 FR 3177. Fees continued to be assessed based on total assets of the licensee, but at higher rates. The new fee schedule was designed to produce total revenue sufficient to cover the current direct costs to SBA of conducting examinations. In response to concerns raised by a number of SBICs, SBA proposed on February 11, 1997 to modify the examination fee schedule. See 62 FR 6147. This proposed rule is hereby adopted in final form.

The proposed rule was intended to respond to concerns that the existing fee schedule resulted in unreasonably high examination fees for the group of SBICs with the largest amount of total assets. Many of the largest SBICs are bank-owned and do not use federal leverage funds, so that fees computed on the basis of total assets do not appropriately reflect the level of effort and risk associated with the examination process. Similarly, larger SBICs which are not bank-owned and do rely on federal funds to supplement private capital have been required to pay fees that substantially exceed the amount they pay for financial audits, which are generally more extensive than the compliance examinations performed by SBA.

To address these concerns, SBA proposed to revise § 107.692 by establishing ''base fees'' for examinations. The base fee increases as a licensee's total assets increase, but is capped at $14,000. The base fee would be adjusted upward in circumstances where the Agency incurs additional cost or burdens in the process because of circumstances solely related to the licensee to be examined. Similarly, the base fee would be adjusted downward where circumstances solely related to the licensee to be examined are such that the Agency's level of effort and time are minimized.

SBA received two comments on the proposed rule, both of which were generally supportive. One commenter agreed with the concept of capping the base fee, but suggested a $10,000 cap instead of the proposed $14,000. The commenter considered the lower fee to be more in line with rates charged by independent auditors. The other comment dealt with the proposed adjustments to the base fee, suggesting that SBA consider additional discounts for those licensees which do not use SBA leverage and those with only a limited number of investments which SBA must review. The commenter also suggested elimination of the 5 percent additional charge for licensees organized as partnerships or limited liability companies. The commenter stated that these changes would further the goal of tying SBIC examination fees to the level of effort and resources expended by SBA in performing the examinations.

SBA believes that the proposed maximum base fee of $14,000 is reasonable relative to the size of the SBICs which will be required to pay it (those with total assets greater than $60,000,000). The $14,000 base represents a significantly reduced rate for most of these larger SBICs. For these reasons, SBA has not adopted this suggested change.

SBA generally supports the concept of linking fees to the risk and complexity of the examination. However, the Agency believes that the introduction of additional criteria for discounts would result in an overly complex fee structure. SBA also believes that the additional charge for partnerships is justified because of the complexity of most partnership agreements and the need to perform certain examination procedures at the level of the general partner as well as the SBIC itself.

SBA is making one editorial change to the table in § 107.692(d), so that the language concerning records kept in multiple locations is the same in that paragraph as in § 107.692(c)(5). In all other respects, the rule is adopted as proposed.

Compliance With Executive Orders, 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this final rule will not be a significant regulatory action for purposes of Executive Order 12866 because it will not have an annual effect on the economy of more than $100 million, and that it will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The purpose of the rule is to modify the existing regulatory guidance related to SBIC examination fees. The rule will provide for more reasonable and equitable examination fees. The revised fee structure will more properly reflect the level of effort and Agency resources expended to conduct an examination, will encourage continued compliance with program regulations, and will continue to allow for efficient and effective program administration.

The regulation will have some economic effect. The base fee for examinations will continue to be based on total assets of a licensee and, for the most part, at the rates previously prescribed. However, no licensee will have a base fee greater than $14,000. The regulation will provide for

discounts of the base examination fee for: (1) Licensees with no outstanding regulatory violations at the time of the examination and no violations noted as a result of the most recent prior examination; and (2) licensees that are cooperative with SBA examination personnel by being fully responsive to the letter of notification of examination. Similarly, the regulation will provide increases to the base examination fee for a licensee that: (1) Is organized as a partnership or limited liability company; (2) is authorized to issue Participating Securities; and/or (3) maintains its records/files in multiple locations.

The largest licensees, those with total assets exceeding $60 million, will realize substantial fee decreases. The examination base fee of all licensees potentially could be increased or decreased. Therefore, all licensees with total assets below $60 million may experience a 5% to 25% increase or a 10% to 25% decrease in the cost of an annual examination. The economic impact in either case is inconsequential given the total number of licensees and the base fees applicable to the majority of the licensees. Further, even assuming the maximum increases provided for in the proposed regulations, most licensees with total assets greater than $60 million will realize significant examination fee reductions.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule contains no new reporting or recordkeeping requirements that have not already been approved by the Office of Management and Budget.

For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, SBA hereby amends part 107 of title 13 of the Code of Federal Regulations as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g and 687m, Pub. L. 104–208.

2. Section 107.692 is revised to read as follows:

§ 107.692 Examination fees.

(a) *General.* SBA will assess fees for examinations in accordance with this § 107.692. Unless SBA determines otherwise on a case by case basis, SBA will not assess fees for special examinations to obtain specific information.

(b) *Base fee.* A base fee will be assessed based on your total assets (at cost) as of the date of your latest certified financial statement or a more recent interim statement requested by and submitted to SBA in connection with the examination. The base fee table is as follows:

Total assets of licensee	Base fee	Plus, percent of assets
$0 to $1,500,000	$3,500	+0%
$1,500,001 to $5,000,000	3,700	+.065% of the amount over $1,500,000
$5,000,001 to $10,000,000	6,000	+.02% of the amount over $5,000,000
$10,000,001 to $15,000,000	7,000	+.01% of the amount over $10,000,000
$15,000,001 to $25,000,000	7,700	+.015% of the amount over $15,000,000
$25,000,001 to $50,000,000	9,200	+.015% of the amount over $25,000,000
$50,000,001 to $60,000,000	13,000	+.01% of the amount over $50,000,000
$60,000,001 and above	14,000	+0%

(c) *Adjustments to base fee.* Your base fee, as determined by the table in paragraph (b) of this section, will be adjusted (increased or decreased) based on the following criteria:

(1) If you have no outstanding regulatory violations at the time of the commencement of the examination and SBA did not identify any violations as a result of the most recent prior examination, you will receive a 15% discount on your base fee;

(2) If you were fully responsive to the letter of notification of examination (that is, you provided all requested documents and information within the time period stipulated in the notification letter in a complete and accurate manner, and you prepared and had available all information requested by the examiner for on-site review), you will receive a 10% discount on your base fee;

(3) If you are organized as a partnership or limited liability company, you will pay an additional charge equal to 5% of your base fee;

(4) If you are a Licensee authorized to issue Participating Securities, you will pay an additional charge equal to 10% of your base fee; and

(5) If you maintain your records/files in multiple locations (as permitted under § 107.600(b)), you will pay an additional charge equal to 10% of your base fee.

(d) *Fee discounts and additions table.* The following table summarizes the discounts and additions noted in paragraph (c) of this section:

Examination fee discounts	Amount of discount—% of base examination fee	Examination fee additions	Amount of Addition—% of base examination fee
No prior violations	15	Partnership or limited liability company	5
Responsiveness	10	Participating Security Licensee	10

Examination fee discounts	Amount of discount—% of base examination fee	Examination fee additions	Amount of Addition—% of base examination fee
		Records/files at multiple locations	10

(e) *Delay fee.* If, in the judgement of SBA, the time required to complete your examination is delayed due to your lack of cooperation or the condition of your records, SBA may assess an additional fee of up to $500 per day.

Dated: April 17, 1997.

Aida Alvarez,

Administrator.

[FR Doc. 97–11109 Filed 4–29–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–09; Amendment 39–9970; AD 97–06–13]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB.211 Trent 800 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce plc RB.211 Trent 800 series turbofan engines. This action requires initial and repetitive visual and fluorescent penetrant inspections (FPI) of the angled drive upper shroud tube for frettage and cracking, initial and repetitive visual inspections and FPI for cracking, a one-tine FPI for porosity of the intermediate gearbox housing (IGH), and initial and repetitive visual inspections for cracking of the external gearbox lower bevel box (LBB) housing. In addition, this action requires initial and repetitive master magnetic chip detector inspections. Finally, prior to initiation of Extended Range Twin-Engine Operations (ETOPS), or prior to September 30, 1997, whichever occurs first, this action requires installation of a redesigned angled drive upper shroud tube and a lower splitter fairing with revised sealing. This amendment is prompted by reports of loss of oil from the angle drive upper shroud tube, the IGH, the LBB, and by reports of bearing failures. The actions specified by this AD are intended to prevent loss of oil, which could cause an engine fire. This AD is also intended to prevent inflight engine shutdowns and airplane diversions caused by oil loss and from bearing failures.

DATES: Effective May 15, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of May 15, 1997.

Comments for inclusion in the Rules Docket must be received on or before June 30, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97-ANE–09, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: ''9__ad __engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce North America, Inc., 2001 South Tibbs Ave., Indianapolis, IN 46241; telephone (317) 230-3995, fax (317) 230–4743. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7147, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority, which is the airworthiness authority for the United Kingdom (UK), recently notified the FAA that an unsafe condition may exist on Rolls-Royce plc RB.211 Trent 800 series turbofan engines. The CAA advises that they have received ten reports of loss of oil and one report of intermediate pressure compressor (IPC) front bearing roller retainer tang failure.

Loss of oil: The reports to the CAA indicate that oil can leak from the angled drive upper shroud tube, from the intermediate gearbox housing (IGH), or from the external gearbox lower bevel box (LBB) housing. The angled drive upper shroud tube may contact adjacent lower bifurcation structure initiating frettage on the tube. The nacelle structure may also transfer vibratory loads onto the tube to the point of fracture, causing oil leakage. The IGH, which is attached to the angled drive upper shroud tube assembly, or the LBB, which is attached to the external gearbox, can develop cracks, causing oil leakage.

Bearing failure: The reports to the CAA indicate that the IPC front bearing, and bearings in the IGH and internal gearbox can fail and cause an inflight shutdown and aircraft diversion.

These conditions, if not corrected, can result in loss of oil, that could cause an engine fire. These conditions may also result in inflight engine shutdowns and airplane diversions caused by oil loss and from bearing failures.

Rolls-Royce plc has issued the following service documents: Mandatory Service Bulletin (SB) No. RB.211–72–C089, Revision 1, dated January 24, 1997, that describes procedures for inspection of angled drive upper shroud tubes for frettage and cracks; Mandatory SB No. RB.211–72–C129, Revision 2, dated March 21, 1997, that describes procedures for inspection of the IGH for cracks and porosity and the LBB housing for cracks; SB No. RB.211–72–C114, Original, dated February 6, 1997, that describes procedures for installation of an improved angled drive upper shroud tube with a lower splitter fairing with revised sealing; and Mandatory SB No.

RB.211–79–C093, Revision 1, dated February 28, 1997, that describes procedures for inspection of the master magnetic chip detector. The CAA classified three of these service documents, identified above, as mandatory in order to assure the airworthiness of these engines.

This engine model is manufactured in the UK and is type certificated for operation in the United States (US) 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 CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the US.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the US, the proposed AD would require: initial and repetitive visual and FPI of the angled drive upper shroud tube for frettage and cracking, initial and repetitive visual inspections and FPI of the IGH for cracking, a one-time FPI of the IGH for porosity, and initial and repetitive visual inspections of the LBB housing for cracking. In addition, this action requires initial and repetitive master magnetic chip detector inspections. Finally, prior to initiation of Extended Range Twin-Engine Operations (ETOPS), or prior to September 30, 1997, whichever occurs first, this action requires installation of an improved angled drive upper shroud tube with a lower splitter fairing with revised sealing. The actions would be required to be accomplished in accordance with the service documents described previously. Following identification of additional corrective actions that would negate the need to continue frequent inspections, additional rulemaking may be forthcoming.

Additionally, since this AD affects ETOPS service, the requirement to install the improved angled drive upper shroud tube with a lower splitter fairing with revised sealing prior to entering ETOPS service is in accordance with the airplane ETOPS requirements and has been coordinated with and concurred by the Transport Airplane Directorate of the FAA.

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

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–ANE–09.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–06–13 Rolls-Royce plc: Amendment 39–9970. Docket 97–ANE–09.

Applicability: Rolls-Royce plc (R-R) RB.211 Trent 800 series turbofan engines, installed on but not limited to Boeing 777 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must 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 prevent loss of oil, that could cause an engine fire, and inflight engine shutdowns and airplane diversions caused by oil loss and from bearing failures, accomplish the following:

(a) Inspect angle drive upper shroud tubes as follows:

(1) Within 50 CIS after the effective date of this AD, visually inspect and measure the frettage and fluorescent penetrant inspect

(FPI) for cracks the angle drive upper shroud tubes in accordance with R-R Service SB No. RB.211–72–C089, Revision 1, dated January 24, 1997.

(2) Thereafter, at intervals not to exceed 50 CIS since last inspection, visually inspect and measure the frettage and FPI for cracks the angled drive upper shroud tubes, in accordance with R–R SB No. RB.211–72–C089, Revision 1, dated January 24, 1997.

(3) Prior to further flight, remove from service angled drive upper shroud tubes that exhibit frettage measured in excess of 0.020 inches, or any cracks, and replace with serviceable parts.

(4) Installation of an improved angled drive upper shroud tube with a lower splitter fairing with revised sealing in accordance with R–R SB No. RB.211–72–C114, dated February 6, 1997, constitutes terminating action to the inspection requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(5) Prior to initiation of ETOPS, or prior to September 30, 1997, whichever occurs first, install an improved angled drive upper shroud tube with a lower splitter fairing with revised sealing in accordance with R-R SB No. RB.211–72–C114, dated February 6, 1997.

(b) Inspect the intermediate gearbox housing (IGH) and external gearbox lower bevel box (LBB) housing as follows:

(1) Within 5 CIS after the effective date of this AD, perform an initial visual inspection of the IGH and LBB housing for cracks, in accordance with R–R Mandatory SB No. RB.211–72–C129, Revision 2, dated March 21, 1997.

(2) Within 10 CIS after the effective date of this AD, perform an initial FPI of the IGH for cracks, in accordance with R–R Mandatory SB No. RB.211–72–C129, Revision 2, dated March 21, 1997.

(3) Thereafter, at intervals not to exceed 5 CIS since last visual inspection, visually inspect the IGH and LBB housing for cracks, and at intervals not to exceed 10 CIS since last FPI, FPI the IGH, in accordance with R–R Mandatory SB No. RB.211–72–C129, Revision 2, dated March 21, 1997.

(4) Within 10 CIS after the effective date of this AD, perform an FPI of the IGH for porosity in accordance with R–R Mandatory SB No. RB.211–72–C129, Revision 2, dated March 21, 1997.

(5) Within the next 5 CIS, remove from service IGHs that exhibit porosity levels in excess of the acceptable criteria listed in the SB and replace with serviceable parts.

(6) Prior to further flight, remove from service cracked IGHs and LLB housings and replace with serviceable parts.

(c) Inspect the master magnetic chip detector as follows:

(1) Within 100 hours time in service (TIS) after the effective date of this AD, perform an initial inspection of the master magnetic chip detector in accordance with Mandatory SB No. RB.211–79–C093, Revision 1, February 28, 1997.

(2) Thereafter, at intervals not less than 60 hours TIS and not greater than 130 hours TIS since last inspection, perform repetitive inspections of the master magnetic chip detector in accordance with Mandatory SB No. RB.211–79–C093, Revision 1, dated February 28, 1997.

(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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

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

(f) The actions required by this AD shall be performed in accordance with the following R–R service documents:

Document No.	Pages	Revision	Date
SB No. RB.211–72–C089	1–3	1	Jan. 24, 1997.
Total pages: 3.			
SB No. RB.211–72–C129	1–3	2	Mar. 21, 1997.
	4–6	1	Mar. 7, 1997.
	7	2	Mar. 21, 1997.
Total pages: 7.			
SB No. RB.211–72–C114	1–48	Original	Feb. 6, 1997.
Supplement	1–4	Original	Feb. 6, 1997.
Total pages: 52.			
SB No. RB.211–79–C093	1,2	1	Feb. 28, 1997.
Total pages: 2.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce North America, Inc., 2001 South Tibbs Ave., Indianapolis, IN 46241; telephone (317) 230–3995, fax (317) 230–4743. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 15, 1997.

Issued in Burlington, Massachusetts, on April 14, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–10469 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–008]

Establishment of Class E Airspace; Mount Oliver, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Mount Oliver, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), serving Pittsburgh City Center Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Warren, PA (62 FR 11127). This action would provide adequate Class E

airspace for IFR operations to Pittsburgh City Center Hospital Heliport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Mount Oliver, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Pittsburgh City Center Hospital Heliport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5 Mount Oliver, PA [New]

Pittsburgh City Center Hospital Heliport, PA
Point in Space Coordinates
(Lat. 40°25′09″N., long. 79°57′31″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Pittsburgh City Center Hospital Heliport excluding that portion that coincides with the Pittsburgh PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11219 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–004]

Establishment of Class E Airspace; Warren, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Warren, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), serving Warren General Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 3, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Warren, PA (62 FR 9392). This action would provide adequate Class E airspace for IFR operations to Warren General Hospital Heliport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Warren, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Warren General Hospital Heliport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points,

dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AEA PA E5 Warren PA [New]

Warren General Hospital Heliport, PA
Point In Space Coordinates
(Lat. 41°50′03″N., long., 79°08′11″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Point In Space serving Warren General Hospital Heliport.

* * * * *

Issued in Jamaica, New York on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11220 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–011]

Establishment of Class E Airspace; Kittanning, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Kittanning, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GSP), serving Armstrong County Memorial Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 3, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Kittanning, PA (62 FR 9394). This action would provide adequate Class E airspace for IFR operations to Armstrong County Memorial Hospital Heliport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Kittanning, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Armstrong County Memorial Hospital Heliport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[Amended]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5 Kittanning, PA [New]

Armstrong County Memorial Hospital Heliport, PA
Point In Space Coordinates
(Lat. 40°47′49″N., long. 79°34′18″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Armstrong County Memorial Hospital Heliport.

* * * * *

Issued in Jamaica, New York on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11221 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–15]

Establishment of Class E Airspace; Friendly, MD

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Friendly, MD, to accommodate a VHF Omni-Directional Radio Range (VOR), Distance Measuring Equipment (DME) and Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Potomac Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Friendly, MD (62 FR 11126). This action would provide adequate Class E

airspace for IFR operations at Potomac Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Friendly, MD, to accommodate a VOR/DME or GPS RWY 6 SIAP and for IFR operations at Potomac Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

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

* * * * *

AEA MD E5 Friendly, MD [New]

Potomac Airport, MD
(Lat. 38°44′52N., long. 76°57′26″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Potomac Airport, excluding that portion that coincides with the Washington, DC Class E airspace area.

* * * * *

Issued in Jamaica, New York on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11226 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–009]

Establishment of Class E Airspace; Donora, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Donora, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), serving Monongahela Valley Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 3, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Warren, PA (62 FR 9395). This action would provide adequate Class E airspace for IFR operations to Monongahela Valley Hospital Heliport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Donora, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Monongahela Valley Hospital Heliport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

September 16, 1996, is amended as follows:

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

* * * * *

AEA PA E5 Donora, PA [New]

Monongahela Valley Hospital Heliport, PA
Point In Space Coordinates
(Lat. 40°10′26″N., long. 79°54′29″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Monongahela Valley Hospital Heliport excluding that portion that coincides with the Pittsburgh PA Class E airspace area and the Monongahela, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11227 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 94–AWP–15]

RIN 2120–AA66

Establishment of Restricted Area 2311 (R–2311), Yuma Proving Ground, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a new Restricted Area R–2311 (R–2311) at Yuma Proving Ground (YPG), Yuma, AZ. The restricted area will contain the U.S. Army's weapons and ammunition acceptance testing, a mission that was relocated from Jefferson Proving Ground, IN, as a result of the 1988 Base Realignment and Closure Act.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1988, Congress passed Public Law 100–526, the Defense Authorization Amendments and Base Closure and Realignment Act. One of the provisions of the Act was to relocate the activities occurring at Jefferson Proving Ground, IN, to YPG, AZ. The closure activity at Jefferson was to occur in a phased manner from 1991 to 1995. During the airspace review, the Army concluded that the existing ranges at YPG were unable to fully accommodate the activity required for munitions production acceptance testing. Due to the need for uninterrupted use of airspace to support the test mission, the U.S. Army requested that the FAA take action to convert an existing controlled firing area (CFA), Kofa South, into a restricted area.

On January 6, 1995, the FAA proposed to amend Title 14 of the Code of Federal Regulations part 73 (14 CFR part 73) to establish R–2311, Yuma Proving Ground, Yuma, AZ (60 FR 2048). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. The coordinates for this airspace docket are based on North American Datum 83. Restricted areas are republished in Section 73.23 of FAA Order 7400.8D dated July 11, 1996.

The Rule

This amendment to 14 CFR part 73 establishes R–2311, Yuma Proving Ground, Yuma, AZ. R–2311 is located within the lateral boundaries of the Kofa South CFA and extends from the surface to 3,500 feet MSL. The times of designation are sunrise to sunset, Monday through Saturday, other times by NOTAM. The closure of Jefferson Proving Ground, IN, and the subsequent move of the munitions testing function to YPG, AZ, has created a need for uninterrupted use of airspace in support of the U.S. Army Test and Evaluation Command mission. These activities cannot be fully accommodated on existing ranges located at YPG. The restrictions and limitations on CFA activity are not amenable to the type of activity required for munitions production acceptance testing. R–2311 is a joint use area, and, when the area is not being used by YPG, it will be released to the controlling agency.

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

Environmental Review

In September 1991, the U.S. Army, as the lead agency for the mandatory move of the Jefferson Proving Ground's activities to YPG, published an environmental impact statement (EIS) in accordance with the National Environmental Policy Act (NEPA). Additionally, upon FAA's request, the U.S. Army conducted an environmental assessment (EA) targeted at the specific activities the U.S. Army proposes to conduct within the new restricted area. This EA was published in June 1996. The FAA has reviewed and adopts the EIS and the EA submitted by the U.S. Army. Use of the subject area, as proposed, is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of the NEPA and would not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(c) of NEPA. This restricted area does not have the potential to significantly increase noise over surrounding wilderness areas or trigger the requirements of Section 4(f) of the Department of Transportation Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 73.23 [Amended]

2. Section 73.23 is amended as follows:

R–2311 Yuma, AZ [New]

Boundaries. Beginning at lat. 32°46′48″N., long. 114°19′16″W.; to lat. 32°51′20″N., long. 114°19′04″W.; to lat. 32°51′53″N., long. 114°03′40″W.; to lat. 32°46′48″N., long. 114°03′51″W.; to the point of beginning.

Altitudes. Surface to 3,500 feet MSL.

Time of designation. Sunrise to sunset, Monday through Saturday; other times by NOTAM.

Controlling Agency. Yuma Approach Control (MCAS), Yuma, AZ.

Using Agency. Commanding Officer, Yuma Proving Ground, Yuma, AZ.

Issued in Washington, DC, on April 21, 1997

Jeff Griffith,

Program Director for Air Traffic, Airspace Management.

[FR Doc. 97–11204 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28898; Amdt. No. 1795]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPS contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 18, 1997.

David R. Harrington,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

AUTHORITY: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME, § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

****Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
04/03/97	IL	Bloomington/Normal	Bloomington/Normal	7/1855	ILS Rwy 29 Amdt 8b...
04/03/97	TN	Lafayette	Lafayette Muni	7/1857	NDB or GPS Rwy 19, Amdt 2A...
04/04/97	AZ	Casa Grande	Casa Grande Muni	7/1889	GPS Rwy 5, Orig...
04/07/97	MA	Hyannis	Barnstabel Muni-Boardman/Polando Field.	7/1956	ILS Rwy 15 Amdt 2A...
04/08/97	LA	Tallulah/Vicksburg	Vicksburg Tallulah Regional	7/1970	GPS Rwy 36, Orig...
04/08/97	LA	Tallulah/Vicksburg	Vicksburg Tallulah Regional	7/1972	LOC Rwy 36, Orig...
04/08/97	LA	Tallulah/Vicksburg	Vicksburg Tallulah Regional	7/1974	NDB Rwy 36, Orig...
04/08/97	MI	Sturgis	Kirsch Muni	7/1979	NDB Rwy 24 Amdt 10A...
04/08/97	MI	Sturgis	Kirsch Muni	7/1981	NDB Rwy 18 Amdt 5A...
04/09/97	NM	Roswell	Roswell Industrial Air Center	7/1999	GPS Rwy 35, Orig...
04/10/97	AZ	Casa Grande	Casa Grande Muni	7/2023	GPS Rwy 23 Orig...
04/10/97	TX	Fort Worth	Fort Worth Alliance	7/2021	ILS Rwy 34R Amdt 2B...
04/14/97	NC	Fayetteville	Fayetteville Regional/Grannis Field	7/2081	LOC BC Rwy 22 Amdt 5...
04/14/97	NC	Fayetteville	Fayetteville Regional/Grannis Field	7/2083	VOR or GPS Rwy 28 Amdt 7...
04/14/97	NC	Fayetteville	Fayetteville Regional/Grannis Field	7/2085	NDB or GPS Rwy 4 Amdt 14...
04/14/97	NC	Fayetteville	Fayetteville Regional/Grannis Field	7/2087	VOR Rwy 4 Amdt 15...
04/14/97	NC	Fayetteville	Fayetteville Regional/Grannis Field	7/2090	Radar 1 Amdt 6...
04/14/97	NC	Fayetteville	Fayetteville Regional/Grannis Field	7/2092	ILS Rwy 4 Amdt 14...

Casa Grande

Casa Grande Muni
Arizona
GPS Rwy 5, Orig...
FDC Date: 04/04/97

FDC 7/1889 /CGZ/ FI/P Casa Grande Muni, Casa Grande, AZ. GPS Rwy 5, Orig...Missed approach...Climbing right turn to 5600 direct TFD Vortac and hold. This is GPS Rwy 5, Orig–A.

Casa Grande

Casa Grande Muni
Arizona
GPS Rwy 23 Orig...
FDC Date: 04/10/97

FDC 7/2023 CGZ/ FI/P Casa Grande Muni, Casa Grande, AZ. GPS Rwy 23 Orig... Missed approach... Climb to 5600 direct TFD Vortac and hold. Terminal route AYZUT WP /IAF/ to TAFYE WP 3400. This is GPS Rwy 23 Orig–A

Bloomington/Normal

Bloomington/Normal
Illinois
ILS Rwy 29 AMDT 8B
FDC Date: 04/03/97

FDC 7/1855 /BMI/ FI/P Bloomington/Normal, Bloomington/Normal, IL. ILS Rwy 29 Amdt 8B... Terminal routes... BMI VOR/DME to annay Int/OM/BMI 7.6 DME 3100. MCLEN INT to BMI VOR/DME 3100. CMI Vortac to Sayba Int 3100. Sayba Int (IAF) to Annay Int 3100. PTN L side of CRS 108 outbnd 3100 ft within 10 mi of Annay Int, MNM ALT Annay 3100. MNM GS INTCP 3100. This is ILS RWY 29 Amdt 8C.

Tallulah/Vicksburg

Vicksburn Tallulah Regional
Louisiana
GPS Rwy 36, Orig...
FDC Date: 04/08/97

FDC 7/1970 /TVR/ FI/P Vicksburg Tallulah Regional, Tallulah/Vicksburg, LA. GPS Rwy 37 Orig... DLT Monroe Regional ALSTG minimums and remote ALTM note. This is GPS Rwy 18, Orig–A.

Tallulah/Vicksburg

Vicksburg Tallulah Regional
Louisiana
LOC Rwy 36, Orig...
FDC Date: 04/08/97

FDC 7/1972 /TVR/ FI/P Vicksburn Gallulah Regional, Tallulah/Vicksburn, LA. LOC Rwy 36, Orig... DLT Monroe Regional ALSTG Minimums and remote ALTM note. This is LOC Rwy 36, Orig–A.

Tallulah/Vicksburn

Vicksburg Tallulah Regional
Louisiana
NDB Rwy 26, Orig...
FDC Date: 04/08/97

FDC 7/1974 /TVR/ FI/P Vicksburg Tallulah Regional Tallulah/Vicksburg, LA. NDB Rwy 36 Orig... DLT Monroe Regional ALSTG minimums and remote ALTM note. This is NDB Rwy 36, Orig–A.

Hyannis

Barnstabel Muni-Boardman/Polando Field
Massachusetts
ILS Rwy 15 Amdt 2A...
FDC Date: 04/07/97

FDC 7/1956 /HYA/ FI/P Barnstabel Muni-Boardman/Polando Field, Hyannis, MA. ILS Rwy 15 Amdt 2A... Delete Note... DME or radar required. Add note... ADF Required. This is ILS Rwy 15 Amdt 2B.

Sturgis

Kirsch Muni
Michigan
NDB Rwy 24 Amdt 10A
FDC Date: 04/08/97

FDC 7/1979/IRS/ FI/P Kirsch Muni, Sturgis, MI. NDB Rwy 24 Amdt 10A... Terminal Route... Sewto Int to IRS NDB... Change course to 045.56 and distance to 5.24 NM. This is NDB Rwy 24 Amdt 10B.

Sturgis

Dirsch Muni
Michigan
NDB Rwy 18 Amdt 5A...
FDC Date: 04/08/97

FDC 7/1981 /IRS/ FI/P Kirsch Muni, Sturgis, MI. NDB Rwy 18 Amdt 5A... Terminal Route Sewto Int to IRS NDB... Change course to 045.56 and distacne to 5.24 NM. This is NDB Rwy 18 Amdt 5B.

Fayetteville

Fayetteville Regional/Grannis Field
North Carolina
LOC BC Rwy 22 Amdt 5...
FDC Date: 04/14/97

FDC 7/2081 /FAY/ FI/P Fayetteville Regional/Grannis Field, Fayetteville, NC. LOC BC Rwy 22 Amdt 5... Delete note... When control zone not in effect, use Simmons AAF altimeter setting and increase all MDAS 20 feet missed approach instructions... Climb to 600 then climbing left turn to 3000 VIA FAY R–131 to Grands Int/Fay 15 DME and hold. Alternate minimums standard. This is LOC BC Rwy 22 Amdt 5A.

Fayetteville

Fayetteville Regional/Grannis Field
North Carolina
VOR or GPS Rwy 28 Amdt 7...
FDC Date: 04/14/97

FDC 7/2083 /Fay/ FI/P Fayetteville Regional/Grannis Field, Fayetteville, NC. VOR or GPS Rwy 28 Amdt 7... Delete note... When control zone not in effect, use Simmons AAF altimeter setting and increase all DH/MDAS 20 feet. Missed approach instructions... Climbing left turn to 3000 VIA Fay R–131 to gands Int/Fay 15 DME and hold. Alternate minimums standard. This is VOR or GPS Rwy 28 Amdt 7A.

Fayetteville

Fayetteville Regional/Grannis Field
North Carolina
NDB or GPS Rwy 4 Amdt 14. . .
FDC Date: 04/14/97

FDC 7/2085 /FAY/ FI/P Fayetteville Regional/Grannis Field, Fayetteville, NC. NDB or GPS Rwy 4 Amdt 14. . .Delete note. . . When control zone not in effect, use Simmons AAF altimeter setting and increase all MDAS 20 feet. Missed approach instructions. . .Climbing right turn to 3000 VIA Fay R–131 to Gands Int/Fay 15 DME and hold. Alternate minimums standard. This is NDB or GPS Rwy 4 Amdt 14A.

Fayetteville

Fayetteville Regional/Grannis Field
North Carolina
VOR Rwy 4 Amdt 15. . .
FDC Date: 04/14/97

FDC 7/2087/FAY/ FI/P Fayetteville Regional/Grannis Field, Fayetteville, NC. VOR Rwy 4 Amdt 15. . .Delete note. . . When control zone not in effect, use Simmons AAF altimeter setting and increase all DH/MDAS 20 ft. Missed approach instructions. . .Climbing right turn to 3000 VIA Fay R–131 to Gands Int/Fay 15 DME and hold. Alternate minimums standard. This is VOR Rwy 4 Amdt 15A.

Fayetteville

Fayetteville Regional/Grannis Field
North Carolina
Radar 1 Amdt 6. . .
FDC Date: 04/14/97

FDC 7/2090 /FAY/ FI/P Fayetteville Regional/Grannis Field, Fayetteville, NC. Radar 1 Amdt 6. . .Delete note. . . When control zone not in effect procedure NA. Aternate minimums standard. This is Radar 1 Amdt 6A.

Fayetteville

Fayetteville Regional/Grannis Field
North Carolina
ILS Rwy 4 Amdt 14. . .
FDC Date: 04/14/97

FDC 7/2092 /FAY/ FI/P Fayetteville Regional/Grannis Field, Fayetteville, NC. ILS Rwy 4 Amdt 14. . .Delete note. . . When control zone not in effect, use Simmons AAF altimeter setting and increase all DH/MDAS 20 ft. Delete note. . . CAT D S–LOC visibility increased to RVR 5000 for inoperative MM. Missed approach instructions. . .Climb to 600 then climbing right turn to 3000 VIA Fay R–131 to Gands Int/Fay 15 DME and hold. Alternate minimums standard. This is ILS Rwy 4 Amdt 14A.

Roswell

Roswell Industrial Air Center
New Mexico
GPS Rwy 35, Orig. . .
FDC Date: 04/09/97

FDC 7/1999 /ROW/ FI/P Roswell Industrial Air Center, Roswell, NM. GPS Rwy 35, Orig. . .Delete note. . . When LCL ALSTG not received, except for operators with approved weather reporting service, PROC NA. This is GPS Rwy 35, Orig–A.

Lafayette

Lafayette Muni
Tennessee
NDB or GPS Rwy 19 Amdt 2A. . .
FDC Date: 04/03/97

FDC 7/1857 /3M7/ FI/P Lafayette Muni, TN. NDB or GPS Rwy 19, Amdt 2A. . .MSA LFB 25 NM 2700. This is NDB or GPS Rwy 19, Amdt 2B.

Fort Worth

Fort Worth Alliance
Texas
ILS Rwy 34R Amdt 2B. . .
FDC Date: 04/10/97

FDC 7/2021 /AFW/ FI/P Fort Worth Alliance, Fort Worth, TX. ILS Rwy 34R Amdt 2B. . .ALT MNMS. . . ILS CAT D–700–2. This is ILS Rwy 34R Amdt 2C

[FR Doc. 97–11217 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28899; Amdt. No. 1796]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen, do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include ''or GPS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove ''or GPS'' from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 18, 1997.

David R. Harrington,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective May 22, 1997*

Dillingham, AK, Dillingham, VOR/DME or GPS RWY 19, Amdt 5 Cancelled
Dillingham, AK, Dillingham, VOR/DME RWY 19, Amdt 5
Dillingham, AK, Dillingham, VOR or GPS RWY 1, Amdt 7 Cancelled
Dillingham, AK, Dillingham, VOR RWY 1, Amdt 7
Talkeetna, AK, Talkeetna, VOR/DME or GPS RWY 36, Amdt 1A
Talkeetna, AK, Talkeetna, VOR/DME RWY 36, Amdt 1A
Cullman, AL, Folsom Field, NDB or GPS RWY 20, Amdt 2A Cancelled
Cullman, AL, Folsom Field, NDB RWY 20, Amdt 2A
Casa Grande, AZ, Casa Grande Muni, VOR or GPS RWY 5, Amdt 4 Cancelled
Casa Grande, AZ, Casa Grande Muni, VOR RWY 5, Amdt 4
Durango, CO, Durango-La Plata County, VOR/DME or GPS or RWY 2, Amdt 4 Cancelled
Durango, CO, Durango-La Plata County, VOR/DME RWY 2, Amdt 4
Greeley, CO, Greeley-Weld County, NDB or GPS RWY 9, Amdt 1A Cancelled
Greeley, CO, Greeley-Weld County, NDB RWY 9, Amdt 1A
Wabash, IN, Wabash Muni, NDB or GPS RWY 27, Amdt 12 Cancelled
Wabash, IN, Wabash Muni, NDB RWY 27, Amdt 12
Belleville, KS, Belleville Muni, VOR/DME or GPS–A, Amdt 2 Cancelled
Belleville, KS, Belleville Muni, VOR/DME–A Amdt 2
Houma, LA, Houma-Terrebonne, VOR/DME RNAV or GPS RWY 38, Amdt 4B Cancelled
Houma, LA, Houma-Terrebonne, VOR/DME RNAV RWY 36, Amdt 4B
Houma, LA, Houma-Terrebonne, NDB or GPS RWY 18, Amdt 4A Cancelled
Houma, LA, Houma-Terrebonne, NDB RWY 18, Amdt 4A
New Orleans, LA, New Orleans Intl/Moisant Fld, NDB or GPS RWY 10, Amdt 26 Cancelled
New Orleans, LA, New Orleans Intl/Moisant Fld, NDB RWY 10, Amdt 26
Bedford, MA, Laurence G Hanscom Fld, VOR or GPS RWY 23, Amdt 8A Cancelled
Bedford, MA, Laurence G Hanscom Fld, VOR RWY 23, Amdt 8A
Adrian, MI, Lenawee County, NDB or GPS RWY 5, Amdt 7 Cancelled

Adrian, MI, Lenawee County, NDB RWY 5, Amdt 7
Springfield, MO, Springfield Regional, VOR or GPS RWY 20, Amdt 17 Cancelled
Springfield, MO, Springfield Regional, VOR RWY 20, Amdt 17
Jefferson City, MO, Jefferson City Memorial, NDB or GPS RWY 30, Amdt 8A Cancelled
Jefferson City, MO, Jefferson City Memorial, NDB RWY 30, Amdt 8A
Sidney, MT, Sidney-Richland Muni, NDB or GPS RWY 1, Amdt 2 Cancelled
Sidney, MT, Sidney-Richland Muni, NDB RWY 1, Amdt 2
Sidney, MT, Sidney-Richland Muni, NDB or GPS RWY 19, Amdt 3 Cancelled
Sidney, MT, Sidney-Richland Muni, NDB RWY 19, Amdt 3
Columbus, NE, Columbus Muni, NDS or GPS RWY 14, Amdt 12 Cancelled
Columbus, NE, Columbus Muni, NDS RWY 14, Amdt 12
Roswell, NM, Roswell Industrial Air Center, RNAV RWY 35, Amdt 2 Cancelled
Roswell, NM, Roswell Industrial Air Center, VOR/DME RNAV RWY 35, Amdt 3
Roswell, NM, Roswell Industrial Air Center, NDB RWY 21, Amdt 15 Cancelled
Roswell, NM, Roswell Industrial Air Center, NDB RWY 21, Amdt 16
Columbus, OH, Ohio State University, VOR/DME RNAV or GPS RWY 27L, Amdt 6 Cancelled
Columbus, OH, Ohio State University, VOR/DME RNAV RWY 27L, Amdt 6
Columbus, OH, Ohio State University, NDB or GPS RWY 9R, Amdt 6 Cancelled
Columbus, OH, Ohio State University, NDB RWY 9R, Amdt 6 Cancelled
Newark, OH, Newark-Heath, VOR/DME RNAV or GPS RWY 27, Amdt 6 Cancelled
Newark, OH, Newark-Heath, VOR/DME RNAV RWY 27, Amdt 6
Tiffin, OH, Seneca County, NDB or GPS RWY 24, Amdt 7 Cancelled
Tiffin, OH, Seneca County, NDB RWY 24, Amdt 7
Wooster, OH, Wayne County, VOR or GPS RWY 10, Orig-A Cancelled
Wooster, OH, Wayne County, VOR RWY 10, Orig-A
Wooster, OH, Wayne County, NDB or GPS RWY 28 Amdt 7A Cancelled
Wooster, OH, Wayne County, NDB RWY 28 Amdt 7A
Antlers, OK, Antlers Muni, NDB or GPS RWY 35, Amdt 2A Cancelled
Antlers, OK, Antlers, Muni, NDB RWY 35, Amdt 2A
Aurora, OR, Aurora State, NDB or GPS RWY 17, Amdt 1 Cancelled
Aurora, OR, Aurora State, NDB RWY 17, Admt 1
Roseburg, OR, Roseburg Regional, VOR or GPS–A, Amdt 5 Cancelled
Roseburg, OR, Roseburg Regional, VOR–A, Amdt 6
Aguadilla, PR, Rafael Hernandez, VOR/DME or GPS RWY 8, Amdt 1 Cancelled
Aguadilla, PR, Rafael Hernandez, VOR/DME RWY 8, Amdt 1
Newberry, SC, Newberry Muni, NDB or GPS RWY 22, Amdt 4 Cancelled
Newberry, SC, Newberry, Muni, NDB RWY 22, Amdt 4
Andrews, TX, Andrews County, NDB or GPS RWY 15, Amdt 2 Cancelled
Andrews, TX, Andrews County, NDB RWY 15, Amdt 2
Conroe, TX, Montgomery County, VOR/DME RNAV or GPS RWY 32, Amdt 1 Cancelled
Conroe, TX, Montgomery County, VOR/DME RNAV RWY 32, Amdt 1
Fort Stockton, TX Fort Stockton-Pecos County, VOR or GPS RWY 12, Amdt 7A Cancelled
Fort Stockton, TX Fort Stockton-Pecos County, VOR RWY 12, Amdt 7A
Houston, TX, Ellington Field, VOR/DME or TACAN or GPS RWY 4, Amdt 3 Cancelled
Houston, TX, Ellington Field, VOR/DME or TACAN RWY 4, Amdt 3
Houston, TX, Houston Intercontinental, VOR/DME or GPS RWY 14L, Amdt 15A Cancelled
Houston, TX, Houston Intercontinental, VOR/DME RWY 14L, Amdt 15A
Hereford, TX, Hereford Muni, NDB or GPS RWY 21, Amdt 2 Cancelled
Hereford, TX, Hereford Muni, NDB RWY 21, Amdt 2
St George, UT, St George Muni, VOR/DME or GPS RWY 34, Amdt 2A Cancelled
St George, UT, St George Muni, VOR/DME RWY 34, Amdt 2A
Richmond/Ashland, VA, Hanover County Muni, NDB or GPS RWY 16, Orig Cancelled
Richmond/Ashland, VA, Hanover County Muni, NDB RWY 16, Orig
Richmond, VA, Richmond Intl, VOR or GPS RWY 34, Amdt 20 Cancelled
Richmond, VA, Richmond Intl, VOR RWY 34, Amdt 21
Bellingham, WA, Bellingham Intl, NDB or GPS RWY 16 Orig Cancelled
Bellingham, WA, Bellingham Intl, NDB RWY 16 Orig

[FR Doc. 97–11218 Filed 4–29–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 352

[Docket No. 78N–0038]

RIN 0910–AA01

Sunscreen Drug Products for Over-the-Counter Human Use; Marketing Status of Products Containing Avobenzone; Enforcement Policy

AGENCY: Food and Drug Administration, HHS.

ACTION: Announcement of Enforcement Policy.

SUMMARY: The Food and Drug Administration (FDA) is announcing an enforcement policy allowing over-the-counter (OTC) marketing of sunscreen drug products containing avobenzone (Parsol® 1789) at concentrations of up to 3 percent alone and 2 to 3 percent avobenzone in combination with the OTC sunscreen ingredients cinoxate, diethanolamine methoxycinnamate, dioxybenzone, homosalate, octocrylene, octyl methoxycinnamate, octyl salicylate, oxybenzone, sulisobenzone, and/or trolamine salicylate. OTC marketing of such drug products is being permitted pending establishment under the OTC drug review of a final monograph covering sunscreen drug products. FDA anticipates that sunscreen drug products containing up to 3 percent avobenzone alone and 2 to 3 percent avobenzone in combination with the proposed Category I cinnamate, benzophenone, salicylate, and/or diphenylacrylate sunscreen ingredients will be determined to be generally recognized as safe and effective and not misbranded.

EFFECTIVE DATE: The enforcement policy is effective April 30, 1997.

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

FOR FURTHER INFORMATION CONTACT: John D. Lipnicki, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In an amendment to the tentative final monograph for OTC sunscreen drug products, published in the **Federal Register** of September 16, 1996 (61 FR 48645), FDA proposed conditions under which products containing avobenzone are generally recognized as safe and effective and not misbranded at concentrations of up to 3 percent alone and 2 to 3 percent avobenzone in combination with the proposed Category I cinnamate, benzophenone, salicylate, and/or diphenylacrylate sunscreen ingredients. This proposal was based on an evaluation of available safety and effectiveness data, which have been placed on display in the Dockets Management Branch (address above).

Because no OTC drug advisory review panel had considered avobenzone or avobenzone-containing combination drug products, the agency stated that these products could not be marketed until the agency stated by notice in the **Federal Register** that the products have been tentatively determined to be generally recognized as safe and effective and that OTC marketing will be permitted under specified conditions (61 FR 48645 at 48653). Before marketing could begin, the comment period for the proposal must have ended

and another **Federal Register** notice must have been published setting forth the agency's determination concerning interim marketing before publication of the final rule for OTC sunscreen drug products. The agency requested written comments by October 16, 1996.

In response to the proposed rule, seven commercial organizations, one international organization, one professional organization, and one individual consumer submitted comments. Copies of the comments received are on public display in the Dockets Management Branch (address above).

II. The Agency's Conclusions on the Comments

1. Several comments discussed issues that impact all OTC sunscreen drug products or all such products that provide ultraviolet A (UVA) radiation protection, e.g., the definition of a sunscreen active ingredient, a maximum sun protection factor (SPF) of 30, and UVA testing methodology.

Following publication of the proposed rule for OTC sunscreen drug products on May 12, 1993 (58 FR 28194), the agency received numerous, similar comments. Because these issues impact other OTC sunscreen drug products, the agency intends to address all of the comments in future issues of the **Federal Register**. The agency does not find it necessary to resolve these issues now to allow interim marketing of OTC sunscreen drug products containing avobenzone under the proposed monograph.

2. One comment suggested that FDA should clarify the implication that its failure to rely explicitly on available foreign marketing data in determining that avobenzone is generally recognized as safe and effective for use in certain OTC sunscreen formulations does not mean that such data are unreliable, irrelevant, or inadequate compared to analogous U.S. marketing data or that foreign data would not have supported the agency's ultimate determination. The comment maintained that FDA can use foreign marketing data alone to establish that an OTC sunscreen active ingredient is generally recognized as safe and effective. The comment recommended that FDA should promptly review citizen petitions for all proposed OTC sunscreen ingredients and not only those that provide protection against UVA radiation. The comment referred to the agency's advance notice of proposed rulemaking on eligibility criteria for considering additional conditions in the OTC drug monograph system (61 FR 51625, October 3, 1996) and hoped that it would be expedited with issuance of a final rule within 12 months.

Another comment urged the agency to grant two other citizen petitions to include methylbenzylidene camphor (Ref. 1) and isoamyl-p-methoxycinnamate (Ref. 2) as Category I sunscreen active ingredients. In addition to foreign marketing data contained in the petitions, the comment stated that the agency already has supportive data for the combination of avobenzone with methylbenzylidene camphor (61 FR 48645 at 48647). The comment contended that FDA had grandfathered other cinnamates based on supportive data concerning octyl methoxycinnamate in combination with avobenzone and that this should be extended to isoamyl-p-methoxycinnamate.

The agency's reliance on information other than the available foreign marketing data in the amendment to the proposed rule for OTC sunscreen drug products is not intended to reflect an ultimate agency conclusion about the potential usefulness of foreign marketing data. As discussed in the advance notice of proposed rulemaking on eligibility criteria for considering additional conditions in the OTC drug monograph system, marketing of an OTC drug in a foreign country (but never in the United States) has in the past not been considered sufficient to satisfy the requirements of marketing to a material extent and for a material time which is necessary to make the drug eligible for consideration in the OTC drug monograph system (61 FR 51625 at 51627). Any possible changes to that approach will be considered under that rulemaking. The agency notes that avobenzone has been marketed for a material time and extent in the United States, and thus differs from other ingredients that do not have this marketing history.

The petitions mentioned by the comments are referred to in that advance notice of proposed rulemaking (61 FR 51625 at 51627). Final resolution of those petitions will depend upon the outcome of that rulemaking. In the meantime, manufacturers may seek marketing approval for their products having only foreign marketing experience via a new drug application (NDA).

References

(1) Comment No. CP1, Docket No. 78N–0038, Dockets Management Branch.

(2) Comment No. CP3, Docket No. 78N–0038, Dockets Management Branch.

3. Eight comments agreed with the agency's proposal to include avobenzone in §§ 352.10 and 352.20 of the proposed monograph for OTC sunscreen drug products. Although agreeing with the agency's proposal, one comment stated that avobenzone has not been adequately tested for safety in children. The comment contended that children may be at greater risk than adults for contact irritation and photoallergenic reactions, and that the proposed warning statement in § 352.52(c)(1)(iii) (''Discontinue use if signs of irritation or rash appear * * *'') may not be adequate for children. The comment provided an abstract (Ref. 1) that reported the results of photopatch testing using UV absorbers on 387 patients with dermatitis of the sun-exposed areas of the body. Isopropyl dibenzoylmethane was reported to induce 26 allergic and 35 photoallergic reactions and butyl methoxydibenzoylmethane (avobenzone) was reported to induce 10 allergic and 17 photoallergic reactions in these photopatch tests. The abstract stated that the production of isopropyl dibenzoylmethane was stopped in 1993 because of ''frequent (photo)sensitization'' to this ingredient. The comment requested that the agency do the following for an initial period of at least 2 years: (1) Restrict the general use of avobenzone-containing OTC sunscreen drug products to use by adults with labeling warnings to physicians and parents concerning its use on children, and (2) request companies to monitor all adverse reactions from avobenzone-containing products, especially those in children.

The agency is aware of several European studies and case reports (Refs. 2 and 4 through 8) involving patch/photopatch testing of isopropyl dibenzoylmethane and avobenzone on people suspected of having photodermatoses. With regard to this population, Buckley, O'Sullivan, and Murphy (Ref. 6) noted that ''Many cases of sensitization have occurred in subjects with pre-existing photodermatoses, where sunscreen use is frequent; contact and photocontact dermatitis are more likely to develop in injured or inflamed skin.'' Parry, Bilsland, and Morley (Ref. 7) observed that suggested cross-sensitivity to isopropyl dibenzoylmethane and avobenzone has previously been reported. Motley and Reynolds (Ref. 8) stated that primary sensitization to avobenzone is thought to be unusual compared to sensitization to isopropyl dibenzoylmethane. Trevisi et al. (Ref. 2) reported that their study seems to confirm that avobenzone could be a weaker sensitizer than the isopropyl derivative. Urbach (Ref. 9) and

Dromgoole and Maibach (Ref. 10) noted that some allergic reactions to avobenzone may have been cross-reactions as a result of prior exposure to the isopropyl derivative. However, Buckley, O'Sullivan, and Murphy (Ref. 6) pointed out that although combined sensitivity to isopropyl dibenzoylmethane and avobenzone has been documented previously, it is generally impossible to attribute it to cross-sensitivity between dibenzoylmethanes, as people may unknowingly have previously been exposed through cosmetic or sunscreen use. According to White (Ref. 3), isopropyl dibenzoylmethane was voluntarily removed from the European market due to frequent reports of contact and photocontact allergy, whereas avobenzone was classified by the European Commission as Category A, i.e., ''no further evidence needs to be submitted to support its safety.''

The agency believes that, overall, medical literature reports of allergic reactions to avobenzone appear to be few in comparison to the scope of its usage and to the number of allergic reactions associated with isopropyl dibenzoylmethane, a sunscreen ingredient that has never been approved for use in the United States and that has been removed from the European market. Neither a 10-year (1982 to 1992) French study of 283 people (5 to 85 years of age) with suspected photodermatosis (Ref. 5) nor a 3-year (1990 to 1993) Italian study of 108 people (10 to 79 years of age) with suspected photodermatosis (Ref. 2) reported any positive photopatch reactions to avobenzone. The two studies reported a total of seven positive photopatch reactions to isopropyl dibenzoylmethane. Several reports (Refs. 6 through 10) suggest that some allergic reactions to avobenzone may be related to prior sensitization to isopropyl dibenzoylmethane. None of the studies or reports (including the abstract provided by the comment) described any special relationships between sensitivity to dibenzoylmethanes and age.

One comment reported that an avobenzone-containing OTC sunscreen drug product has been marketed in the United States since 1993 (under an approved NDA) with a total adverse event rate of 0.0067 percent. The product is marketed for the general population (with the exception of children under 6 months of age) and contains 3 percent avobenzone, 3 percent oxybenzone, and 7.5 percent octyl methoxycinnamate. The agency previously discussed the adverse event information submitted by this comment and adverse event reports contained in the agency's Spontaneous Reporting System (SRS) in the amendment to the proposed rule for OTC sunscreen drug products (61 FR 48645 at 48650 and 48651). These data reveal that 6 of the 59 adverse drug experience (ADE) reports in the SRS concerned reactions in children 12 years of age and under. Three of these reports mention ''no drug effect'' and/or ''rash'' (one report noted multiple preexisting allergies), two mention ''itching,'' and one mentions ''burning.'' Thus, although ADE incidence rates or drug safety comparisons cannot be made using SRS data alone, the agency believes that the data support the safe use of avobenzone on children.

The agency notes that the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Products (the Panel) discussed ''adult skin'' and ''infant skin'' in its reports on OTC external analgesic drug products (44 FR 69768 at 69773, December 4, 1979) and OTC sunscreen drug products (43 FR 38206 at 38217, August 25, 1978). The Panel thoroughly discussed the absorptive characteristics of infant and adult skin and defined adult human skin to be that of individuals older than 6 months of age. The agency continues to concur with the Panel's recommended age limitations concerning the use of sunscreens because biological systems that metabolize and excrete drugs absorbed through the skin may not be fully developed in children under the age of 6 months.

Thus, the agency believes that at this time the data do not support the contention that children 1 to 12 years of age ''may be at a greater risk than adults with respect to contact irritation reaction and photoallergenic potential'' of avobenzone. Moreover, the comment did not submit any data to support such a contention.

FDA considers protection against UVA radiation an important public health benefit. As the agency stated in the amendment to the proposed rule for OTC sunscreen drug products (61 FR 48645 at 48653), the addition of avobenzone to the proposed monograph would provide for wide availability of new combination sunscreen products that will provide consumers with broad spectrum protection. The agency is also aware that some individuals can have moderate or acute adverse reactions to active ingredients that cause no reactions in most people. FDA currently considers the warnings proposed in § 352.52(c)(1)(iii) (''Discontinue use if signs of irritation or rash appear. If irritation or rash persists, consult a doctor.'') sufficient to alert consumers to the possibility of an allergic reaction to avobenzone or any other sunscreen active ingredient. At this time, the agency does not believe there is a sufficient basis for a warning to restrict use of avobenzone-containing sunscreen drug products to adults only, as one comment suggested. Avobenzone-containing sunscreen drug products will need to bear the directions in proposed § 352.52(d)(1) or (d)(2), which include the statements: ''Children under 2 years of age should use sunscreen products with a minimum SPF of 4'' and ''Children under 6 months of age: consult a doctor.''

Regarding the comment's request that FDA ask companies to monitor all adverse reactions from avobenzone-containing products, especially those in children, the agency's current good manufacturing practice regulations for finished pharmaceuticals (21 CFR 211.198) include requirements for handling all written and oral complaints regarding a drug product. However, while FDA encourages OTC drug manufacturers to report adverse events under the agency's Medwatch program, manufacturers are not required to do so. At this time, the agency's adverse experience reporting requirements only apply to those OTC drugs subject to approved NDA's or abbreviated NDA's (ANDA's). The agency is considering a proposed regulation that would, among other things, require manufacturers, packers, and distributors of marketed OTC drug products that are not the subject of approved applications to report ADE information to FDA. In the meantime, the agency will continue to monitor ADE's for sunscreen drug products reported to its Medwatch program and in the medical literature.

References

(1) Schauder, S., ''UV Absorber Allergy and Photoallergy: A 14–Year Experience,'' abstract in Comment No. C518, Docket No. 78N–0038, Dockets Management Branch.

(2) Trevisi, P. et al., ''Sunscreen Sensitization: A Three-Year Study,'' *Dermatology*, 189:55–57, 1994.

(3) White, I. R., ''Risk of Contact Dermatitis from UV-A Sunscreens'' (reply letter), *Contact Dermatitis*, 29:221, 1993.

(4) Comment No. CP5, Docket No. 78N–0038, Dockets Management Branch.

(5) Szczurko, C. et al., ''Photocontact Allergy to Oxybenzone: Ten Years of Experience,'' *Photodermatology, Photoimmunology, and Photomedicine*, 10:144–147, 1994.

(6) Buckley, D. A., D. O'Sullivan, and G. M. Murphy, ''Contact and Photocontact Allergy to Dibenzoylmethanes and Contact Allergy to Methylbenzylidene Camphor,'' *Contact Dermatitis*, 28:47, 1993.

(7) Parry, E. J., D. Bilsland, and W. N. Morley, ''Photocontact Allergy to 4-tert.butyl-4'-methoxy-dibenzoylmethane (Parsol 1789),'' *Contact Dermatitis*, 32:251, 1995.

(8) Motley, R. J., and A. J. Reynolds, ''Photocontact Dermatitis Due to Isopropyl and Butyl Methoxy Dibenzoylmethanes (Eusolex 8020 and Parsol 1789),'' *Contact Dermatitis*, 21:109, 1989.

(9) Urbach, F., ''Risk of Contact Dermatitis from UV–A Sunscreens'' (letter), *Contact Dermatitis*, 29:220, 1993.

(10) Dromgoole, S. H., and H. I. Maibach, ''Sunscreening Agent Intolerance: Contact and Photocontact Sensitization and Contact Urticaria,'' *Journal of the American Academy of Dermatology*, 22:1068–1078, 1990.

4. Three comments expressed concern about the photostability of avobenzone-containing sunscreen drug products, especially when used in a formulation without any other sunscreen active ingredients. Two comments stated that OTC sunscreen drug products with avobenzone as their only sunscreen active ingredient may not provide effective protection against ultraviolet B (UVB) radiation and that, even when combined with other sunscreen active ingredients, the UVA radiation tests (61 FR 48645 at 48652) do not stress the formulation enough to determine if the product will remain effective after receiving higher doses of UV radiation. One comment stated that because no official method has yet been established to test for protection from UVA radiation, broad marketing of avobenzone-containing sunscreen drug products should not be allowed because of photostability concerns related to avobenzone. One of the comments also questioned whether avobenzone photoproducts are photoallergenic. None of the comments supplied any data to support their contentions.

The agency is aware that avobenzone's maximum absorbance is in the UVA radiation spectrum (i.e., 340 to 350 nanometers (nm)) and that most of the data discussed in the amendment to the proposed rule for OTC sunscreen drug products concerns combinations of avobenzone with other Category I sunscreen active ingredients. However, data submitted to the agency (Ref. 1) reported a mean SPF of 2.4 for avobenzone alone in an appropriate vehicle. In its conclusions about the safety and effectiveness of OTC avobenzone-containing sunscreen drug products (61 FR 48645 at 48652), the agency stated that it considered the submitted data as supportive of the safety and effectiveness of up to 3 percent avobenzone alone ''if the finished product provides at least an SPF 2.'' An SPF of 2 indicates that the ingredient provides some UVB protection.

The agency agrees with the comment concerning the need for a monograph method for determining UVA radiation protection and believes that such a method should also address the photostability of sunscreen active ingredients. However, FDA has determined that adequate and well-controlled studies using currently accepted methods provide sufficient evidence of the effectiveness of 2 to 3 percent avobenzone in protecting against UVA radiation (61 FR 48651 and 48652). The agency continues to evaluate data and information and plans to propose a monograph method for determining UVA radiation protection in a future issue of the **Federal Register**.

One of the comments also questioned whether avobenzone photoproducts are photoallergenic. Agency review of adverse drug experience data for an OTC 3 percent avobenzone combination product marketed under an NDA since 1993 revealed no serious outcomes or alarming trends in numbers or types of reactions. The agency previously stated that, although more information will ultimately be required before the nature and safety profiles of avobenzone photodegradation products can be thoroughly assessed, it is presently not aware of any safety or effectiveness problems associated with the photostability of avobenzone (61 FR 48645 at 48651 and 48652). The agency also continues to evaluate photostability information recently submitted following the September 19 and 20, 1996, public meeting (61 FR 42398, August 15, 1996) on the photochemistry and photobiology of sunscreens. The agency plans to address the photostability of all OTC sunscreen active ingredients in a future issue of the **Federal Register**.

Reference

(1) Comment No. LET138, Docket No. 78N–0038, Dockets Management Branch.

5. Three comments disagreed with the proposed requirement for a minimum concentration of avobenzone when it is used in combination OTC sunscreen drug products (i.e., a minimum of 2 percent when used in a combination OTC sunscreen drug product with one or more of the proposed Category I cinnamate, benzophenone, diphenylacrylate, and/or salicylate sunscreen active ingredients). One comment stated that the minimum concentration requirement is inappropriate and unnecessarily restrictive. The comment stated that: (1) Meaningful and appropriate UVA radiation protection can be provided by using avobenzone at concentrations below 2 percent; (2) if a lower concentration of avobenzone still provides effective UVA radiation protection, it will be more cost effective for the consumer; (3) lower avobenzone concentrations may provide for products with better aesthetics and thus better usage compliance; and (4) Canada, the European Union, and Australia have no minimum concentration requirement for avobenzone in combination sunscreen products. The comment recommended that the proposed minimum concentration be revised to permit use of alternative efficacy-based minimums provided that supporting data are generated showing that each ingredient in a combination drug product provides a significant contribution to overall product effectiveness.

Two comments stated that the same rationale the agency used in determining that OTC sunscreen drug products with only one active sunscreen ingredient do not require minimum concentrations (i.e., finished product testing) should also apply to combination products. Another comment contended that by using the synergies of various sunscreen active ingredients in combination with avobenzone, manufacturers will be able to fine tune active levels based on total product efficacy. According to the comment, the combination of 1 percent avobenzone and 6 percent oxybenzone provides at least as much protection as 3 percent avobenzone alone, while the combination of 1 percent avobenzone and 10 percent octocrylene provides more UVA radiation protection than 2 percent avobenzone. The comment concluded that minimum concentration requirements encourage overmedicating the consumer without the benefit of increased UVA radiation protection.

In the notice of proposed rulemaking for OTC sunscreen drug products, the agency discussed minimum concentration requirements for OTC sunscreen ingredients (58 FR 28194 at 28214). The agency tentatively concluded that minimum concentration requirements are necessary for combination sunscreen products (i.e., until a method is developed that can demonstrate the contribution of each OTC sunscreen ingredient in a combination product) because of its concern that each ingredient in a combination drug product contributes to the overall effectiveness of the product. The agency further stated:

> To require no minimum contribution at all could allow the use of amounts so small as to be misleading and deceptive to the consumer and could permit the inclusion of ingredients solely for promotional purposes. In addition, this could result in the

consumer's exposure to an additional ingredient or ingredients with minimal additional benefit being provided.

Following publication of the proposed rule for OTC sunscreen drug products on May 12, 1993, the agency received several comments concerning minimum concentrations for OTC sunscreen active ingredients. Because this issue impacts other OTC sunscreen active ingredients, the agency intends to address all of the comments in a future issue of the **Federal Register**.

–The minimum and maximum concentrations for avobenzone proposed in § 352.20 were based upon the agency's review of safety and effectiveness data and other information. Adequate and well-controlled studies using currently accepted methods have demonstrated the effectiveness of 2 to 3 percent avobenzone (alone and in combination with some proposed monograph sunscreen ingredients) in providing protection against UVA radiation. None of the comments submitted any data to support the effectiveness of avobenzone at concentrations lower than 2 percent. In the absence of any data, the agency is unable to address the overmedication/benefits issue raised by one comment.

6. Two comments asserted that all of the ''claims'' that can be made for avobenzone-containing OTC sunscreen drug products can also apply and should be allowed for such products containing titanium dioxide and/or zinc oxide. One comment stated that titanium dioxide or zinc oxide can enhance the UVA radiation protection effectiveness of avobenzone, allow for formula flexibility and cost competition for avobenzone, and promote usage compliance by consumers because titanium dioxide and zinc oxide are nonirritating and nongreasy. The comment added that consumers should not be misled into believing that only avobenzone can provide broad spectrum protection.

In the proposed rule for OTC sunscreen drug products (58 FR 28194 at 28232 to 28233), the agency discussed UVA radiation protection claims and proposed labeling that would apply to proposed Category I sunscreen active ingredients (e.g., titanium dioxide) that met certain criteria. Until the agency proposes a method for the determination of UVA radiation protection, sunscreen drug products may bear UVA claims provided that they: (1) Contain sunscreen active ingredients that absorb UVA radiation, and (2) meet the agency's enforcement policy which allows claims that were available in labeling prior to the beginning of the OTC drug review to appear in labeling of currently marketed products until the rulemaking for OTC sunscreen drug products is completed, and the regulation for this class of products becomes effective (Ref. 1). The agency is aware that some currently marketed OTC sunscreen drug products that contain titanium dioxide are promoted with claims pertaining to UVA radiation and/or broad spectrum protection (Ref. 2). The agency has recently (Refs. 3 through 6) discussed conditions under which OTC sunscreen drug products containing 2 to 25 percent zinc oxide would be generally recognized as safe and effective with labeling claims for UVA radiation protection. Sunscreen drug products containing zinc oxide that meet such conditions may be marketed before the establishment of a final monograph in accordance with the agency's longstanding policy regarding ingredients or combinations of ingredients and uses being evaluated in the OTC drug review (Ref. 1). Thus, the agency does not believe that consumers have been misled into believing that only avobenzone-containing sunscreen products can provide broad spectrum protection. The agency also plans to address UVA radiation claims and testing procedures further in a future issue of the **Federal Register**.

–References

(1) ''Food and Drug Administration Compliance Policy Guides 7132b.15 and 7132b.16,'' in OTC Vol. 06ATFM, Docket No. 78N–0038, Dockets Management Branch.

(2) ''Physicians' Desk Reference for Nonprescription Drugs,'' 17th ed., Medical Economics Co., Montvale, NJ, 1996, pp. 629 and 760.

(3) Comment No. LET150, Docket No. 78N–0038, Dockets Management Branch.

(4) Comment No. LET151, Docket No. 78N–0038, Dockets Management Branch.

(5) Comment No. LET152, Docket No. 78N–0038, Dockets Management Branch.

(6) Comment No. LET153, Docket No. 78N–0038, Dockets Management Branch.

7. One comment recommended that FDA issue a ''call-for-data'' to allow equal and ample opportunity for all interested parties to develop and submit additional data that may be needed to support combinations of avobenzone with other sunscreen active ingredients. Alternatively, the comment suggested that the agency should allow other avobenzone combinations provided that supporting safety data (i.e., clinical phototoxicity, photoallergenicity, repeat insult patch testing) are generated for products prior to marketing.

Several comments recommended that the agency allow avobenzone to be combined with titanium dioxide, zinc oxide, and/or phenylbenzimidazole sulfonic acid to provide for maximum flexibility in formulating effective OTC sunscreen drug products. Some of the comments referenced data presented at the September 19 to 20, 1996, Public Meeting to Discuss the Photochemistry and Photobiology of Sunscreens (Ref. 1) concerning products that contained avobenzone with either titanium dioxide or zinc oxide. Three comments added that studies evaluated in the amendment to the tentative final monograph were determined to be supportive of the safety of avobenzone and that these studies utilized combination test products that contained titanium dioxide and/or phenylbenzimidazole sulphonic acid.

The agency has previously stated (Refs. 2 and 3) that data from clinical studies are necessary to establish the safety and effectiveness of combinations of avobenzone with proposed Category I sunscreen active ingredients. In the amendment to the tentative final monograph (61 FR 48645 at 48650), the agency concluded that data submitted to the agency provide sufficient evidence to demonstrate the low irritation, allergenic sensitization, photoallergenic, and phototoxic potential of 2 to 3 percent avobenzone in combination with the proposed Category I cinnamate, benzophenone, diphenylacrylate, and/or salicylate sunscreen active ingredients. The agency further stated, however, that it does not consider the submitted data adequate to allow avobenzone to be combined with any and all proposed monograph sunscreen ingredients. The clinical studies referenced by the comment (Refs. 4, 5, and 6) that utilized combinations of avobenzone with titanium dioxide and/or phenylbenzimidazole sulfonic acid only assessed the irritation and/or contact allergy potential of the products. Two of the studies (Refs. 4 and 6) assessed irritation potential in study populations of only 25 and 15 individuals, respectively. One cumulative irritancy study (Ref. 5) utilized test products containing only low concentrations of avobenzone (0.2 to 1.5 percent). Another study (Ref. 5), noted by the agency as being supportive of the safety of 2 percent avobenzone, only assessed the cumulative irritancy and allergic potential of an avobenzone-containing combination sunscreen product containing 7.5 percent octyl methoxycinnamate and 3 percent titanium dioxide. Until complete and adequate data are submitted, the agency has no basis to allow other avobenzone combinations.

The agency sees no need to issue a ''call-for-data'' for all interested parties to develop and submit additional data to

support combinations of avobenzone with other sunscreen active ingredients. The agency is currently reviewing all data and information received as a result of the September 19 to 20, 1996, Public Meeting to Discuss the Photochemistry and Photobiology of Sunscreens and will address this information in a future issue of the **Federal Register**. Interested parties may submit additional data to support combinations of avobenzone with other sunscreen active ingredients in an appropriate citizen petition to amend the proposed monograph for OTC sunscreen drug products. (See 21 CFR 10.30.)

References

(1) Comment No. TR3, Docket No. 78N–0038, Dockets Management Branch.
(2) Comment No. LET118, Docket No. 78N–0038, Dockets Management Branch.
(3) Comment No. MM11, Docket No. 78N–0038, Dockets Management Branch.
(4) Comment No. LET127, Docket No. 78N–0038, Dockets Management Branch.
(5) Comment No. LET130, Docket No. 78N–0038, Dockets Management Branch.
(6) Comment No. SUP18, Docket No. 78N–0038, Dockets Management Branch.

8. One comment requested clarification of the Category I sunscreen active ingredients proposed as permitted combinations with avobenzone. The comment stated that the list of Category I sunscreen active ingredients in the summary section of the amendment to the proposed tentative final monograph (61 FR 48645) did not coincide with the combinations listed by alphabetical letters in proposed § 352.20(a)(2) (61 FR 48645 at 48654).

The agency corrected this discrepancy in the **Federal Register** of February 26, 1997 (62 FR 8663). Section 352.20(a)(2) now states:

> Two or more sunscreen active ingredients identified in § 352.10(b), (c), (d), (f), (i), (l), (m), (n), (o), (s), and (u) may be combined when used in the concentrations established for each ingredient in paragraph (a)(3) of this section and the finished product has a minimum sun protection factor value of not less than 2 as measured by the testing procedures established in subpart D of this part.

9. One comment asked whether clinical testing of avobenzone-containing OTC sunscreen drug products prior to marketing would be permitted without an approved investigational new drug application (IND). The comment urged the agency to allow clinical testing without an approved IND of avobenzone concentrations and active ingredient combinations not specified in the amendment.

Section 312.2(b)(1) (21 CFR 312.2(b)(1)) exempts the clinical investigation of a drug product that is lawfully marketed in the United States from the procedures and requirements contained in part 312 (21 CFR part 312) (which governs the use of IND's) if, among other things, the investigation is not intended to be reported to FDA as a well-controlled study in support of a new indication for use nor intended to be used to support any other significant change in the labeling for the drug. Because this notice allows the lawful OTC marketing of certain avobenzone-containing sunscreen drug products without an approved NDA, an exemption from the requirements of part 312 would be allowed for those products specified in this notice if all of the conditions in § 312.2(b)(1) are met. However, OTC sunscreen active ingredient concentrations and combinations not specified in this notice may not be lawfully marketed at this time without an approved NDA. Such products, therefore, would not be exempted from the procedures and requirements of part 312 on the basis of this notice. An IND would be needed to study the safety and effectiveness of such products.

III. Enforcement Status

After carefully reviewing all of the comments received, the agency is issuing a notice of enforcement policy permitting OTC marketing of drug products containing up to 3 percent avobenzone alone and 2 to 3 percent avobenzone in combination with the following proposed Category I sunscreen active ingredients: Cinoxate, diethanolamine methoxycinnamate, dioxybenzone, homosalate, octocrylene, octyl methoxycinnamate, octyl salicylate, oxybenzone, sulisobenzone, and/or trolamine salicylate. The agency addressed the safety and effectiveness of such avobenzone-containing drug products in the proposed amendment to the tentative final monograph for OTC sunscreen drug products (61 FR 48645 at 48646 through 48652). Based on a comment received in response to the proposal, the agency has reevaluated the use of OTC avobenzone-containing sunscreen drug products on children and believes that the need for the warning suggested by the comment regarding use on children between 6 months and 12 years of age has not been established. Most of the other comments concerned requests for other avobenzone-containing sunscreen product combinations and/or concentrations, or issues similar to those submitted in response to the proposed rule that apply to all OTC sunscreen drug products and that will be addressed in future issues of the **Federal Register**. Accordingly, the agency has tentatively determined that it is appropriate at this time to allow the interim marketing of the OTC avobenzone-containing products identified in proposed §§ 352.10 and 352.20.

The agency's enforcement policy in Compliance Policy Guide 7132b.16, relating to OTC marketing of combination drug products that are under consideration in FDA's OTC drug review, makes it clear that FDA may by notice in the **Federal Register** permit interim marketing of products such as the sunscreen drug products discussed in this notice. The agency advises that sunscreen drug products containing up to 3 percent avobenzone alone and 2 to 3 percent avobenzone in combination with the proposed Category I cinnamate, benzophenone, salicylate, and/or diphenylacrylate sunscreen ingredients as proposed in §§ 352.10 and 352.20 may be marketed pending issuance of the final monograph for this drug class, subject to the risk that the agency may adopt a different position in the final monograph that could require reformulation and/or relabeling, recall, or other regulatory action. Products containing avobenzone require both UVA radiation protection testing and SPF testing of the finished product, as discussed in the amendment to the proposed rule for OTC sunscreen drug products (61 FR 48645 at 48652). Until the agency proposes a monograph UVA radiation testing method, the agency considers testing procedures similar to those described by R. W. Gange et al. and N. J. Lowe et al. as adequate for determining the UVA radiation protection potential of a finished OTC sunscreen drug product. Products containing avobenzone require SPF testing of the finished product in accordance with proposed §§ 352.10 and 352.20 (58 FR 28194 at 28295 and 28296) and as amended in §§ 352.10 and 352.20 (61 FR 48645 at 48654). The products must be marketed with the labeling proposed in §§ 352.50 through 352.60 (58 FR 28194 at 28296 to 28298) and as amended in § 352.52 (61 FR 48645 at 48655). Marketing of such products with labeling not in accord with the labeling in these sections may also result in regulatory action against the product, the marketer, or both. The final monograph for OTC sunscreen drug products will establish the final formulation, labeling, and testing requirements for such products.

IV. Opportunity for Comments

Interested persons may submit written comments to the Dockets Management Branch (address above). Such comments will be considered in determining whether further amendments or revisions to this policy are warranted. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

(Secs. 201, 501, 502, 503, 505, 510, and 701 of the Federal Food, Drug, and Cosmetic Act and under authority of the Commissioner of Food and Drugs)

Dated: April 22, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–11116 Filed 4–29–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by the Pennfield Oil Co. The ANADA provides for the use of a generic oxytetracycline hydrochloride soluble powder for the drinking water of cattle, swine, sheep, chickens, and turkeys.

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: Pennfield Oil Co., 14040 Industrial Rd., Omaha, NE 68137, filed ANADA 200–026, which provides for use of 102.4-gram (g) oxytetracycline hydrochloride per 4.78-ounce (135.5-g) packet for making medicated drinking water for cattle, swine, sheep, chickens, and turkeys for control and treatment of bacterial infections caused by oxytetracycline susceptible organisms.

ANADA 200–026 for Pennfield Oil Co.'s oxytetracycline hydrochloride water soluble powder is approved as a generic copy of Pfizer's NADA 8–622 Terramycin-343 (oxytetracycline hydrochloride) soluble powder. The ANADA is approved as of March 13, 1997, and the regulations are amended in 21 CFR 520.1660d by adding new paragraphs (a)(8) and (b)(6) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

2. Section 520.1660d is amended by adding new paragraphs (a)(8) and (b)(6) to read as follows:

§ 520.1660d Oxytetracycline hydrochloride soluble powder.

(a) * * *

(8) Each 135.5-gram packet (4.78 ounce) contains 102.4 grams of OTC HCl.

(b) * * *

(6) No. 053389 for use of OTC HCl concentrations in paragraph (a)(8) of this section in chickens, turkeys, swine, cattle, and sheep.

* * * * *

Dated: April 2, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–11079 Filed 4–29–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfadimethoxine Oral Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of sulfadimethoxine oral solution for chickens, turkeys, and cattle for treatment of certain bacterial infections.

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center For Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Ter., P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–192, which provides for use of sulfadimethoxine 12.5 percent oral solution for chickens, turkeys, and cattle. The oral solution is used to make medicated drinking water for broiler and replacement chickens for the treatment of outbreaks of coccidiosis, fowl cholera, and infectious coryza; meat-producing turkeys for disease outbreaks of coccidiosis and fowl cholera; dairy calves, dairy heifers, and beef cattle (in drinking water and as a drench) for shipping fever complex, bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine, calf diphtheria and foot-rot associated with *Sphaerophorus necrophorus* sensitive to sulfadimethoxine.

Approval of Phoenix's ANADA 200–192 for sulfadimethoxine oral solution is as a generic copy of Pfizer's NADA 31–205 for Albon® (sulfadimethoxine) 12.5 percent concentrated solution. The ANADA is approved as of March 24, 1997, and the regulations are amended by revising 21 CFR 520.2220a(b) to

reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 520

–Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.2220a [Amended]

–2. Section 520.2220a *Sulfadimethoxine oral solution and soluble powder* is amended in paragraph (b) by removing ''000069, 054273, and 057561'' and adding in its place ''000069, 054273, 057561, and 059130''.

Dated: April 8, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–11084 Filed 4–29–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Amikacin Sulfate Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for the use of amikacin sulfate injection for the treatment of the following conditions in dogs: genitourinary tract infections (cystitis) caused by susceptible strains of *Escherichia coli* and *Proteus* spp. and skin and soft tissue infections caused by susceptible strains of *Pseudomonas* spp. and *E. coli.*

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Linda M. Wilmot, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, has filed ANADA 200–178, which provides for the use of amikacin sulfate injection for the treatment of the following conditions in dogs: genitourinary tract infections (cystitis) caused by susceptible strains of *E. coli* and *Proteus* spp. and skin and soft tissue infections caused by susceptible strains of *Pseudomonas* spp. and *E. coli.*

–The ANADA is approved as a generic copy of Fort Dodge Laboratories, Inc., NADA 127–892, Amiglyde-V® Injection (amikacin sulfate 50 milligrams per milliliter). ANADA 200–178 is approved as of March 14, 1997, and the regulations are amended in 21 CFR 522.56 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 522

–Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 522.56 [Amended]

–2. Section 522.56 *Amikacin sulfate injection* is amended in paragraph (b) by removing ''000856'' and adding in its place ''Nos. 000856 and 059130''.

Dated: April 7, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–11085 Filed 4–29–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Amikacin Sulfate Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for intrauterine use of amikacin sulfate solution in horses for the treatment of uterine infections.

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Linda M. Wilmot, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, has filed ANADA 200–181, which provides for intrauterine use of amikacin sulfate solution for the treatment of uterine infections (endometritis, metritis, and pyometra) in mares, when caused by susceptible

organisms including *Escherichia coli, Pseudomonas* spp., and *Klebsiella* spp.

–The ANADA is approved as a generic copy of Fort Dodge Laboratories' NADA 127–892, Amiglyde-V® (amikacin sulfate solution). ANADA 200–181 is approved as of March 18, 1997, and the regulations are amended in 21 CFR 529.50 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 529

–Animal drugs.

–Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

–1. The authority citation for 21 CFR part 529 continues to read as follows:

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

§ 529.50 [Amended]

–2. Section 529.50 *Amikacin sulfate intrauterine solution* is amended in paragraph (b) by adding the phrase ''and 059130'' after ''000856''.

Dated: April 7, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–11080 Filed 4–29–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD08–97–008]

RIN 2115–AE84

Amendment to Regulated Navigation Area Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: On March 18, 1997, the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. These regulations were subsequently amended on March 21, March 28, April 4 and April 15. The amendments added additional operating requirements for vessels of 1600 gross tons or greater, increased the operating limitations on tank barges and ships carrying hazardous chemicals and gasses, and extended the RNA to the boundary of the territorial sea at the approaches to Southwest Pass. On April 15, in response to moderating river conditions, the regulations were relaxed to permit tows of up to 30 barges to operate when being pushed by tow boats of 9,000 brake horsepower or greater.

The threat posed by high water and currents on the Lower Mississippi River has continued to abate. The water level at the Baton Rouge Gauge crested on March 26 at 43.8 feet. By April 14, it had fallen to 39.6 feet and has continued to fall. It is projected to reach 37.0 feet on April 20, 1997. Similarly, the river current at the Baton Rouge Gauge had fallen from a high of approximately 9 miles per hour on March 26 to 7.3 miles per hour as of 14 April. On April 20, it is projected to be 6 miles per hour. After consultation with marine industry groups, state government agencies, and river pilots organizations, the district commander has decided to further amend the regulations. This amendment will permit the tow boat and barge limitations and chemical and gas ship operating restrictions to expire as scheduled at 12 p.m. on April 20, 1997, while maintaining the regulations affecting self-propelled vessels of 1,600 gross tons or greater.

The regulated navigation area is needed to protect vessels, bridges, shore-side facilities and the public from a safety hazard created by deep draft vessel operations along the Lower Mississippi River during the periods of high water in late spring and early summer. Self-propelled vessels of 1600 or more gross tons are prohibited from operating in this area unless they are in compliance with this regulation.

DATES: This amended regulation is effective at 12 p.m. on April 20, 1997 and terminates at 12 p.m. on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: CDR Harvey R. Dexter, Marine Safety Division, USCG Eighth District at New Orleans, LA (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 18, 1997 (62 FR 14637, March 27, 1997), the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. On March 21, 1997 (62 FR 15398, April 1, 1997), the Coast Guard amended the temporary regulated navigation area by extending the southern limit of the regulated navigation area to the boundary of the territorial sea at the approaches to Southwest Pass and included operating requirements affecting the operation of self-propelled vessels of 1600 gross tons or greater. Increasing high water conditions caused the Coast Guard to amend this regulation for a second time on March 28, 1997 (62 FR 16081, April 4, 1997) to establish additional safety measures applicable to U.S. flagged and foreign-flagged vessels authorized to carry cargoes listed under Title 46, Code of Federal Regulations Part 151 (chemical barges) and Parts 153–154 (chemical and gas ships).

Although Lower Mississippi River floodwater levels had receded somewhat by April 4, river current remained at a record high level at that time. The loss of control of a tow as it entered the Mississippi River from the Port Allen lock and several near-misses involving tows longer than 600 feet exiting locks into the Mississippi River evidenced the need to further limit the length of tows. It was determined that, by limiting the maximum length of tows during the critical period when they were entering or exiting locks along the Mississippi River to or from the relatively still water of a lock forebay, towboats would be able to exercise greater control of the tow during that critical period. Therefore, on April 4, 1997 (62 FR 17704, April 11, 1997) the district commander amended this regulation for the third time to prohibit

tows in excess of 600 feet from entering or exiting lock forebays. This amendment also clarified the horsepower restrictions in the earlier regulation to make it clear that the horsepower rating of escort tugs cannot be counted in establishing the number of barges that may be included in a tow. The Coast Guard also extended the effective date of the regulation to April 20, 1997, because the high water conditions were expected to last longer than originally contemplated.

The threat posed by high water and currents on the Lower Mississippi River has continued to abate. The water level at the Baton Rouge Gauge crested on March 26 at 43.8 feet. By April 14, it had fallen to 39.6 feet, and has continued to fall. It is projected to reach 37.0 feet on April 20, 1997. The river current at the Baton Rouge Gauge fell from a high of approximately 9 miles per hour on March 26 to 7.3 miles per hour on April 14. On April 20, it is projected to be 6 miles per hour. Several downbound test runs with varying tow and tow boat configurations have established that river conditions are much safer for large tow configurations than when this RNA was established.

Although the district commander has determined that water levels and current speeds in the lower Mississippi River have returned to a level that will permit the relaxation of some operating restrictions on tow boats and tows, it is anticipated that spring rains and unusually high water runoff from snow melt in the upper reaches of the Mississippi River drainage will maintain higher than normal river and current levels in the Lower Mississippi River for the foreseeable future. This amendment does not affect the expiration on April 20th of rules regulating barge number and horsepower requirements and chemical and tank vessel operating restrictions. However, the Captain of the Port, Marine Safety Office New Orleans has established a vessel control safety zone in the vicinity of Wilkinson Point from mile 225 to mile 238 on the Lower Mississippi River to address navigational safety concerns unique to that area. The requirements of this safety zone remain in effect until changed by the Captain of the Port. Any such changes will be included in a Marine Information Broadcast and other communications to the industry.

Based on problems experienced by deep draft vessels operating on the Lower Mississippi River in late spring and early summer during periods of unusually high water and current, as is anticipated to be the case this year, the district commander has deemed it necessary to continue the requirements of the RNA for vessels of 1,600 tons or greater until July 1, 1997. In most years, river and current levels have returned to normal after July 1.

During 1995 and 1996 a total of 86 self-propelled vessels of 1,600 gross tons or greater experienced casualties involving loss of power, loss of steering or engine irregularities during the months of April through June. Serious consequences may result from such casualties, especially during high water periods. Engine failure was the probable cause of the recent M/V BRIGHT FIELD allision that caused millions of dollars of property damage and posed grave threats of death and personal injury to persons in the vicinity of the allision.

The regulations left in place by the district commander are intended to enhance the safety of navigation on the river and protect shoreside facilities by causing masters and engineers to take measures that will minimize the risk of steering casualties and engine failure and irregularities. They also place the ship in a manning status and operating condition that will allow the vessel to take prompt and appropriate emergency action should a casualty occur thereby reducing the likelihood of a cascading series of allisions and collisions following a casualty. Communications from river pilots operating within the RNA have established the necessity and viability of these regulations and the necessity for their continuation during a period of traditionally high casualty rates. As a result of the operating restrictions, pilots have seen improvements in vessels' readiness to respond to steering causalities and main propulsion irregularities and failures.

This rule requires that all self-propelled vessels to which 33 Code of Federal Regulations § 164 applies, shall comply with the following:

(a) Masters shall review the requirements of 33 CFR 164.25 pertaining to ''Tests Before Entering or Getting Underway.''

(b) The engine room shall be manned at all times when underway in the RNA.

(c) Prior to entering the RNA or getting underway within the RNA, the master of each vessel shall report to the ship's agent that the regulations at 33 CFR 164.25 have been reviewed, are understood, and the vessel is in compliance with the regulation.

(d) As part of the master's report, the chief engineer shall also certify that the following additional operating conditions will be satisfied so long as the vessel is underway within the RNA:

(1) If the vessel has an automated main propulsion plant, it will be operated in manual mode and will be prepared to answer maneuvering commands immediately.

2. The vessel shall immediately provide maximum ahead or astern power when so ordered by the bridge.

3. The main propulsion plant shall, in all respects, be ready for operations in the RNA including the main propulsion air start systems, fuel systems, lube oil systems, cooling systems, and automation systems.

4. The master shall also certify that the gyrocompass is properly operating and calibrated.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of notice of proposed rulemaking and delay of effective date would be contrary to public interest because immediate action is necessary to ensure self-propelled vessels are capable of operating safely on the river and prevent allisions with bridges and shore-side structures, and colliding with other vessels, causing danger to the public.

Regulatory Evaluation

This 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) 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 rule, if adopted, 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. Small entities in this case would not include a significant number of companies operating vessels of 1600 gross tons or greater due to the nature and cost of operating vessels of this size. The operating and manning requirements

established by this regulation are those of a prudent mariner and impose little or no additional financial burden on the vessel. Similarly, vessels routinely communicate with their agents prior to getting underway or entering port. Therefore, the costs associated with the requirement to include a certification that the vessel is in compliance with 33 CFR 164.25 and certain other safety related requirements are insignificant. This rule is deemed to not have a substantial economic impact.

Collection of Information

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

Federalism Implications

This action 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 implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2(g)(5) of Commandant Instruction M16475.1B, this proposal 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 165

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

Final Regulations

For the reasons set out in the preamble the Coast Guard amends 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; 46 CFR 1.46.

2. In § 165.T08–001, paragraphs (b)(1), (b)(2), (b)(3), (b)(4) are revised; (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), (b)(10), (b)(11), (b)(12), (b)(13), (b)(14), (b)(15) are removed; and paragraph (c) is revised to read as follows:

§ 165.T08–001. Regulated Navigation Area, Lower Mississippi River.

* * * * *

(b) * * *

(1) In accordance with general regulations in § 165.11 of this part, no self-propelled vessels of 1600 gross tons may operate within the Regulated Navigation Area (RNA) contrary to this regulation.

(2) All self-propelled vessels to which the regulations at 33 CFR part 164 apply, shall comply with the following:

(i) Masters shall review the requirements of 33 CFR 164.25 pertaining to ''Tests Before Entering or Getting Underway.''

(ii) The engine room shall be manned at all times while underway in the RNA

(iii) Prior to entering or getting underway in the RNA, the master of each vessel shall report to the ship's agent that 33 CFR part 164 has been reviewed, the requirements are understood, and his vessel is in compliance with the regulation.

(iv) The master shall also report that the chief engineer has certified that the following additional operating conditions will be satisfied so long as the vessel is underway within the RNA:

(A) If the vessel has an automated main propulsion plant, it shall be operated in manual mode and will be prepared to answer maneuvering commands immediately.

(B) The vessel shall immediately provide maximum ahead or astern power when so ordered by the bridge.

(C) The main propulsion plant shall in all respects be ready for operations in the regulated navigation area including the main propulsion air start systems, fuel systems, lube oil systems, cooling systems, and automation systems.

(v) The master shall also certify that the gyrocompass is properly operating and calibrated.

(3) For vessels subject to this regulation, Commander, Eighth Coast Guard District urges that main propulsion standby systems be placed on-line or be ready to be placed on-line immediately.

(4) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) Effective dates: This section is effective at 12 p.m. on April 20, 1997 and terminates at 12 p.m. on July 1, 1997.

Dated: April 19, 1997.

Timothy W. Josiah,

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

[FR Doc. 97–11209 Filed 4–29–97; 8:45 am]

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37 CFR Part 201

[Docket Nos. RM 89–2, RM 89–2A]

Cable Compulsory License: Merger of Cable Systems and Individual Pricing of Broadcast Signals

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule and termination of proceeding.

SUMMARY: The Copyright Office is amending its rules to permit cable systems to calculate the 3.75% rate fee for distant signals on a ''partially permitted signal'' basis where applicable. In addition, due to a Congressional request that the Office consider revision of the cable compulsory license, among other things, the Office is terminating Docket Nos. RM 89–2 and 89–2A until further notice.

EFFECTIVE DATE: May 30, 1997.

FOR ADDITIONAL INFORMATION CONTACT: Nanette Petruzzelli, Acting General Counsel, or William Roberts, Senior Attorney for Compulsory Licenses, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Section 111 of the Copyright Act, 17 U.S.C. 111, establishes a compulsory license which authorizes cable systems to make secondary transmissions of copyrighted works embodied in broadcast signals provided that they pay a royalty calculated on a formula set out in sec. 111,[1] and meet all other conditions contained in sec. 111.

On September 18, 1989, the Copyright Office published a Notice of Inquiry (NOI) in Docket No. RM 89–2 asking the public to comment on how mergers and acquisitions of cable systems that result in contiguous systems under common ownership or control should affect the calculation of royalties under 17 U.S.C. 111. 54 FR 38930 (Sept. 18, 1989).

Specifically, the NOI asked for comments on the following provision of 17 U.S.C. 111(f),

(f)or purposes of determining the royalty fee under subsection (d)(1), two or more cable

[1] The formula is set out in 17 U.S.C. 111, but the rates and the gross receipts thresholds were amended by the former Copyright Royalty Tribunal and could be further amended by a future Copyright Arbitration Royalty Panel. 37 CFR 251.2; 37 CFR 256.2.

systems in contiguous communities under common ownership or control or operating from one head-end shall be considered as one cable system.

Since this provision became effective in 1978, the Copyright Office has interpreted it to mean that when two or more cable systems are in contiguous communities and under common ownership or control, or operating from one head-end, they are to be considered as one system for all purposes. That is,

(1) they are to file a single Statement of Account with the Copyright Office;

(2) all of the distant signals that the two or more cable systems carry are to be added together to arrive at the combined DSEs (distant signal equivalent); and

(3) the combined DSEs must be applied against the combined gross receipts for the two or more cable systems to arrive at the amount in royalties due.

37 CFR 201.17(b)(2); 43 FR 27827 (June 27, 1978).

The 1989 NOI noted that the growing expansion of cable system coverage and recent trends toward economic concentration in the industry created several difficulties with respect to this method of calculating the royalty. 54 FR 38930 (Sept. 18, 1989).

First, there is the ''phantom signal'' problem which occurs when two or more cable systems are considered as one system by operation of 17 U.S.C. 111(f), but each system retransmits different distant signals to its subscribers. Under the method described above, the resulting royalty payment would be calculated on a part of the subscriber base that did not receive the signal.

Second, there is the ''partially permitted/partially non-permitted signal'' problem. Cable systems have asserted that the rule considering two or more commonly owned contiguous systems as one system can result in signals being paid for at the 3.75% rate—the rate adopted by the Copyright Royalty Tribunal when the Federal Communications Commission (FCC) abolished the quotas on the number of permitted distant signals in 1981—even though in some communities it is a signal that would have been permitted by the FCC before 1981 and, ordinarily, would be paid for at the lower base rate.

While Docket No. RM 89–2 was pending, Congress passed the Cable Television Consumer Protection and Competition Act of 1992 (The 1992 Cable Act). This Act, among other things, placed basic and higher tier cable service under rate regulation, but left *a la carte* signals—those signals offered individually to the subscriber—unregulated on the theory that unbundled program offerings did not give the cable operator undue market power to set prices.

As a result, some cable operators sought to restructure their services to provide for more *a la carte* signals. However, under the current method of payments prescribed by 17 U.S.C. 111, carriage of an *a la carte* signal can result in a very high copyright royalty payment if the subscriber base is extensive and the subscribers choosing to receive the *a la carte* signal are few.

The remedy sought by many cable operators was to make payments for *a la carte* signals based on the subscriber group that actually received the signal, rather than the entire subscriber base. This remedy was similar to the one proposed by cable operators in Docket No. RM 89–2 concerning mergers and acquisitions: to have the cable systems pay only for those subscribers who receive a distant signal.

This remedy has been generally called the creation of subscriber groups. Because the same remedy was proposed for each issue, the Copyright Office chose to reopen Docket No. RM 89–2 to receive comments on what the proper payment of *a la carte* signals should be, and the added issue was numbered Docket No. RM 89–2A. 60 FR 2365 (Jan. 9, 1995).

II. Congressional Request

On February 6, 1997, Senator Orrin Hatch, Chairman of the Senate Judiciary Committee, requested the Copyright Office, among other things, to examine and report upon possible statutory revision of the cable compulsory license. In making this request, Senator Hatch urged the Copyright Office to solicit the views of the industries affected by the license, and, after appropriate consideration and analysis, recommend specific legislative amendments. The Office has already begun the process of its examination, and has announced open public meetings beginning on May 6, 1997, to gather information and testimony in order to make a report to Congress by August 1, 1997. *See* 62 FR 13396 (March 20, 1997).

In considering revision of the cable compulsory license, the Copyright Office envisions that its task will necessarily involve contact and discussion with the parties affected by this rulemaking proceeding. Indeed, the very issues of merger and acquisition of cable systems involved in this proceeding will likely be discussed and analyzed, and the Copyright Office may ultimately propose legislative solutions to solve the problems addressed in this proceeding. The Office believes that it is not appropriate or advisable to keep this rulemaking proceeding open. Accordingly, the Copyright Office is resolving one issue presented in Docket No. 89–2 and terminating the remainder of the Docket until further notice.

III. Closing of Docket No. RM 89–2A

The impetus for initiating Docket No. RM 89–2A was the 1992 Cable Act. In the Telecommunications Act of 1996, Congress made a number of revisions to the 1992 Cable Act, the impact of which will not be known for some time. Rate regulation has already ended for smaller cable systems, and upper tier regulation for larger cable systems will end in 1999. In light of these changes, there no longer appears to be the strong Congressional policy favoring the offering of *a la carte* signals.

Finally, in meetings the Office held with cable industry representatives, those representatives acknowledged the uncertainty of the current regulatory environment, and stated that they were more concerned with a resolution of the issue of the proper payments for commonly owned contiguous cable systems than with a resolution of the *a la carte* signal issue.

Consequently, the Office has decided to terminate Docket No. RM 89–2A.

Final Rule and Closing of Docket No. RM 89–2

In resolving the status of Docket No. RM 89–2, the Copyright Office has determined that it is appropriate to issue a final rule with respect to the reporting of partially permitted/partially non-permitted distant signals. The remainder of the issues presented in the Docket—i.e. the reporting and payment of royalties for merged and acquired cable systems—cannot be resolved at this time. For the reasons stated above, the Office is closing Docket No. RM 89–2 until further notice.

IV. Final Rule

The Copyright Office is amending its rules with respect to the application of the Copyright Royalty Tribunal's 3.75% rate decision to partially permitted/partially non-permitted distant signals.

When the Office first adopted regulations in 1984 to implement the 3.75% rate decision of the Tribunal, the proper treatment of signals that were partially permitted/non-permitted was raised, and the Office deferred giving guidance. *Compulsory License for Cable Systems,* Docket No. RM 83–3A, 49 FR 26722, 26726 (June 29, 1984). As a result, some filers have reported those signals as entirely permitted and have paid the current base rates. Others have

reported those signals as entirely non-permitted and have paid the 3.75% rate.

The Office has decided that where a signal is partially permitted/partially non-permitted, the current base rates will apply to those subscribers in communities where the signal would have been permitted on or before June 24, 1981; and the 3.75% rate will apply to those subscribers in communities where the signal would not have been permitted before 1981.

The effect of this decision is that cable systems will no longer be able to elect whether to consider the signal entirely permitted or entirely non-permitted. The amendment of the regulations is prospective only and, in order to allow sufficient time to implement the new procedure, will begin with the first semi-annual accounting period of 1998 (1998/1).

List of Subjects in 37 CFR Part 201

Cable television, Copyright, Jukeboxes, Literary works, Satellites.

Final Regulation

In consideration of the foregoing, part 201 of title 37 of the Code of Federal Regulations, is amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.17 is amended by adding paragraph (h)(2)(iv) to read as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(h) * * *

(2) * * *

(iv) Commencing with the semiannual accounting period of January 1, 1998, through June 30, 1998, the 3.75% rate applies to certain DSE's with respect to the communities within the cable system where carriage would not have been permitted under the rules and regulations of the Federal Communications Commission in effect on June 24, 1981, but in all other communities within the cable system, the current base rate shall apply. Such computation shall be made as provided for on Form SA3.

* * * * *

Dated: April 21, 1997.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 97–11140 Filed 4–29–97; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 80

[FRL–5811–6]

OMB Approval Number Under the Paperwork Reduction Act; Regulation of Fuels and Fuel Additives, Gasoline Deposit Control Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that the Information Collection Requirements (ICR) contained in the Certification Standards for Deposit Control Gasoline Additives Final Rule (Detergent Certification Final Rule) as published in the **Federal Register** on July 5, 1996, (61 FR 35310), which were not previously approved under Office of Management and Budget (OMB) control number 2060–0275, have been approved by OMB. This document also announces the prior approval by OMB under control number 2060–0275 of other ICR contained in the Detergent Certification Final Rule. The ICR in the affected sections of the regulation are effective April 30, 1997. This rule also amends the OMB approval table to list the OMB control number issued under the Paperwork Reduction Act (PRA) for the affected sections.

EFFECTIVE DATE: The ICR requirements in the Detergent Certification Final Rule, which are found in 40 CFR 80.157(f)(5), 80.160(b)(2), 80.164, 80.170, and 80.173, and the amendments to 40 CFR Part 9, are effective April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey A. Herzog, U.S. EPA, Office of Mobile Sources, Fuels and Energy Division, National Vehicle and Fuels Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone: (313) 668–4227, FAX: (313) 741–7869.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved ICR control numbers issued by OMB. Today's amendment updates the table to accurately display those information requirements not previously approved and those that had been approved but whose approval had not been previously announced, which were promulgated under the Certification Standards for Deposit Control Gasoline Additives Final Rule published in the **Federal Register** on July 5, 1996 (61 FR 35309).[1] The affected regulations are codified at 40 CFR Part 80, Subpart G. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR Part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320. The information collection requirements which are made effective by this notice under OMB control number 2060–0275 were contained in Information Collection Request number 1655–03 and are found in 40 CFR 80.157(f)(5), 80.160(b)(2), 80.164, 80.170, and 80.173. The information collection requirements which had previously become effective under OMB control number 2060–0275, but whose implementation had been delayed until compliance with the Detergent Certification Program becomes mandatory,[2] were contained in Information Collection Request number 1655–01 and are found in 40 CFR 80.161, 80.162, 80.163(d)(3), 80.165, 80.166, 80.167(d), and 80.171. All of these information collection requirements can be found in the amendments to 40 CFR Part 9.

These ICR were previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment is unnecessary.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is

[1] The approval by OMB of the information collection requirements found in 40 CFR 80.157(f)(5), and 80.160(b)(2) announced in this notice did not in itself necessitate an amendment to the OMB approval table in 40 CFR Part 9, since this table already appropriately reflected that the ICR found in 80.157 and 80.160 have been approved by OMB under OMB control number 2060–0275. The OMB approval table in 40 CFR Part 9 had previously been amended (60 FR 20232, April 25, 1995) to show that the ICR contained in the Interim Requirements for Gasoline Deposit Control Additives Final Rule found in 80.157 and 80.160 had been approved by OMB.

[2] Compliance with the requirements of the detergent certification program becomes mandatory July 1, 1997 for detergent blenders and other parties upstream in the gasoline and detergent distribution system. Compliance for gasoline retailers becomes mandatory on August 1, 1997 (40 CFR 80.161(a)).

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). Because this action is not subject 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.*).

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: April 7, 1997.

Mary D. Nichols,

Assistant Administrator, Office of Air and Radiation.

For the reasons set forth in the preamble, 40 CFR Chapter I is amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. The table in § 9.1 is amended by adding the new entries in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Regulation of Fuels and Fuel Additives	
* * * * *	
80.161	2060–0275
80.162	2060–0275
80.163(d)(3)	2060–0275
80.164	2060–0275
80.165	2060–0275
80.166	2060–0275
80.167(d)	2060–0275
80.170	2060–0275
80.171	2060–0275
80.173	2060–0275
* * * * *	

[FR Doc. 97–10108 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA60–7135a; WA61–7136a; and WA63–7138a; FRL –5812–7]

Approval and Promulgation of Implementation Plans: State of Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves three revisions to the Washington State Implementation Plan (SIP). EPA is approving the December 3, 1996, revision consisting of an amendment of the State of Washington Department of Ecology (Washington) regulations addressing the use of oxygenated fuel in the Central Puget Sound carbon monoxide (CO) maintenance area in the Motor Fuel Specifications for Oxygenated Gasoline, Chapter 173–492 WAC (Docket # WA60–7135). EPA is also approving in this action that portion of a November 26, 1996, revision to the Washington State Implementation Plan consisting of an amendment of local air pollution control regulations submitted by Washington from the Puget Sound Air Pollution Control Agency (PSAPCA) which addresses motor fuel specifications for oxygenated gasoline in the Central Puget Sound CO maintenance area, PSAPCA Regulation II, Section 2.09 (Docket # WA61–7136). EPA is further approving in this action that portion of a December 11, 1996, revision to the Washington State Implementation Plan consisting of an amendment of local air pollution control regulations submitted by Washington from the Southwest Air Pollution Control Authority (SWAPCA) which addresses motor fuel specifications for oxygenated gasoline in the Vancouver, Washington CO maintenance area, SWAPCA 492 (Docket #WA63–7138).

DATES: This action is effective on June 30, 1997 unless adverse or critical comments are received by May 30, 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, 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 (OAQ–107), Seattle, Washington 98101; and Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington 98504–8711.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553–7369.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1996, EPA formally redesignated the Vancouver, Washington CO nonattainment area to attainment, and approved a maintenance plan which will ensure that the Vancouver area remains in attainment for CO. On October 11, 1996, EPA formally redesignated the Central Puget Sound CO nonattainment area to attainment, and approved a maintenance plan which will ensure that the Central Puget Sound area remains in attainment for CO. Each of the approved maintenance plans for the Vancouver and Central Puget Sound CO maintenance areas removes the requirement for oxygenated fuel during the CO season but incorporates the requirement for the use of oxygenated fuel as a contingency measure in the event of a violation of the CO national ambient air quality standard. The Clean

Air Act (CAA) does not require continued use of oxygenated fuel in these CO maintenance areas. Therefore, Washington has submitted three revisions to the Washington State Implementation Plan: an amendment to the Washington regulations removing the requirement for oxygenated fuel in the Vancouver and Central Puget Sound areas; an amendment to the PSAPCA regulations, removing the PSAPCA requirement for oxygenated fuel in the Central Puget Sound area; and an amendment to the SWAPCA regulations, removing the SWAPCA requirement for oxygenated fuel in the Vancouver area. A Technical Support Document providing further information in this action is available at the address listed above.

II. Summary of Action

EPA is approving the revision to the Washington State Implementation Plan consisting of an amendment to Washington regulation Chapter 173–492 WAC, Motor Fuel Specifications for Oxygenated Gasoline, removing the requirement for oxygenated fuel in the Vancouver and Central Puget Sound areas.

EPA is also approving in this action that portion of a November 26, 1996, revision to the Washington State Implementation Plan consisting of an amendment to PSAPCA regulations (Regulation II) which removes the requirement for oxygenated fuel in the Central Puget Sound area. Those other portions of the November 26, 1996, SIP revision related to PSAPCA Regulations I and III will be acted upon in a separate EPA action.

EPA is further approving in this action that portion of a December 11, 1996, revision to the Washington State Implementation Plan consisting of an amendment to SWAPCA regulations (SWAPCA 492) which removes the requirement for oxygenated fuel in the Vancouver area. Those other portions of the December 11, 1996, SIP revision related to amendments to SWAPCA regulations will be acted upon in a separate EPA action, except that EPA will take no action on the SIP revision related to amendments of SWAPCA 476, Standards for Asbestos Control, Demolition, and Renovation, because it is unassociated with criteria pollutants regulated under the SIP.

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 June 30, 1997 unless, by May 30, 1997, adverse or critical comments are received.

If 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. 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 June 30, 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 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. 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. 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 June 30, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

Dated: April 3, 1997.

Chuck Clarke,

Regional Administrator.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(72) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(72) On November 26, December 3, and December 11, 1996, the Director of the Washington State Department of Ecology (Washington) submitted to the Regional Administrator of EPA revisions to the State Implementation Plan consisting of amendments to Washington regulations which remove the requirement for oxygenated gasoline in the Vancouver and Central Puget Sound areas.

(i) Incorporation by reference.

(A) Chapter 173–492, Washington Administrative Code (WAC), Motor Fuel Specifications for Oxygenated Gasoline, adopted December 5, 1996; Southwest Air Pollution Control Authority (SWAPCA) 492, Oxygenated Fuels, effective November 21, 1996; and Puget Sound Air Pollution Control Agency, Regulation II, Section 2.09, Oxygenated Gasoline Contingency Measure and Fee Schedule, revised July 11, 1996.

[FR Doc. 97–11162 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126–0032a FRL–5815–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules for Placer County Air Pollution Control District (PCAPCD or District). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_x) and other pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA of the Act). These revisions consist of administrative and minor changes to a wide range of rules that have been previously incorporated into the federally approved SIP. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on June 30, 1997 unless adverse or critical comments are received by May 30, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rule revisions are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

Placer County Air Pollution Control District 11464 B Avenue, Auburn, CA 96503

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1189.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the California SIP include: PCAPCD Rule 101, Title; Rule 102, Definitions; Rule 103, Validity; Rule 201, Coverage; Rule 202, Visible Emissions; Rule 203, Exemptions to Rule 202; Rule 204, Wet Plumes; Rule 208, Orchard or Citrus Heaters; Rule 209, Fossil Fuel-Steam Facility; Rule 210, Specific Contaminants; Rule 211, Process Weight; Rule 213, Gasoline Transfer into Stationary Storage Containers; Rule 214, Transfer of Gasoline into Tank Trucks, Trailers and Railroad Cars at Loading Facilities; Rule 217, Cutback and Emulsified Asphalt Paving Materials; Rule 219, Organic Solvents; Rule 220, Abrasive Blasting; Rule 221, Compliance Tests; Rule 222, Reduction of Animal Matter; Rule 225, Wood Fired Appliances; Rule 226, Sulfur Content of Fuels—Lake Tahoe Basin; Rule 228, Fugitive Dust—Lake Tahoe Air Basin; Rule 406, Combination of Emissions; Rule 407, Circumvention; and Rule 408, Source Recordkeeping and Reporting. These rules were submitted by the California Air Resources Board to EPA on November 30, 1994.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Placer County Air Pollution Control District. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the Act, that the PCAPCD portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP Call). In response to the SIP call and other requirements, the PCAPCD submitted many rules for the Lake Tahoe, Mountain Counties, and Sacramento Valley Air Basins, which EPA approved into the SIP. On October 19, 1993, California consolidated the Lake Tahoe, Mountain Counties and Sacramento Valley Air Basins within the PCAPCD. Also on October 19, 1993, the District adopted many rules that reformatted and consolidated rules from the three subsumed air basins. The

revised rules consolidate the District rules into a single set of regulations applicable throughout the District.

This notice addresses EPA's direct-final action for the following PCAPCD rules: Rule 101, Title; Rule 102, Definitions; Rule 103, Validity; Rule 201, Coverage; Rule 202, Visible Emissions; Rule 203, Exemptions to Rule 202; Rule 204, Wet Plumes; Rule 208, Orchard or Citrus Heaters; Rule 209, Fossil Fuel-Steam Facility; Rule 210, Specific Contaminants; Rule 211, Process Weight; Rule 213, Gasoline Transfer into Stationary Storage Containers; Rule 214, Transfer of Gasoline into Tank Trucks, Trailers and Railroad Cars at Loading Facilities; Rule 217, Cutback and Emulsified Asphalt Paving Materials; Rule 219, Organic Solvents; Rule 220, Abrasive Blasting; Rule 221, Compliance Tests; Rule 222, Reduction of Animal Matter; Rule 225, Wood Fired Appliances; Rule 226, Sulfur Content of Fuels—Lake Tahoe Basin; Rule 228, Fugitive Dust—Lake Tahoe Air Basin; Rule 406, Combination of Emissions; Rule 407, Circumvention; and Rule 408, Source Recordkeeping and Reporting.

These rules were adopted by PCAPCD on October 19, 1993 and submitted by the State of California for incorporation into its SIP on November 30, 1994. These rules were found to be complete on January 30, 1995, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [1] and are being finalized for approval into the SIP. These rules were originally adopted as part of PCAPCD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement.

The following is EPA's evaluation and final action for these rules.

EPA Evaluation and Action

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements appears in various EPA policy guidance documents.[2]

EPA previously reviewed many rules from the Lake Tahoe, Mountain Counties and Sacramento Valley Air Basins and incorporated them into the federally approved SIP pursuant to section 110(k)(3) of the CAA. Those rules that are being superseded and/or deleted [3] by today's action are as follows:

Lake Tahoe Air Basin

- Rule 101 Title, submitted 08/21/79
- Rule 102, Definitions, submitted 08/21/79
- Rule 103, Validity, submitted 08/21/79
- Rule 104, Effective Date, submitted 08/21/79 (deleted)
- Rule 201, Coverage, submitted 08/21/79
- Rule 202, Visible Emissions, submitted 08/21/79
- Rule 203, Exception to Rule 202, submitted 08/21/79
- Rule 204, Wet Plumes, submitted 08/21/79
- Rule 208, Fugitive Dust, submitted 08/21/79
- Rule 209, Sulfur Content of Fuels, submitted 08/21/79
- Rule 210, Specific Contaminants, submitted 08/21/79
- Rule 211, Process Weight, submitted 08/21/79
- Rule 213, Gasoline Transfer Into Stationary Storage Containers, submitted 08/21/79
- Rule 217, Compliance Tests, submitted 08/21/79
- Rule 406, Combination of Emission, submitted 01/10/75
- Rule 407, Circumvention, submitted 10/13/77
- Rule 408, Source Recordkeeping, submitted 10/13/77

Mountain Counties Air Basin

- Rule 101 Title, submitted 08/12/86
- Rule 102, Definitions, submitted 02/10/86 and 05/28/81
- Rule 103, Validity, submitted 10/13/77
- Rule 104, Effective Date, submitted 10/15/79 (deleted)
- Rule 201, Coverage, submitted 08/12/86
- Rule 202, Visible Emissions, submitted 01/10/75
- Rule 203, Exception to Rule 202, submitted 05/28/81
- Rule 204, Wet Plumes, submitted 01/10/75
- Rule 208, Fugitive Dust, submitted 10/13/77
- Rule 209, Fossil Fuel-Steam Generator Facility, submitted 01/10/75
- Rule 210, Specific Contaminants, submitted 10/13/77
- Rule 211, Process Weight, submitted 05/28/81
- Rule 213, Gasoline Transfer Into Stationary Storage Container, submitted 04/05/91
- Rule 214, Transfer of Gasoline Into Vehicle Fuel Tanks, submitted 05/28/81
- Rule 217, Cutback and Emulsified Asphalt Paving Materials, submitted 04/05/91
- Rule 219, Organic Solvents, submitted 10/15/79
- Rule 220, Abrasive Blasting, submitted 10/15/79
- Rule 221, Compliance Tests, submitted 10/15/79
- Rule 222, Reduction of Animal Matter, submitted 10/15/79
- Rule 225, Wood Fired Appliances, submitted 11/21/86
- Rule 406, Combination of Emissions, submitted 01/10/75
- Rule 407, Circumvention, submitted 10/13/77
- Rule 408, Source Recordkeeping and Reporting, submitted 10/13/77

Sacramento Valley Air Basin

- Rule 101 Title, submitted 10/13/77
- Rule 102, Definitions, submitted 10/13/77
- Rule 103, Validity, submitted 10/13/77
- Rule 201, District-Wide Coverage, submitted 01/10/75
- Rule 202, Visible Emissions, submitted 01/10/75
- Rule 203, Exception, submitted 01/10/75
- Rule 204, Wet Plumes, submitted 01/10/75
- Rule 208, Orchard or Citrus Heaters, submitted 10/13/77
- Rule 209, Fossil Fuel-Steam Generator Facility, submitted 01/10/75
- Rule 213, Reduction of Animal Matter, submitted 10/13/77
- Rule 407, Circumvention, submitted 10/13/77
- Rule 408, Source Recordkeeping and Reporting, submitted 10/13/77

EPA has evaluated the consolidated PCAPCD rules submitted in November 1994 and compared them to the rules currently incorporated in the SIP. In all cases the rules have been reformatted and changed editorially. In some cases there have also been minor substantive improvements. For example, where the three subsumed air basins had slightly different requirements for similar sources, the consolidated rule now

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section (110)(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[2] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[3] Listed rules are superseded unless designated as deleted.

applies the most stringent of the requirements to the entire area. In no case does this action represent a relaxation of any requirement.

The PCAPCD rules being approved by this action to revise the SIP include:

- Rule 101 Title
- Rule 102 Definitions
- Rule 103 Validity
- Rule 201 Coverage
- Rule 202 Visible Emissions
- Rule 203 Exemptions to Rule 202
- Rule 204 Wet Plumes
- Rule 208 Orchard or Citrus Heaters
- Rule 209 Fossil Fuel-Steam Facility
- Rule 210 Specific Contaminants
- Rule 211 Process Weight
- Rule 213 Gasoline Transfer into Stationary Storage Containers
- Rule 214, Transfer of Gasoline into Tank Trucks, Trailers and Railroad Cars at Loading Facilities
- Rule 217, Cutback and Emulsified Asphalt Paving Materials
- Rule 219, Organic Solvents
- Rule 220, Abrasive Blasting
- Rule 221, Compliance Tests
- Rule 222, Reduction of Animal Matter
- Rule 225, Wood Fired Appliances
- Rule 226, Sulfur Content of Fuels—Lake Tahoe Basin
- Rule 228, Fugitive Dust—Lake Tahoe Air Basin
- Rule 406, Combination of Emissions
- Rule 407, Circumvention
- Rule 408, Source Recordkeeping and Reporting

Other PCAPCD rules submitted with these rules on November 30, 1994, will be acted on separately because they involve technical issues and require more detailed review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future 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.

EPA is publishing this document 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 June 30, 1997, unless, by May 30, 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 then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 30, 1997.

Regulatory Flexibility

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 population of less than 50,000.

SIP approvals under sections 110 and 301(a) 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.* versus *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this [proposed or final] action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Small Businesses

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 action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this action in today's **Federal Register**. This action is not a ''major action'' as defined by 5 U.S.C. 804(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures California State Implementation Plan—Page 13 or 14 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 Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: April 14, 1997.

Felicia Marcus,

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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(52)(xiii)(E), (80)(i)(D), and (207)(i)(A)(*2*)to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(52) * * *

(xiii) * * *

(E) Previously approved and now deleted, Rule 104.

* * * * *

(80) * * *

(i) * * *

(D) Previously approved and now deleted, Rule 104.

* * * * *

(207) * * *

(i) * * *

(A) * * *

(*2*) Rules 101, 102, 103, 201, 202, 203, 204, 208, 209, 210, 211, 213, 214, 217, 219, 220, 221, 222, 225, 226, 228, 406, 407, and 408, adopted on October 19, 1993; deletion of 104 for Lake Tahoe Air Basin and Mountain Counties Air Basin submitted 08/21/79 and 10/15/79, respectively.

* * * * *

[FR Doc. 97–11158 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[OMC–025–FC]

RIN 0938–AH62

Medicare Program; Establishment of an Expedited Review Process for Medicare Beneficiaries Enrolled in Health Maintenance Organizations, Competitive Medical Plans, and Health Care Prepayment Plans

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

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period establishes a new administrative review requirement for Medicare beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans (HCPPs). This rule implements section 1876(c)(5) of the Social Security Act, which specifies the appeal and grievance rights for Medicare enrollees in HMOs and CMPs. This rule requires that an HMO, CMP, or HCPP establish and maintain, as part of the health plan's appeals procedures, an expedited process for making organization determinations and reconsidered determinations when an adverse determination could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function. This rule also revises the definition of appealable determinations to clarify that it includes a decision to discontinue services.

DATES: *Effective date:* These regulations are effective June 30, 1997.

Compliance date: HMOs, CMPs, and HCPPs must comply with the requirements of this final rule beginning August 28, 1997.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided under **ADDRESSES,** no later than 5 p.m. on June 30, 1997.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: OMC–025–FC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309/G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following e-mail address: OMC025FC@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OMC–025–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

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FOR FURTHER INFORMATION CONTACT: Maureen Miller, (410) 786–1097.

SUPPLEMENTARY INFORMATION:

I. General Background

A. Program Background

Under title XVIII of the Social Security Act (the Act), Medicare beneficiaries have a choice of whether to obtain Medicare-covered services through the traditional fee-for-service program or through a managed care entity or ''prepaid health care organization.'' This final rule with comment period concerns appeal rights for Medicare beneficiaries who choose a prepaid health care organization. Under the prepayment method, health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans (HCPPs) enter into contracts or agreements with us to provide a range of services to Medicare beneficiaries who voluntarily enroll in these health plans.

Section 1876 of the Act provides the authority for us to enter into contracts with HMOs and CMPs to furnish

Medicare-covered services to beneficiaries on either a ''risk'' or a ''cost payment'' basis. Section 1833 of the Act provides the basis for regulations under which we enter into written agreements with HCPPs to furnish covered Medicare Part B services on a cost payment basis.

Section 1876 specifies the requirements that eligible health plans must meet in order to enter into and maintain a Medicare contract, including the provision of appeal and grievance rights to Medicare enrollees, as set forth under section 1876(c)(5) of the Act. Regulations implementing the beneficiary appeals requirements are found at 42 CFR, subpart Q, §§ 417.600 through 417.638. These regulations were most recently amended on November 21, 1994 with the publication of the final rule entitled ''Medicare Program: Appeal Rights and Procedures for Beneficiaries Enrolled in Prepaid Health Care Plans'' (59 FR 59933). That final rule (1) codified a program standard that HMOs and CMPs complete reconsiderations requested by a Medicare enrollee, referenced in this final rule as an ''enrollee,'' for denied services or claims, within 60 days from the date of receipt of the reconsideration request; (2) extended to HMO and CMP enrollees the right to request immediate review by a Utilization and Quality Control Peer Review Organization (PRO) of an HMO's, CMP's, or hospital's determination that an inpatient hospital stay is no longer necessary; and (3) required HCPPs to establish administrative review procedures for their Medicare beneficiaries who are dissatisfied with decisions to deny a service or a claim. In this final rule, we refer to HMOs, CMPs, and HCPPs as ''health plans.''

B. Current Requirements

Medicare-contracting health plans are required to maintain procedures for making ''organization determinations'' (decisions concerning whether to provide a service or pay a claim) and for reconsidering the organization determination. That is, if the organization determination is adverse to the beneficiary, the health plan also must provide a second level of review called a ''reconsideration'' upon request by the Medicare enrollee.

Current regulations, drafted in the early 1980's, permit health plans up to 60 days to issue a formal notice of an adverse organization determination if an enrollee's request for a service or payment is denied. This notice informs the beneficiaries of the reason for the determination and their right to file a request for reconsideration. The health plan has an additional 60 days to conduct the reconsideration and issue a reconsidered determination. These 60-day time frames stem from the fee-for-service appeals process, a process the Congress referenced in drafting section 1876 of the Act.

At the reconsideration stage, the health plan may uphold the decision to deny a service or payment of a claim, or it may overturn the decision and issue a reconsidered determination in favor of the enrollee. If, upon reconsideration, a health plan upholds its decision to deny, the appeal is automatically sent to an independent reviewer under contract with and acting for HCFA. No written request from the enrollee is necessary for this external review. The reconsideration contractor, on our behalf, is responsible for issuing the reconsidered determination. The reconsidered determination may uphold or overturn the plan's determination. If the contractor's determination upholds the plan's decision (in whole or in part) and if the amount in controversy is $100 or more, the enrollee may request an Administrative Law Judge hearing. At this point, the enrollee may pursue the same administrative and judicial review processes that are available to beneficiaries in fee-for-service. Thus, beneficiaries enrolled in HMOs, CMPs, and HCPPs have appeal rights equivalent to those available in the fee-for-service program.

II. Additional Background

A. Expedited Organization Determinations and Reconsiderations

The regulations pertaining to Medicare managed care appeals requirements do not include a specific provision requiring expedited organization determinations or reconsiderations in time-sensitive situations. However, increased program experience resulting from the growth and penetration of HMOs in the private insurance and Medicare markets has prompted us, along with other groups, to recognize the desirability of an expedited decision-making process for certain services in certain situations. In fact, the National Association of Insurance Commissioners (NAIC) has developed and recently adopted a model Grievance Act setting forth standards for grievance procedures that include provision for expedited appeals. (Although our regulations make a distinction between appealable organization determinations and ''grievances,'' which are not appealable, the model ''Grievance'' Act prepared by NAIC encompasses determinations of the type addressed in this rule.)

The need for an expedited process to address certain preservice denials, as well as reductions and discontinuations of service in certain time-sensitive circumstances, is further supported by reports and studies of the General Accounting Office (1995), the Physician Payment Review Commission (1996), and the Institute of Medicine (1996). Organizations that advocate for beneficiaries also have reported to us the urgent need for expedited decision-making, particularly when certain services are being discontinued. Therefore, we are amending part 417, subpart Q to establish and incorporate provisions for expediting organization determinations and reconsiderations in certain time-sensitive situations.

In developing the provisions for this final rule, we looked for guidance to the NAIC's model Grievance Act. This model act is the result of more than 2 years of deliberation among State regulators, in open consultation with consumer groups (including Medicare beneficiary advocacy groups), provider and physician associations, insurance and managed care representatives, HCFA staff, and others. We anticipate that many States will adopt this model act or amend existing regulations to conform with these new, state-of-the-art standards.

Because of the inclusive and exhaustive efforts invested in the development of the NAIC's model Grievance Act as well as the importance of acting rapidly to institute expedited appeals for the Medicare population, we have drawn on the NAIC's time lines and definition in developing the new Medicare requirement. In addition to the important precedent of NAIC's accountability standards, we believe that beneficiaries (particularly those enrolled in prepaid plans before Medicare eligibility) would benefit from consistent standards regarding appeal rights. We believe, too, that similar thresholds for expediting a review process and similar time lines will lessen the margin for error among health plan staff handling commercial as well as Medicare enrollee appeals, and strengthen the ability of enrollees to exercise appeal rights when making the transition to the Medicare managed care plan.

Under the provisions of this rule, health plans are required to incorporate into their appeals process a procedure for reviewing and issuing certain organization determinations and reconsiderations within a short time frame. Expedited reviews will be conducted for situations in which the standard (60-day) time frame for issuing determinations could jeopardize the life

or health of the enrollee or the enrollee's ability to regain maximum function. Also, requests for reconsideration of noncoverage determinations for inpatient stays, other than hospital discharges for which immediate Peer Review Organization (PRO) review is available, will be expedited, as well as requests for reconsiderations of determinations to discontinue a service (such as physical therapy) in the home or outpatient setting where a longer review time could jeopardize the enrollee's life, health, or ability to regain his or her maximum function. Health plans will be required to conduct the review within a time period appropriate to the condition or situation of the enrollee, but no more than 72 hours from the time of the request. Thus, expedited reviews could occur in 24 hours, 48 hours, or other appropriate time period. Similarly, an expedited organization determination to deny a service could be issued in 48 hours, but the expedited reconsideration could take the full 72 hours allotted for making a determination.

Because of the time-sensitive nature of these situations, certain requirements and conditions applicable to standard appeals are altered. For instance, the Medicare enrollee, or his or her representative, will be able to request an expedited review orally, such as by telephone. In a similar manner, the health plan's determination will be given to the enrollee or the representative, and to the appropriate physician or provider as necessary, in an expeditious manner. When the determination is given orally, a written follow-up version must be issued within 2 working days. Further, any physician will be permitted to request an expedited review on behalf of the enrollee, and the health plan must accept the physician's decision that the situation meets the criterion for expedited review, that is, that a longer review period could place the enrollee in jeopardy.

The health plan must receive the request for an expedited determination or reconsideration, make the procedural decision whether the determination will be made through the expedited process (or redirect it to the standard process), conduct the review, and issue its determination within the 72-hour time frame set forth in the regulation. In limited circumstances, health plans will be allowed to take more than 72 hours to issue a determination. Health plans will be permitted up to 10 additional working days beyond the 72-hour standard if the ''extension'' of time benefits the beneficiary, such as allowing for additional diagnostic testing or consultations with medical specialists, or if the beneficiary requests the extension in order to provide the plan with additional information for making its decision. Delays in meeting the 72-hour standard will also be permitted if an expedited organization determination or reconsideration is requested by a physician not affiliated with the health plan. In this case, the 72-hour time standard will begin only when the medical information necessary for making the determination has been communicated (orally or in writing by the out-of-plan physician) to the health plan. If the physician fails to provide necessary information, the health plan must notify the enrollee (or attempt to notify the enrollee who is out of the service area) in a timely manner, and no later than 72 hours after the request, that the information has not been provided. When a small amount of additional time is needed to make a determination and, overall, is in favor of the beneficiary, the beneficiary must be kept informed and written documentation made to the case file. However, delays in the communication of medical record information between affiliated physicians or providers and the health plan will not be accepted as reason for extending the time standard.

In those instances in which the health plan determines that the enrollee's request does not meet the criterion for expedited review, the HMO or CMP must notify the enrollee as soon as possible and follow up any oral communication with a written explanation. This is a procedural decision, and because the enrollee has requested an organization determination—or a reconsideration—the health plan must handle the request through standard appeals procedures. We anticipate that questions will arise on matters such as enrollee recourse and plan procedures if a request is not granted, and we plan to consult beneficiary advocacy groups and the managed care industry on needed action and operational guidance in areas such as notification of grievance rights, filing quality of care complaints with the local PRO, and modifying procedures to carry out the standard review process.

If a decision is made by the health plan not to expedite an organization determination, and at the completion of the standard review process there is a determination adverse to the enrollee, the enrollee could request an expedited reconsideration if he or she again believes that a longer (standard) time frame could jeopardize life, health, or functioning. On the other hand, a health plan may have a protocol that any reconsideration will be expedited if the organization determination was expedited.

If a health plan expedites a reconsideration, and upholds its decision that is adverse to the enrollee in whole or in part, it must forward the case to our reconsideration contractor in as expeditious manner as possible and within 24 hours of its decision. Our contractor will then conduct an expedited reconsideration. Currently, our contractor has an expedited process for time-sensitive situations involving preservice denials and terminations of coverage. As part of this rulemaking, we will review this process for possible improvement and assess the need for contract modification.

The expedited appeals process established by this rule, generally, will not affect the handling of hospital discharge disputes because, as noted earlier in this preamble, an ''expedited'' process is already in place for these appeals, that is, the right to immediate PRO review. The right to immediate PRO review for possible premature discharge would extend, also, to instances in which an enrollee is preauthorized for an inpatient procedure and only 1 or 2 days of hospital care. The HMO or CMP must assure that it (or its delegated hospital) has procedures in place that would allow an enrollee who is admitted for a very short stay to exercise this right to immediate PRO review. This independent review protection would not preclude a health plan from establishing a procedure for appealing before hospitalization, although this process could not replace the right to PRO review once hospitalized. If the enrollee does not request PRO review, an alternative appeals protection exists: The enrollee may remain in the hospital for extra days of care then submit a request for the health plan to pay the hospital charges.

Options Considered

In developing this rule, we consulted beneficiary advocacy groups and the managed care industry concerning several policy options. In particular, we considered several options before deciding to adopt a 72-hour time standard for expedited appeals. The beneficiary advocacy groups we consulted indicated that the expedited review process should take less, but no more, than 72 hours. Representatives of the HMO industry estimated a need for 5 days. We chose the 72-hour time standard because (1) it is consistent with the model standard recently adopted by the NAIC, (2) agency staff estimate that a majority of these cases could be reasonably resolved in this

time frame, and (3) the 72-hour time frame is similar to that established by the Congress for completion of immediate PRO review of fee-for-service and HMO hospital discharge decisions.

We also considered options regarding the procedural issue of deciding whether to expedite a review. Beneficiary advocacy groups recommended that the beneficiary decide whether determinations and reconsiderations are expedited, not the health plan, in order to ensure that these special appeal requests are granted. Representatives of the HMO industry believe that health plans should make these decisions because the criterion for expeditious treatment of a review requires the judgment of trained persons and health professionals. HMOs are also concerned that beneficiaries will overuse and misuse this process. In this final rule, we are modifying the NAIC language from ''would jeopardize * * *'' to ''could jeopardize'' the life, health, or functioning of the beneficiary, and are adding the mandatory granting of physician requests. We believe this language strikes the proper balance and provides beneficiaries with an expedited appeal in most cases, but allows HMOs some flexibility to refuse expedition in cases in which the beneficiary is misusing the new right.

The beneficiary groups and the HMO industry both recommended that our reconsideration contractor be held to similar expedited review requirements. The current contractor already expedites its review of preservice denial cases with a self-imposed time standard of 3 to 10 days. It is our intent to hold the contractor to a time limit of no more than 10 days to complete time-sensitive reconsiderations.

After publication of this rule, we will issue implementation instructions to all contracting health plans, including directives concerning notification of enrollees on the new appeals right and revising member documents. Furthermore, we will incorporate information about this new appeal right in various materials, including the Medicare Handbook.

We believe that the addition of regulations pertaining to an expedited process to part 417, subpart Q will provide a needed protection for beneficiaries while allowing health plans to manage effectively the resources that must be available for expediting urgent cases.

B. Clarification of Organization Determination Definition

In making payments to affiliated providers and physicians, prepaid health plans (including Medicare-contracting HMOs, CMPs, and HCPPs) commonly use financial arrangements that incorporate an incentive to utilize health resources efficiently. Some believe these incentives, which are designed to achieve quality outcomes without overutilizing the health care system, could have the untoward result of underutilization or failure to furnish medically necessary covered services in some situations. Thus, an important protection for beneficiaries enrolled in HMOs, CMPs, or HCPPs is the right to appeal denials of care (also known as preservice denials) and to seek reimbursement for the costs of services received out of plan following a preservice denial.

Regulations set forth at § 417.606 (''Organization determinations'') define those actions that are organization determinations and therefore subject to reconsideration and the Medicare appeals process, as well as those actions that are not organization determinations. These regulations do not expressly identify as organization determinations those situations in which an enrollee has been receiving services but the care is being discontinued, although the intent is that enrollees have the right to appeal decisions for which Medicare coverage is in dispute. These disputes are not limited to preservice denials or postservice claims for payment but must include situations in which services have been furnished, but the enrollee disagrees with his or her health plan's decision that continued care or the skilled level of care is no longer medically necessary, appropriate, or covered.

We have received information that some enrollees do not fully understand their appeal rights and that health plan administrators themselves are confused about appeal rights in these situations. Most recently, the Office of Inspector General of the Department of Health and Human Services found that, while enrollees ''were knowledgeable about their general right'' to register formal complaints, they were less aware of specifically when to exercise appeal rights. (Medicare HMO Appeal and Grievance Processes: Beneficiaries' Understanding, December 1996, OEI–07–96–11281.) Therefore, we are revising § 417.606(a) to clarify that the definition of organization determination includes discontinuations of covered services, when an enrollee believes there is a continuing need for the service, or level of service, that would be covered by Medicare. Examples of these situations are discharges from skilled nursing facilities, decisions to move an enrollee from a skilled level to custodial care in the nursing facility, and exhaustion of skilled nursing facility benefits.

Options Considered

We believe that the current definition of organization determination extends to reductions in services, such as changes in the intensity and mix of home health services furnished to an enrollee. However, because the definition in the regulations does not expressly identify reductions in services furnished to an enrollee, we considered including a clarification in this final rule. In assessing the ramifications of this clarification, we became aware of the potential scope and the complexity of addressing reductions in various medical services, as well as the interaction of such a provision with other improvements under consideration for improving appeals protections (see section III. of this regulation). Therefore, we have decided to include this provision in a subsequent rulemaking document. This will allow not only beneficiary and managed care representatives to comment, but also medical, other professional, and provider organizations. Commenters to this final rule, however, are invited to submit their initial comments, concerns, and ideas on establishing effective and efficient parameters for giving notice and providing appeal rights when services are being reduced (for example, in home health care, outpatient clinics, and physician offices), when reconsiderations of a reduction should be expedited, and when enrollees are participating in case management programs or other innovative treatment modalities for which there are pre-agreements regarding the services to be furnished.

C. Grijalva et al. and Balistreri et al. v. Shalala

Civ. 93–711 (D. Arizona) concerns the service denial appeal rights of members of Medicare health maintenance organizations. The District Court's October 17, 1996 decision and March 3, 1997 judgment are subject to appeal on or before May 2, 1997.

III. Additional Pending Revisions to the Regulations

We have undertaken a broad review of the overall appeals program and have identified a number of improvements that we believe are warranted. Therefore, in addition to the two changes being made in this rule, we intend to publish soon a separate proposed rule making a variety of other

improvements in Medicare managed care appeals processes.

IV. Provisions of This Final Rule

The provisions of this final rule with comment period follow:

In § 417.600 (''Basis and scope''), paragraph (b)(3)(ii) is modified to require that the HMO or CMP must ensure that Medicare enrollees have a complete written explanation of the availability of expedited reviews.

In § 417.604 (''General provisions''), paragraph (b)(4) is modified to allow physicians and other health professionals to act on behalf of an enrollee in time-sensitive situations when an organization determination or reconsideration is being requested.

The definition of ''organization determination'' set forth at § 417.606 (''Organization determinations''), paragraph (a), is revised to include discontinuations of services being furnished by an HMO or CMP.

In § 417.608 (''Notice of adverse organization determination''), paragraph (a) is modified to incorporate expedited organization determinations, and paragraphs (b)(2) and (c) are revised to require that the HMO or CMP must inform the enrollee of his or her right to and conditions for obtaining an expedited reconsidered determination and that failure to provide the enrollee with timely notification (72 hours in the case of certain expedited organization determinations) constitutes an adverse organization determination and may be appealed.

A new § 417.609 (''Expediting certain organization determinations'') is added to provide that an enrollee may request that certain organization determinations be expedited if the standard time frames could jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function. This new section also sets forth the procedures for expediting certain organization determinations. An extension of up to 10 working days is permitted if requested by the enrollee or if the HMO or CMP finds that additional information is necessary and the delay is in the interest of the enrollee.

In § 417.614 (''Right to reconsideration''), a modification is made to extend the right to reconsideration to include expedited reconsiderations in time-sensitive situations.

In § 417.616 (''Request for reconsideration''), paragraph (a) (''Method and place for filing a request'') is modified to provide for an exception for expedited reconsiderations to the place for filing a request for a reconsideration.

A new § 417.617 (''Expediting certain reconsiderations'') is added to require that an enrollee may request expedition of a reconsideration of certain organization determinations when the longer time frames in § 417.620(c) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function. This section also sets forth the procedures for health plans to expedite reconsiderations. An extension of up to 10 working days is permitted if requested by the enrollee or if the HMO or CMP finds that additional information is necessary and the delay is in the interest of the enrollee.

A modification is made to § 417.618 (''Opportunity to submit evidence'') to recognize and clarify the procedural limitation for providing evidence by enrollees, their representatives, or a health professional on the enrollee's behalf.

Section 417.620 (''Responsibility for reconsiderations; time limits'') paragraphs (c) and (e) are revised to incorporate the time limit for expediting certain reconsiderations. Paragraph (d) is revised to correct typographical errors.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

However, we believe that the information collection requirements referenced in this rule, as summarized below, are exempt from the Paperwork Reduction Act of 1995 for the following reasons:

Sections 417.608, 417.609, 417.616, 417.617, 417.618, and 417.620 of this rule, as well as the retention and possible audit of health plan records related to expedited requests, are exempt because they are performed in the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or organizations, as outlined in 5 CFR 1320.4(a)(2).

Below is a summary of information collection requirements referenced in this rule, which we believe are exempt from the Paperwork Reduction Act of 1995:

Section 417.608 requires that the HMO or CMP must inform the enrollee of his or her right to and conditions for obtaining an expedited reconsidered determination and that failure to provide the enrollee with timely notification (72 hours in the case of certain expedited organization determinations) constitutes an adverse organization determination and may be appealed.

Section 417.609 requires an HMO or CMP to establish and maintain procedures for expediting certain organization determinations. This section also requires an HMO or CMP to notify an enrollee of an expedited organization determination as expeditiously as the enrollee's health condition requires, but within 72 hours of the request. Finally, the section requires an HMO or CMP to accept the request of a physician, regardless of whether the physician is affiliated with the organization or not, to expedite the process for making an organization determination. Section 417.616 requires that an enrollee may request a reconsideration of an organization determination and specifies the method and place for filing a request, which, in the case of a request for an expedited reconsideration, as provided for in § 417.617 (concerning certain expedited reconsiderations), is the HMO or CMP.

Section 417.617 requires that an enrollee may request a reconsideration of certain organization determinations. It also requires an HMO or CMP to have and maintain procedures for expediting reconsiderations when the longer time frames permitted in § 417.620(c) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function. This section also requires an HMO or CMP to accept the request of a physician, regardless of whether the physician is affiliated with the organization or not, to expedite the reconsideration. Finally, this section requires that, if the HMO or CMP defaults on its obligation to provide an expedited reconsideration, it must forward the file to us.

Section 417.618 requires an HMO or CMP to provide the parties to the reconsideration reasonable opportunity to present evidence and allegations of fact or law, related to the issue in

dispute, in person as well as in writing. In the case of expedited reconsiderations, the opportunity to present the evidence is more limited, and the organization must inform the enrollee, or authorized representative of the enrollee, of the conditions for submitting evidence.

Section 417.620 requires an HMO or CMP to issue the reconsidered determination to the enrollee, or submit the explanation and file to us within the time frames specified. Failure by the HMO or CMP to provide the enrollee with a reconsidered determination within the time limits described constitutes an adverse determination, and the HMO or CMP must submit the file to us.

Although we believe the information collection requirements referenced in this document are exempt under 5 CFR 1320.4(a)(2), as required by section 3504(h) of the Paperwork Reduction Act of 1995, we have submitted a copy of this document to OMB for its review. Organizations and individuals desiring to submit comments should send to both of the following addresses:

Health Care Financing Administration, Office of Financial and Human Resources, Management Planning and Analysis Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

VI. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VII. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite prior public comment on proposed rules. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substance of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

For the reasons that follow, we believe that it would be contrary to the public interest to delay the revisions made in this rule until after a public notice and comment process has been completed. The first provision concerns an expedited appeals process for certain preservice denials. This expedited decision-making would occur if the determination that services are not needed or no longer needed could seriously jeopardize the life or health of the enrollee or could jeopardize the enrollee's ability to regain maximum function. While a number of Medicare-contracting plans have an expedited review process in place for Medicare enrollees, not all do, and the opportunity to obtain the reviews may not be consistently applied. For this reason, the growing number of enrollees who could be adversely affected by a slow process, and the fact that the situations addressed by this provision are of such a serious nature, we find that there is good cause to waive proposed rulemaking.

We have reached the same conclusion about the provision in this rule that merely clarifies the original intent of the definition of an organizational decision. This clarification, however, could help ensure that a beneficiary has the appeal rights that the Congress intended when services the beneficiary believes the HMO should provide are terminated.

Clearly, the intent of section 1876(c)(5)(B) of the Act and regulations set forth in part 417, subpart Q is that enrollees have the opportunity to seek administrative review when they believe the health plan is not furnishing any health service to which they are entitled. The Medicare Health Maintenance Organization/Competitive Medical Plan Manual indicates this intent in the ''Benefits'' chapter with a requirement that health plans notify enrollees of their appeal rights at discharge from a skilled nursing facility (see section 2112.1). However, growing reports from beneficiaries and beneficiary advocacy groups indicate that many enrollees are not being informed, or appropriately informed, of appeal rights when services are being discontinued and the enrollee disagrees that services are no longer covered. When this occurs, the critical protection against underutilization provided by the appeals process is not available to enrollees.

We believe that it would be contrary to the public interest to leave HMO enrollees at risk of being denied this critical protection in cases in which health care service is being terminated while a notice and comment process is being conducted.

Although we find that it is in the public interest to waive proposed rulemaking in these two areas, there are a number of other improvements to part 417, subpart Q that we are developing. While these revisions are important, we did not believe that the standard for waiving notice of proposed rulemaking was met or we found that public comment is needed for the policy changes under consideration. We anticipate that a second rule addressing improvements to the appeals protections of Medicare enrollees will be issued as a proposed regulation for comment in the near future.

VIII. Regulatory Impact Analysis

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless the Secretary certifies that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, many Medicare-contracting HMOs, CMPs, and HCPPs are considered to be small entities.

In addition, section 1102(b) requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b), we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We require all Medicare-contracting HMOs, CMPs, and HCPPs to maintain systems for making initial organization determinations and conducting reconsiderations. Systems must also be in place so that hospitalized beneficiaries who disagree with an HMO's or CMP's discharge determination are given a written notice of noncoverage with instructions for requesting immediate review by a PRO. In addition, the Medicare Health Maintenance Organization/Competitive Medical Plan Manual requires that beneficiaries being discharged from a nursing home be given advance written notice of noncoverage and procedures for requesting an appeal.

The clarification in the regulations that organization determinations include discontinuations of care, and are thus appealable, could increase the number of written notices issued and the number of reconsiderations that a

health plan must conduct. However, because the majority of services provided by any health plan are ambulatory care and hospital care—where it is already required by statute, as mentioned above, that notices be given any time a beneficiary disagrees that the hospitalization can be ''discontinued''—this regulation will primarily affect discontinuations involving skilled nursing facility, rehabilitation, and home health care. In addition, not all changes in level of care or terminations of coverage are disputed by the beneficiary. Having considered the limited applicability of this important clarification, we believe the increased volume of notices and reconsiderations, and the associated increase in expenses, will not have a significant impact on contracting health plans and HCPPs.

The new process for making expedited determinations and reconsiderations in certain circumstances requires a modification of existing appeals processes. In particular, contracting health plans that do not currently have the process must develop procedures, train staff, and maintain a daily availability of health professionals necessary to handle an anticipated but unpredictable volume of cases and the diverse, complex coverage issues usually associated with serious, time-sensitive situations. We anticipate a net increase in the number of determinations and reconsiderations due to an increase in standard cases as well as a new, but smaller volume of expedited reviews. This will occur because of the public attention being given to appeal and expedited review rights, and, to a lesser degree, because of fewer disenrollments. The volume increase is anticipated despite the substitution of expedited reviews for a number of standard determinations and reconsiderations. We do not believe, however, that the net increase in the cost of the appeals system resulting from this modification will have a significant impact on HMOs, CMPs, and HCPPs as set forth in the RFA.

We estimate, based on 450 health plans, that the clarification regarding discontinuations will cost approximately $30 million across all plans (100,000 new reconsiderations × $300 per notice). Our estimates for the expedited review requirements for the same number of plans are the following: $9 million for development and training ($20,000 per plan); $20 million for expedited organization determinations (50,000 determinations × $400 per expedited determination); and $10 million for expedited reconsiderations (12,500 reconsiderations × $800 per reconsideration). The total estimated economic impact is $69 million in the first year and $60 million annually thereafter.

There is no direct impact on the Medicare trust funds from these costs to the plans because there is no payment adjustment to Medicare managed care plans associated with this rulemaking.

We anticipate that, while this final rule will affect our administrative costs associated with the Medicare reconsideration contract, these costs will be negligible. The availability of expedited reviews and the clarification regarding discontinuations of care may have a significant impact on the reconsideration contractor's volume of reviews. However, although it is difficult to estimate, we believe the additional cost of this contract will not exceed $1 million per year.

The number of Medicare enrollees in health plans that also have commercial (and often Medicaid) enrollments, varies greatly. Thus, it is very difficult to estimate the average net costs to contracting health plans. Given the degree of variability, we estimate average net costs to entities to implement the provisions of this regulation to range between $20,000 and $200,000 annually. Entities with revenues of $5 million or less annually or nonprofit organizations are considered small entities for purposes of this regulation. Although 99 of 353 current contracting health plans are nonprofit and considered small entities for the purpose of preparing an RFA, we do not believe the annual cost to prepaid plans of implementing these provisions will be significant since net cost to these entities will not constitute a substantial portion of their annual revenues.

Therefore, we are not preparing analyses of this final rule for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities or a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 417

Administrative practice and procedure, Grant programs-health, Health care, Health facilities, Health insurance, Health maintenance organizations (HMO), Loan programs-health, Medicare, Reporting and recordkeeping requirements.

42 CFR chapter IV is amended as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

Part 417 is amended as set forth below:

1. The authority citation for part 417 continues to read as follows:

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

2. In § 417.600, the introductory text of paragraphs (b) and (b)(3) is republished, and paragraph (b)(3)(ii) is revised to read as follows:

§ 417.600 Basis and scope.

* * * * *

(b) *Scope*. This subpart sets forth—

* * * * *

(3) The responsibility of the HMO or CMP—

* * * * *

(ii) To ensure all Medicare enrollees have a complete written explanation of their grievance and appeal rights, the availability of expedited reviews, the steps to follow, and the time limits for each procedure; and

* * * * *

3. In § 417.604, paragraph (b)(4) is revised to read as follows:

§ 417.604 General provisions.

* * * * *

(b) Limits on applicability of this subpart.

* * * * *

(4) Physicians and other individuals who furnish services under arrangement with an HMO or CMP have no right of appeal under this subpart, except as provided in §§ 417.609(c)(4) and 417.617(c)(4), which allow physicians and other health professionals to act on behalf of an enrollee in time-sensitive situations when an organization determination or reconsideration is being requested.

* * * * *

4. In § 417.606, the introductory text to paragraph (a) is republished, and new paragraph (a)(4) is added to read as follows:

§ 417.606 Organization determinations.

(a) *Actions that are organization determinations*. An organization determination is any determination made by an HMO or CMP with respect to any of the following:

* * * * *

(4) Discontinuation of a service (such as a skilled nursing facility discharge), if the enrollee disagrees with the determination that the service is no longer medically necessary.

* * * * *

5. In § 417.608, the introductory text of paragraph (b) is republished, and paragraphs (a), (b)(2), and (c) are revised to read as follows:

§ 417.608 Notice of adverse organization determination.

(a) If an HMO or CMP makes an organization determination that is partially or fully adverse to the enrollee, it must notify the enrollee of the determination—

(1) Within 60 days of receiving the enrollee's request for payment for services; or

(2) As specified in § 417.609(c)(3) for expedited organization determinations.

(b) The notice must—

* * * * *

(2) Inform the enrollee of his or her right to a reconsideration, including the right to and conditions for obtaining an expedited reconsidered determination.

(c) The failure to provide the enrollee with timely notification of an adverse organization determination as specified in paragraph (a) of this section or in § 417.609(b) (concerning time frames for expediting certain organization determinations) constitutes an adverse organization determination and may be appealed.

6. A new § 417.609 is added to read as follows:

§ 417.609 Expediting certain organization determinations.

(a) An enrollee, or an authorized representative of the enrollee, may request that an organization determination as defined in §§ 417.606(a)(3) and (a)(4) be expedited. The request may be made orally to the HMO or CMP.

(b) The HMO or CMP must maintain procedures for expediting organization determinations when, upon request from an enrollee or authorized representative of the enrollee, the organization decides that making the determination according to the procedures and time frames set forth in § 417.608(a)(1) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(c) The procedures must include the following:

(1) Receipt of oral requests, followed by written documentation of the oral requests.

(2) Prompt decision-making regarding whether the request will be expedited, or handled within the standard time frame set forth at § 417.608(a)(1), including notification of the enrollee if the request is not expedited.

(3) Notification of the enrollee, and the physician as appropriate, as expeditiously as the enrollee's health condition requires, but within 72 hours of the request. An extension of up to 10 working days is permitted if requested by the enrollee or if the HMO or CMP finds that additional information is necessary and the delay is in the interest of the enrollee.

(i) Notification must comply with § 417.608(b), concerning the content of a notice of adverse organization determination.

(ii) If the initial notification is not in writing, written confirmation must be mailed to the enrollee within 2 working days.

(iii) In cases for which the HMO or CMP must receive medical information from a physician or provider not affiliated with the HMO or CMP, the time standard begins with receipt of the information.

(4) Granting the request of a physician, regardless of whether the physician is affiliated with the organization or not, to expedite the enrollee's request.

7. Section 417.614 is revised to read as follows:

§ 417.614 Right to reconsideration.

Any party who is dissatisfied with an organization determination or with one that has been reopened and revised may request reconsideration of the determination in accordance with the procedures of § 417.616, concerning a request for reconsideration, or § 417.617, concerning certain expedited reconsiderations.

8. In § 417.616, the introductory text to paragraph (a) is republished, and a new paragraph (a)(4) is added to read as follows:

§ 417.616 Request for reconsideration.

(a) *Method and place for filing a request.* A request for reconsideration must be made in writing and filed with—

* * * * *

(4) In the case of a request for an expedited reconsideration, as provided for in § 417.617 (concerning certain expedited reconsiderations), the HMO or CMP.

* * * * *

9. A new § 417.617 is added to read as follows:

§ 417.617 Expediting certain reconsiderations.

(a) An enrollee, or an authorized representative of the enrollee, may request that a reconsideration be expedited. The request may be made orally to the HMO or CMP.

(b) The HMO or CMP must maintain procedures for expediting reconsiderations when, upon request from an enrollee or an authorized representative of the enrollee, the organization decides that the longer time frames permitted in § 417.620(c) could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function.

(c) The procedures must comply with the requirements for reconsidered determinations set forth in §§ 417.614 through 417.626 and include the following items:

(1) Receipt of oral requests, followed by written documentation of the oral requests.

(2) Prompt decision-making regarding whether the request will be expedited or handled within the standard time frame of § 417.620(c), including notification of the enrollee if the request is not expedited.

(3) Notification of the enrollee, and the physician as appropriate, as expeditiously as the enrollee's health condition requires, but within 72 hours of the request. An extension of up to 10 working days is permitted if requested by the enrollee or if the HMO or CMP finds that additional information is necessary and the delay is in the interest of the enrollee.

(i) Notification must comply with § 417.624(b), concerning the content of a notice of a reconsidered determination.

(ii) If the initial notification is not in writing, written confirmation must be mailed to the enrollee within 2 working days.

(iii) In cases for which the HMO or CMP must receive medical information from a physician or provider not affiliated with the HMO or CMP, the time standard begins with receipt of the information.

(4) Granting the request of a physician, regardless of whether the physician is affiliated with the organization or not, to expedite the request.

8. Section 417.618 is revised to read as follows:

§ 417.618 Opportunity to submit evidence.

The HMO or CMP must provide the parties to the reconsideration reasonable opportunity to present evidence and allegations of fact or law, related to the issue in dispute, in person as well as in writing. In the case of an expedited reconsideration, the opportunity to present evidence is limited by the short time frames for making decisions, and

the organization must inform the enrollee, or the authorized representative of the enrollee, of the conditions for submitting the evidence.

9. In § 417.620, paragraphs (c), (d), and (e) are revised to read as follows:

§ 417.620 Responsibility for reconsideration; time limits.

* * * * *

(c) The HMO or CMP must issue the reconsidered determination to the enrollee, or submit the explanation and file to HCFA within 60 calendar days from the date of receipt of the request for reconsideration. In the case of an expedited reconsideration, the HMO or CMP must issue the reconsidered determination as specified in § 417.617(c)(3) or submit the explanation and file to HCFA within 24 hours of its determination, the expiration of the 72-hour review period, or the expiration of the extension.

(d) For good cause shown, HCFA may allow extensions to the time limit set forth in paragraph (c) of this section.

(e) Failure by the HMO or CMP to provide the enrollee with a reconsidered determination within the time limits described in paragraph (c) of this section or to obtain a good cause extension described in paragraph (d) of this section constitutes an adverse determination, and the HMO or CMP must submit the file to HCFA.

* * * * *

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

Dated: March 19, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: April 11, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–11182 Filed 4–29–97; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–54; RM–8989]

Radio Broadcasting Services; Poplar Bluff, Missouri

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 223A to Poplar Bluff, Missouri, as that community's fifth FM broadcast service in response to a petition filed by The Word of Victory Outreach Center, Inc. *See* 62 FR 6929, February 14, 1997. The coordinates for Channel 223A at Poplar Bluff are 36–45–30 and 90–23–54. With this action, this proceeding is terminated.

DATES: Effective June 9, 1997. The window period for filing applications for Channel 223A at Poplar Bluff, Missouri, will open on June 9, 1997, and close on July 10, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–54, adopted April 16, 1997, and released April 25, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Channel 223A at Poplar Bluff.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–11133 Filed 4–29–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–217; RM–8880]

Radio Broadcasting Services; Humboldt, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Michael Sutcliffe, allots Channel 232C3 to Humboldt, Kansas, as the community's first local aural transmission service. *See* 61 FR 57359, November 6, 1996. Channel 232C3 can be allotted to the community in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.5 kilometers (12.1 miles) southwest to avoid a short-spacing conflict with the licensed site of Station KFKF (FM), Channel 231C, Kansas City, Kansas. The coordinates for Channel 232C3 at Humboldt are 37–39–50 NL and 95–33–31 WL. With this action, this proceeding is terminated.

DATES: Effective June 9, 1997. The window period for filing applications will open on June 9, 1997, and close on July 10, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–217, adopted April 16, 1997, and released April 25, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Humboldt, Channel 232C3.

Federal Communications Commission

John A. Karousos,

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

[FR Doc. 97–11131 Filed 4–29–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC22

Endangered and Threatened Wildlife and Plants; Final Rule To List the Barton Springs Salamander as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines the Barton Springs salamander (*Eurycea sosorum*) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). The Barton Springs salamander is known only from Barton Springs in Zilker Park, Austin, Travis County, Texas. The primary threats to this species are degradation of the quality and quantity of water that feeds Barton Springs due to urban expansion over the Barton Springs watershed. Also of concern is disturbance to the salamander's surface habitat in the pools where it occurs. This action implements Federal protection provided by the Act for the Barton Springs salamander.

EFFECTIVE DATE: May 30, 1997.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

FOR FURTHER INFORMATION CONTACT: Lisa O'Donnell, Fish and Wildlife Biologist (see **ADDRESSES** section) (telephone: 512/490–0057; facsimile (512/490-0974)).

SUPPLEMENTARY INFORMATION:

Background

The Service determines the Barton Springs salamander (*Eurycea sosorum*) to be an endangered species, under the authority of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*). The Barton Springs salamander is entirely aquatic and neotenic (meaning it does not metamorphose into a terrestrial form and retains its bright red external gills throughout life) and depends on a constant supply of clean, flowing water from Barton Springs. Adults attain an average length of 6.35 centimeters (cm) (2.5 inches (in)). This species is slender, with slightly elongate limbs and reduced eyes. Dorsal coloration varies from pale purplish-brown or gray to yellowish-cream. Irregular spacing of dorsal pigments and pigment gaps results in a mottled, ''salt and pepper'' pattern (Sweet 1978, Chippindale *et al.* 1993a).

The Barton Springs salamander was first collected from Barton Springs Pool in 1946 by Bryce Brown and Alvin Flury (Chippindale *et al.* 1993a,b). Although he did not publish a formal description, Dr. Samuel Sweet (University of California at Santa Barbara) was the first to recognize the Barton Springs salamander as distinct from other central Texas *Eurycea* salamanders based on its restricted distribution and unique morphological and skeletal characteristics (such as its reduced eyes, elongate limbs, dorsal coloration, and reduced number of presacral vertebrae) (Sweet 1978, 1984). Based on Sweet's work and genetic studies conducted by Chippindale *et al.* (1990, 1992, 1993b), the Barton Springs salamander was formally described in June 1993 (Chippindale *et al.* 1993a). An adult male (based on external examination only) collected from Barton Springs Pool in November 1992 was selected to be the holotype (Chippindale *et al.* 1993a).

The water that discharges at Barton Springs originates from the Barton Springs segment of the Edwards aquifer (hereafter referred to as the ''Barton Springs segment''). Barton Springs is the fourth largest spring in Texas, exceeded only by Comal, San Marcos, and San Felipe springs (Brune 1981). The Barton Springs salamander is found near three of four hydrologically connected spring outlets that collectively make up Barton Springs. These three spring outlets are known as Parthenia (=Main), Eliza (=Concession, =Elk's), and Sunken Garden (=Old Mill, =Walsh) springs, and they occur in Zilker Park, which is owned and operated by the City of Austin. No salamanders have been found at the fourth spring outlet, which is in Barton Creek immediately above Barton Springs Pool (Chippindale *et al.* 1993a,b; Sweet, pers. comm., 1993; Robert Hansen, City of Austin, *in litt.*, 1995a; William Russell, Texas Speleological Survey, *in litt.* 1995). The area around the main spring outlet (Parthenia Springs) was impounded in the late 1920's to create Barton Springs Pool. Flows from Eliza and Sunken Garden springs are also retained by concrete structures, forming small pools located on either side of Barton Springs Pool. The salamander has been observed at depths of about 0.1 to 5 meters (m) (0.3 to 16 feet (ft)) of water under gravel and small rocks, submerged leaves, and algae; among aquatic vegetation; and buried in organic debris. It is generally not found on exposed limestone surfaces or in silted areas (Sweet 1978; Dr. Charles Sexton, City of Austin, *in litt.*, 1992; Chippindale *et al.* 1993a,b; Jim Collett, Robert Hansen, and Mateo Scoggins, City of Austin, pers. comms., 1994–1995; Lisa O'Donnell, U.S. Fish and Wildlife Service (USFWS), pers. obs., 1996).

''Dozens or hundreds'' of individuals were estimated to occur among sunken leaves in Eliza Pool during the 1970's (Chippindale *et al.* 1993a,b), while fewer than 15, and occasionally no individuals, were observed during surveys conducted in Eliza Pool between 1987 and 1992 (Chippindale *et al.* 1993a,b). No salamanders were observed at this location between December 1993 and May 1995 (Paul Chippindale, University of Texas at Arlington, Collett, Hansen, and Scoggins; pers. comms., 1994–1995; Hansen *in litt.* 1995b). Numbers ranged from 0 to 28 between June 1995 and July 1996, and dead salamanders have been found (O'Donnell, unpubl. data, 1995–1996).

The Barton Springs salamander was reportedly abundant among the aquatic vegetation in the deep end of Barton Springs Pool when it was collected in 1946 (Hillis and Chippindale 1992; Chippindale *et al.* 1993a,b). Between 1989 and 1991, Sexton (*in litt.*, 1992) reported finding salamanders under rock rubble immediately adjacent to the main spring outflows on ''about one out of four [snorkeling] dives.'' On July 28, 1992, at least 50 salamanders (David Hillis, University of Texas at Austin, pers. comm., 1993) were found over an area of roughly 400 square (sq) m (4,300 sq ft) near the spring outflows in Barton Springs Pool, about 3 to 5 m (10 to 15 ft) below the water (Chippindale *et al.* 1993a,b). Following reports of a fish kill on September 28, 1992, attributed to the improper application of chlorine to clean Barton Springs Pool, only 10 to 11 salamanders were observed and could only be found in an area of about 5 sq m (54 sq ft) in the immediate vicinity of the Parthenia Spring outflows (Chippindale *et al.* 1993a,b). At least 80 individuals were observed during the first comprehensive survey effort conducted in Barton Springs Pool on November 16, 1992, and about 150 individuals were seen on November 24, 1992 (Chippindale *et al.* 1993a,b). A comprehensive survey conducted immediately following an October 1994 flood event reported a total of 16 salamanders, and a total of 10 salamanders was counted in March 1995 (Hansen, *in litt.* 1995c).

The City of Austin initiated monthly transect surveys in June 1993 to provide

more consistent data concerning the range and size of the Barton Springs salamander population in Barton Springs Pool. Survey counts ranged from 1 to 27 individuals (mean = 13) between July 1993 and March 1995. The highest survey counts (27 individuals) were reported in November 1993 and May 1994. The lowest counts (ranging from 1 to 6 individuals) occurred during a five-month period following the October 1994 flood event (Hansen, *in litt.* 1995c). Survey counts between April 1995 and April 1996 ranged from 3 to 45 salamanders (City of Austin, unpubl. data).

The salamander was first observed at Sunken Garden Springs on January 12, 1993 (Chippindale *et al.* 1993b). Less than 20 individuals have been reported on any given visit to that outlet (Chippindale 1993b; Hansen, pers. comm., 1995). Because it is part of the Barton Springs complex and is hydrologically connected to Parthenia Springs, biologists had speculated that the salamander occurred at Sunken Garden Springs. However, no salamanders were observed during previous surveys conducted at this location between 1987 and 1992. Low water levels and the presence of large rocks and sediment make searching for salamanders difficult at Sunken Garden Springs (Chippindale *et al.* 1993b; O'Donnell, pers. obs., 1995).

No evidence exists that the species' range extends beyond the immediate vicinity of Barton Springs. Despite survey efforts and searches at other spring outlets, caves, and uncased wells in the Barton Springs segment, no other locations of the Barton Springs salamander have been found (Chippindale *et al.* 1993a,b; Russell, *in litt.* 1995; Russell 1996; Hillis; Andy Price, Texas Parks and Wildlife Department; Sweet; pers. comms., 1993; Hansen, *in litt.* 1995a). No other species of *Eurycea* is known to occur in this portion of the aquifer. Although the extent to which the Barton Springs salamander occurs in the aquifer is unknown, it is likely concentrated near the spring openings where food supplies are abundant, water chemistry and temperatures are relatively constant, and where the salamander has immediate access to both surface and subsurface habitats. Barton Springs is also the main discharge point for the entire Barton Springs segment, and is one of the few perennial springs in the area.

The Barton Springs salamander's diet is believed to consist almost entirely of amphipods (*Hyallela azteca*) and other small invertebrates (James Reddell, Texas Memorial Museum, University of Texas at Austin, pers. comm., 1993; Hillis and Chippindale 1992; Chippindale *et al.* 1993a,b). Primary predators of the Barton Springs salamander are believed to be fish and crayfish (Chippindale *et al.* 1993a,b; Collett, Hansen, and Scoggins, pers. comms., 1995). Observations of larvae and females with eggs indicate breeding occurs year-round (Chippindale, pers. comm., 1993; Collett, Hansen, and Scoggins, pers. comms., 1994–1995). The Barton Springs salamander's eggs are white (Lynn Ables and Streett Coale, Dallas Aquarium; Jim Dwyer, Midwest Science Center; pers. comms., 1996) and have never been observed in the wild (Chippindale, Hillis, and Price, pers. comms. 1993; Collett, Hansen, and Scoggins, pers. comms., 1994–1995; O'Donnell, pers. obs., 1995–1996).

The Barton Springs segment covers roughly 400 sq kilometers (km) (155 sq miles (mi)) from southern Travis County to northern Hays County, Texas, and has a storage capacity of over 37,000 hectare-meters (300,000 acre-feet) (Slade *et al.* 1985, 1986). The watersheds of the six creeks upstream (west) of the recharge zone span about 684 sq km (264 sq mi). This area is referred to as the contributing zone and includes portions of Travis, Hays, and Blanco counties. The recharge and contributing zones (hereafter referred to collectively as the ''Barton Springs watershed'') make up the total area that provides water to the aquifer, which equals about 917 sq km (354 sq mi). A detailed description of the Barton Springs segment of the Edwards aquifer can be found in the Service's February 17, 1994, proposed rule (59 FR 7968). Porous limestone, karst aquifers, such as the Barton springs segment may transport pollutants rapidly once such materials enter the creeks or other recharge features (EPA 1990, TWC 1989, Slade *et al.*1986, Ford and Williams 1994, Notenboom *et al.* 1994)

Because of the characteristics of karst aquifers, Barton Springs is believed to be heavily influenced by the quality and quantity of runoff, particularly in the recharge zone (City of Austin 1991; Slade *et al.* 1986). Thus, increasing urban development over the area supplying recharge waters to the Barton Springs segment can threaten water quality within the aquifer. The Texas Water Commission (now known as the Texas Natural Resource Conservation Commission (TNRCC)) identified the Edwards aquifer as being one of the most sensitive aquifers in Texas to groundwater pollution (TWC 1989; Hart, *in litt.*, 1991; TNRCC 1994).

Previous Federal Action

The Barton Springs salamander was a Category 2 candidate species on the Service's candidate notices of review from December 30, 1982 (47 FR 58454; September 18, 1985: 50 FR 37958; January 6, 1989: 54 FR 554; and November 21, 1991: 56 FR 58804) until publication of the proposed rule to list the species as endangered (59 FR 7968; February 17, 1994). Dr. Mark Kirkpatrick and Ms. Barbara Mahler petitioned the Service to list the Barton Springs salamander on January 22, 1992, and on December 11, 1992 (57 FR 58779), the Service published a notice in the **Federal Register** that the petition presented substantial information that the requested action may be warranted. A proposed rule to list the Barton Springs salamander was published in the **Federal Register** on February 17, 1994 (59 FR 7968). The Service held a public hearing on June 16, 1994, in Austin, Texas (59 FR 27257). On March 10, 1995, the Service published a notice extending the 1-year deadline for final action on the proposed rule until August 17, 1995, and reopened the public comment period (60 FR 13105).

On April 10, 1995, Congress enacted a moratorium prohibiting work on listing actions (Public Law 104–6) and eliminated funding for the Service to conduct final listing actions. On November 27, 1995, in response to a lawsuit from the Save Our Springs Legal Defense Fund (Save Our Springs Legal Defense Fund, Inc., *et al.* v. Bruce Babbitt), a U.S. District Court invalidated the Service's March 10, 1995, notice of extension and ruled that the Service had to make a final determination on whether or not to list the Barton Springs salamander within 14 days of the court order. The court granted a stay pending the Service's appeal of the order, on the grounds that the moratorium and lack of funding prohibited the Service from making a final listing determination. The moratorium was lifted on April 26, 1996, by means of a Presidential waiver, at which time limited funding for listing actions was made available through the Omnibus Appropriations Act (Pub. L. No. 104–134, 100 Stat. 1321, 1996). The Service published guidance for restarting the listing period on May 16, 1996 (61 FR 24722). Due to the potential for new information during the lapse between the reinstatement of the listing program and the close of the last 45-day comment period (May 17, 1995), the Service reopened the public comment period on June 24, 1996, for 30 days. That comment period closed July 10, 1996, by U.S. District Court order.

On September 4, 1996 (61 FR 46608), the Service withdrew the proposed rule to list the Barton Springs salamander as endangered based on a conservation agreement signed by the Service and the TNRCC, Texas Parks and Wildlife Department (TPWD), and Texas Department of Transportation (TxDOT) on August 13, 1996. The goal of the Barton Springs Salamander Conservation Agreement and Strategy (Agreement) is to continue existing and initiate new management actions to protect the Barton Springs ecosystem and its watershed. The Agreement is administered by the Barton Springs Salamander Conservation Team (BSSCT), which includes representatives from each of the four signatory agencies. In deciding to withdraw the proposed listing rule, the Service found that the Agreement, by protecting water quality at Barton Springs and in the Barton Springs segment of the Edwards aquifer and by conserving water quantity, reduces the threats to the species to the point where listing is no longer warranted.

On March 25, 1997, the U.S. District Court for the Western District of Texas found the Service's withdrawal invalid and ordered the Service to make a listing determination within 30 days. The court ordered the Service to ignore the Agreement in making the new decision. On April 8, 1997, the Service requested the court to delay the due date for the new listing decision until July 23, 1997, so that the Service could reopen the comment period and consider information developed since July 10, 1996, when the comment period on the proposed listing closed. The court denied this request on April 15, 1997. The Service is therefore not able to consider the following information in making a final listing determination: (1) The Agreement and the BSSCT's efforts to implement it, including public and technical input given as part of the BSSCT's March 1, 1997 public workshop; (2) updated salamander survey results; (3) the City of Austin's revised pool maintenance procedures designed to reduce salamander mortality; (4) the discovery of a new salamander location upstream from the Barton Springs Pool; (5) two additional ovipositioning events at the Dallas Aquarium; (6) reinstatement of the Save Our Springs (SOS) ordinance; (7) the Barton Creek Watershed Protection Initiative with private landowners and the Nature Conservancy of Texas; and (8) and adoption of TNRCC's chapters 313 and 216 of the Texas Administrative Code (see discussion under Factor D below).

Summary of Comments and Recommendations

In the February 17, 1994, proposed rule (59 FR 7968) and associated **Federal Register** notices, including notification of a public hearing (59 FR 27257; May 26, 1994) and each of the five comment periods (February 17 to April 18, 1994 (59 FR 7968); May 26 to July 1, 1994 (59 FR 27257; May 26, 1994); July 8 to July 29, 1994 (59 FR 35089; July 8, 1994); March 10 to May 17, 1995 (60 FR 13105; March 10, 1995); and June 24 to July 10, 1996 (61 FR 32413; June 24, 1996)), all interested parties were requested to submit factual reports or information to be considered in making a final listing determination. Appropriate Federal and State agencies, local governments, scientific organizations, and other interested parties were contacted and asked to comment. Legal notices of the public hearing, which invited general public comment were published in the Dripping Springs Century News and Austin-American Statesman on June 8, 1994, in the Drippings Springs Dispatch on June 9, 1994, and in the Austin Chronicle on June 10, 1994. The Service received 657 written and oral comments, 8 videotapes, 5 petitions, and 2 resolutions from individuals and agencies. Of the 657 comments, 524 supported the proposed action, 123 opposed it, and 10 stated neither support nor opposition. Four petitions totaling over 1,800 signatures and one resolution from the City of Austin supported listing, and one petition containing 29 signatures and one resolution from the City of Dripping Springs opposed the listing.

A public hearing was held in two sessions on June 16, 1994, at the Lyndon Baines Johnson Auditorium at the University of Texas at Austin. Over 160 people attended the public hearing, and 74 provided oral testimony.

The Service solicited formal scientific peer review of the proposal from six individuals during the March 10 to May 17, 1995, comment period and received comments from three reviewers. The major comments from these peer reviewers are: the Barton Springs salamander is a distinct species restricted to Barton Springs; the salamander appears to be primarily a surface-dwelling species that retreats underground during unfavorable conditions (such as drought) and to lay eggs; the salamander is vulnerable to declining water quality and quantity and other forms of habitat modification; regulations are inadequate to protect the Barton Springs salamander; the Service should present more data that show increasing levels of pollutants in the groundwater; the Service should provide further explanation as to why the Barton Springs salamander is restricted to Barton Springs; and increased nutrient levels should not affect dissolved oxygen concentrations in the aquifer. The peer reviewers' comments are reflected in this final rule.

Written and oral comments are incorporated into this final rule where appropriate. Comments not incorporated are addressed in the following summary. Comments of a similar nature or point are grouped and summarized. Where differing viewpoints on an issue were expressed, the Service briefly summarizes the general issue.

1. *Comment*: Several commenters questioned whether information regarding threats to the Barton Springs salamander is adequate to support a listing decision. Some commenters stated that threats to the salamander are greater now than ever before.

Service Response: Section 4(a)(1) of the Act states that species shall be listed as threatened or endangered provided that the continued existence of the species is threatened by one or more of the five factors discussed below in the ''Summary of Factors Affecting the Species'' section of this rule. Under section 4(b)(1), the Service must make its listing decisions based on the best scientific and commercial data available. The Service has met these requirements in this listing decision.

Over 50 percent of the water used by Texans comes from groundwater. The Barton Springs watershed provides the sole source of drinking water for more than 35,000 people living over the aquifer and contributes a significant supply of water to the Colorado River, which is the primary source of drinking water for the City of Austin. In addition to providing a reliable supply of safe drinking water that requires little or no treatment, many people depend on the Barton Springs watershed for other needs, including agriculture and recreational activities.

Amphibians are known to be very sensitive to environmental contaminants (see Factor E below). Because the Barton Springs salamander lives at the main discharge point for the aquifer and is continuously exposed to the waters emanating from it, it is a primary indicator of the health of this natural resource. As an important indicator species, the Barton Springs salamander serves as an early warning sign of deteriorating water quality and quantity in the Barton Springs watershed, which affects the health and

well-being of the human population that depends on this resource.

2. *Comment*: The Service received comments questioning the sensitivity of the Barton Springs salamander to changes in water quality and quantity, and asserting that since the salamander has survived past impacts, it appears to be hardy and resilient and able to withstand future impacts.

Service Response: Although the Barton Springs salamander has survived past impacts, only 4 to 6 percent of the Barton Springs watershed is currently developed, and development is expected to continue. Furthermore, although the species as a whole has persisted to date, survey information indicates that individual salamanders have not survived certain impacts, and the species and its prey base are vulnerable to changes in water quality and quantity (see Factors A and E below). As discussed in Factor E, the difficulty in maintaining and propagating the Barton Springs salamander in captivity provides further evidence that this species is sensitive to environmental change. Toxicity data for the salamander's primary food source, *Hyallela azteca*, demonstrate the sensitivity of that amphipod to contaminants.

3. *Comment*: Several people commented on the adequacy of the existing rules and regulations in protecting water quality and quantity in the Barton Springs watershed. One commenter specifically mentioned that, because only two oil pipeline spills have been recorded (see Factor A), regulations are apparently adequate to protect water quality.

Service Response: The Act states that species shall be listed based on one or more of the five factors discussed in this final rule. The Service's analysis of the inadequacy of existing regulatory mechanisms (Factor D) demonstrates that additional measures are needed to protect the Barton Springs salamander from extinction. Although certain rules and regulations provide some water quality and quantity benefits, they do not alleviate all of the identified threats to the Barton Springs salamander.

4. *Comment:* Several inquiries were made regarding possible effects of listing the Barton Springs salamander on land use in the Barton Springs watershed and whether listing would infringe on private property rights. Other comments discussed possible economic impacts and benefits from listing.

Service Response: While economic effects, private property rights, and related concerns, cannot be considered in listing decisions, such factors are considered in recovering listed species. By **Federal Register** notice on July 1, 1994 (59 FR 34272), the Secretaries of Interior and Commerce set forth an interagency policy to minimize social and economic impacts consistent with timely recovery of listed species. Thus, it is the Service's desire that any recovery actions associated with the Barton Springs salamander minimize adverse social and economic impacts to the extent practicable.

5. *Comment:* The Service received several comments on the status of the Barton Springs salamander's population size, stating that this information should be considered in making a listing determination.

Service Response: Data from monthly surveys of the Barton Springs salamander are presented in the Background section and Factor A of this final rule. These survey data further support the need for listing. Although it may be an important listing consideration, the absolute population size does not need to be declining to warrant listing under the Act.

6. *Comment:* The Service received several comments regarding whether the Barton Springs salamander is restricted to Barton Springs.

Service Response: Survey information of other springs, caves, and wells in the Barton Springs segment provided since publication of the proposed rule further substantiate that the Barton Springs salamander's range is limited to the immediate vicinity of Barton Springs (see Background). Because Sunken Garden Springs is part of the Barton Springs complex and scientists assumed that the Barton Springs salamander occurred there, the presence of salamanders at this spring outlet does not indicate that the salamander's range has expanded, as some commenters asserted.

7. *Comment:* Many people questioned whether recreational use of Barton Springs Pool is likely to impact the Barton Springs salamander.

Service Response: The Service recognizes that swimming is a compatible activity with conservation of the salamander. The Service has provided additional discussion on recreation related issues in Factor E (''Other natural or manmade factors affecting its continued existence'') of this final rule. The Service acknowledges in both the proposed and final rules that certain pool maintenance practices may impact the Barton Springs salamander, and that the City of Austin is continuing to seek solutions that benefit both the recreational aspect of Barton Springs Pool and the Barton Springs salamander (see Factor A).

8. *Comment:* The Service received several comments regarding whether critical habitat should be designated for the Barton Springs salamander.

Service Response: Critical habitat has not been proposed for the Barton Springs salamander (see Critical Habitat section below). The Act requires that critical habitat be designated for a species at the time it is listed unless designation is not prudent or not determinable. Listing regulations at 50 CFR 424.12(a)(1) provide that critical habitat is not prudent if no benefit to the species is derived from its designation. Designation of critical habitat benefits a listed species only when adverse modification or destruction of critical habitat could occur without the survival and recovery of the species also being jeopardized. Because the Barton Springs salamander is restricted to one area that discharges water from the entire Barton Springs watershed, any action that would result in adverse modification or destruction of the salamander's critical habitat would also jeopardize its continued survival and recovery. Designating critical habitat would therefore not provide a benefit to the species beyond the benefits already provided by listing and subsequent evaluation of activities under the jeopardy standard of section 7 of the Act. Because jeopardy to the species and adverse modification of its critical habitat are indistinguishable, the Service has determined that designation of critical habitat for the Barton Springs salamander is not prudent.

9. *Comment:* A few commenters questioned whether the Barton Springs salamander represents a distinct species.

Service Response: The Barton Springs salamander was first recognized as a distinct species in the 1970's (see Background). A formal description of the salamander was peer-reviewed and published in June 1993 (Chippindale *et al.* 1993a). Although the Barton Springs salamander may bear some morphological resemblance to other *Eurycea* salamander species, differences in its morphology, its isolation from other *Eurycea* populations, and genetic research provide sufficient evidence to support its designation as a distinct species.

10. *Comment:* The Service received comments questioning whether a relationship exists between increasing urbanization and declining water quality and quantity.

Service Response: A discussion of the relationship between increasing urbanization and declining water quality and quantity is presented in Factor A of this final rule.

11. *Comment:* Some commenters questioned whether reduced aquifer levels and encroachment of the bad water line constitute threats to the Barton Springs salamander.

Service Response: A discussion of this issue is presented in Factor A. Under the 1996 pumping and drought regime, springflows at Barton Springs reached historically low levels, and both Eliza Pool and Sunken Garden Springs drained completely dry during drawdown of Barton Springs Pool. Barton Springs is located near the bad water line, and encroachment of bad water to the springs has occurred historically under low flow conditions. During periods of low flows, Sunken Garden Springs measures high levels of total dissolved solids, indicating bad water encroachment.

Factor A also presents information on the increasing number of new permitted wells in the Barton Springs segment and a discussion of groundwater pumpage. A substantial increase in groundwater withdrawals (compounded by drought) will increase the frequency, severity, and/or duration of low aquifer levels and springflows and the potential for movement of the bad water line toward Barton Springs. Increased pumpage may also increase leakage from the lower Trinity aquifer, which contains higher levels of total dissolved solids and fluoride than water in the Barton Springs segment, thus further lowering water quality.

12. *Comment:* The Fish and Wildlife Service needs to implement its new directives from the Department of Interior and Commerce, including scientific peer review, minimization of social and economic impacts, greater predictability, the ecosystem approach, and State agency involvement.

Service Response: The Service has followed its policy directives in preparing this final rule. During the reopening of the public comment period following the notice to extend the final listing decision (60 FR 13105; March 10, 1995), the Service formally solicited peer review from six independent specialists to evaluate the information presented in the proposed rule. The beginning of this section (''Summary of Comments and Recommendations'') summarizes the opinions of the three individuals who provided peer review. Informal peer review was also solicited during the public hearing and each public comment period, during which the Service received over 650 letters of comment. The Service solicited information and expertise from Federal, State, and local agencies, including the U.S. Geological Survey, Texas Parks and Wildlife Department, Texas Natural Resource Conservation Commission, Barton Springs/Edwards Aquifer Conservation District, and the City of Austin in preparing the proposed and final rules, and provided written notifications to these agencies of the 90-day finding and proposed rule.

The Available Conservation Measures section of this final rule identifies specific activities that will not be affected by section 9 of the Act regarding ''take'' of the Barton Springs salamander, and provides guidance and recommendations for avoiding impacts to the salamander. The recovery plan will be drafted to minimize social and economic impacts while ensuring the long-term survival and recovery of the Barton Springs salamander. Protecting the ecosystem upon which the salamander and people depend will be an important component in recovery planning.

13. *Comment:* The Service refuses to acknowledge the benefits of existing regulations. The Service's unwillingness to enforce its own limited and inadequate requirements further contributes to the endangered status of the Barton Springs salamander.

Service Response: As stated in the proposed rule, the Service acknowledges that the existing rules and regulations provide some benefits to water quality and quantity. However, the purpose of Factor D is to evaluate the inadequacies of existing regulatory mechanisms. The Service hopes that this evaluation will assist in identifying measures to strengthen efforts to protect water quality and quantity in the Barton Springs watershed and to promote the long-term survival of the Barton Springs salamander.

14. *Comment:* The Service must consider spill response programs designed to remediate the contamination of groundwater resources by hazardous substance and hazardous waste releases.

Service Response: The Service is unaware of any concerted, organized effort among the various Federal, State, and local agencies to implement a contingency plan for emergency spills in the Barton Springs watershed. Also, efforts to restore contaminated groundwater to its original purity may be technologically infeasible and/or cost-prohibitive (see Factor A). Spill remediation is especially problematic for catastrophic spills that occur in proximity to Barton Springs or in areas that are difficult to access. Because remediation is not always effective or possible, prevention is needed to ensure the protection of water resources.

15. *Comment:* Many of the references cited in the proposed rule are not studies or reports specific to Barton Springs, Austin, or even the Edwards aquifer, but instead describe general nationwide or statewide environmental management issues. These are general policy documents, which do not address the circumstances faced by the Barton Springs salamander.

Service Response: Most of the reports and documents cited in this final rule specifically address the effects of urbanization on surface and groundwater, karst aquifers, the Barton Springs watershed, the Barton Springs salamander, and/or the salamander's primary food source, and thus are pertinent to evaluating threats to the Barton Springs salamander. The information presented in these reports is highly consistent with respect to the threat of urbanization on water resources.

16. *Comment:* The Service cites a 1986 study by Slade *et al.* that projected a doubling of water demands from the year 1982 to 2000. Since we are more than halfway through the 18-year time period, are more recent data available?

Service Response: The estimated total pumpage in 1982 was 470 hectare-meters (3,800 acre-feet), at which time discharge from the Barton Springs segment (withdrawal plus springflow) was determined to be roughly equal to recharge. Slade *et al.* (1986) predicted that a substantial increase in groundwater withdrawal (compounded by drought) would cause a decrease in the quantity of water in the aquifer and discharge from Barton Springs. The Barton Springs/Edwards Aquifer Conservation District estimated total pumpage for 1994 at 570 hectare-meters (4,600 acre-feet). However, as stated in Factor A, the exact volume of water that is pumped from the aquifer is difficult to estimate, since meter reports are not required for non-permitted wells. Furthermore, groundwater pumpage varies considerably from year to year, influenced primarily by the amount of rainfall. The volume of pumpage increases and its effects on aquifer levels and springflows become more pronounced during dry spells, whereas periods of high rainfall can mask the effects of increased dependence on groundwater supplies.

17. *Comment:* There appears to be no direct, quantifiable relationship between water quality in Barton Creek and water quality at Barton Springs.

Service Response: The Background section and Factor A of this final rule discuss the hydrologic regime of the Barton Springs watershed. The surface and groundwaters of the Barton Springs watershed are integrally related, and all of the six creeks that cross the recharge

zone of the aquifer affect water quality at Barton Springs. Because of the karst characteristics of the aquifer and because Barton Springs is the main discharge point for the entire watershed, pollutants entering the watershed from any of the recharge sources may eventually reach Barton Springs. The USGS has clearly demonstrated that water quality in Barton Creek has the most immediate impact on water quality at Barton Springs of any recharge source in the Barton Springs watershed because of its recharge contribution and proximity to Barton Springs. Data show that contaminants in Barton Creek can enter the aquifer near Barton Springs and discharge from the springs within hours or days of storm events.

18. *Comment:* The waters from the outlying areas of the contributing zone are not the cause of current degradation and will never significantly contribute to the degradation of the springs compared to the existing development around Barton Springs. Many existing land uses were constructed and operated under less stringent standards. Retrofitting existing development would result in far more improvement of water quality than would further restriction of new development.

Service Response: The Service acknowledges that there is a relationship between current water quality and quantity degradation and existing development and considers retrofitting of these developments to be an important factor in protecting Barton Springs. However, water quality at Barton Springs is also influenced by the quality and quantity of water throughout the entire watershed (see Background and Factor A). Although water quality at Barton Springs responds most rapidly to changes in water quality in Barton Creek, Barton Springs represents a mixture of all of the recharge waters in the Barton Springs watershed. High-quality water in the undeveloped portions of the Barton Springs watershed helps disperse and dilute pollutants from the urbanized areas. Because of the karst characteristics of the aquifer, pollution can originate from anywhere within the Barton Springs watershed, especially pollutants that are relatively stable and mobile in water. Thus, as urbanization expands across the watershed, the ability of the aquifer to dilute and disperse increasing pollutant loads will decrease. While the Service concurs that retrofitting of existing development near Barton Springs may be important to protect water quality, measures are also needed to ensure continued protection of water quality and quantity throughout the remainder of the watershed. A report prepared for the City of Austin (1995) examines options for retrofitting developments to improve stormwater quality in the Barton Springs watershed.

19. *Comment:* The proposed rule did not discuss other sources of water contributing to flows from Barton Springs, including the San Antonio segment of the Edwards aquifer and the Colorado River.

Service Response: Independent studies (Slade et al. 1985, 1986; Stein 1995) conclude that most of the water discharging from Barton Springs originates from within the Barton Springs watershed (see Background section). However, under low flow conditions, the bad water zone of the San Antonio segment appears to flow northward toward Barton Springs. Upward leakage from the lower Trinity aquifer may also infiltrate the Barton Springs segment during low flows. Because these aquifers are high in total dissolved solids, their contribution affects the quality of water in the Barton Springs watershed and at Barton Springs.

The Service is unaware of any reports or data indicating that the Colorado River contributes water to the Barton Springs watershed. However, Barton Springs does supply baseflow to the Colorado River, which may be substantial during dry periods.

20. *Comment:* The Service must comply with the National Environmental Policy Act (NEPA) prior to listing the Barton Springs salamander as endangered. This would require the Service to study the social and environmental impacts of the proposed listing and prepare appropriate environmental documentation.

Service Response: The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

21. *Comment:* The statement that ''Loop 360 provides a major route for transportation of petroleum and gasoline products to service stations in the Austin area'' is unsupported by any data or citation of a study. What is the basis of this statement?

Service Response: This statement was based on the fact that no designated hazardous materials routes exist for the Austin area, and thus all major roadways can be considered to be transportation routes for hazardous materials. Because Loop 360 supports a high volume of traffic, and many service stations exist in this part of the Austin area, it is considered to be a major transportation route. The Service's statement is also supported by the Hazardous Materials Water Contamination Risk study prepared for the City of Austin (1994).

22. *Comment:* Both Hays County and Dripping Springs experienced high rates of growth in the 1980's, yet are still sparsely populated. The Service's statement in the proposed rule suggests these areas will soon be overrun with people at intensely urbanized levels, which is an unrealistic assumption.

Service Response: The Service quoted a study (see Factor A) conducted by the Capital Area Planning Council. Additional information on population growth for the northern portion of Hays County is presented in this final rule.

23. *Comment:* More of the recharge and contributing zones have been developed than the Service states in the proposed rule. Based on an analysis of historical trends in land development for the recharge zone of the Barton Springs segment, approximately 1,200 hectares (ha) (3,050 acres (ac)) in the recharge zone had been developed in 1979. Approximately 3,000 ha (7,500 ac) had been developed by 1993, which represents approximately 13 percent of the entire recharge zone of the Barton Springs segment.

Service Response: Factor A of the proposed rule states that ''* * * only about 3 to 4 percent of the recharge and contributing zones is currently developed,'' which was based on an estimate of impervious cover provided by the USGS. A report prepared for the City of Austin (1995) has estimated impervious cover over the Barton Springs watershed to be 6 percent (see Factor A). Assuming that the commenter's calculations of development are also equal to the amount of impervious cover, the commenter's assertion that about 13 percent of the recharge zone is developed does not appear to be inconsistent with the estimated 3 to 6 percent impervious cover for the entire watershed.

24. *Comment:* What evidence exists that demonstrates that sediments entering the pools where the salamander occurs actually settle in the salamander's habitat?

Service Response: Biologists with the City of Austin have found that silt and sediments that are hosed from the shallow end into the deep end of Barton Springs Pool during cleaning reduce the

amount of available salamander habitat. Increased sediment influxes following major rain events also reduce habitat availability. Sediments cover much of the bottom of Eliza Pool and Sunken Garden Springs, and the Barton Springs salamander is typically found in silt-free areas near the spring outlets.

25. *Comment:* A significant number of references cited in the proposed rule are not peer-reviewed scientific publications and thus should not be given the same level of credibility as those having a more rigorous review and approval process.

Service Response: All official agency reports cited in the proposed rule have undergone extensive internal review, and some have solicited outside peer review. Articles cited from scientific journals have all received formal peer review. Although the Service relies primarily on final documents in making listing decisions, the best available information may also come from other sources such as written correspondence, factual information and data from draft documents, expert opinions, and personal communications. The Service strives to evaluate the accuracy of this ''gray literature'' before considering it in making a listing decision.

26. *Comment:* Several individuals commented on the methods and results of certain reports used by the Service in the proposed rule, including three USGS reports (Slade *et al.* 1985, 1986; Veenhuis and Slade 1990) and a Barton Springs/Edwards Aquifer Conservation District (BS/EACD) report (Hauwert and Vickers 1994). The Service was also criticized for not making available for public review and comment the raw data upon which these and other reports cited by the Service are based.

Service Response: The reports cited in the proposed rule and in this final rule present sufficient information and data needed to review and assess the methodologies used by the investigators, their study results and data analyses, and conclusions. The Service has reviewed these reports and determined that the data were gathered and analyzed in accordance with sound scientific principles, and accepts these reports as valid and relevant scientific information. Furthermore, the results and conclusions of independent studies consistently show similar trends regarding impacts of urbanization on water quality and quantity. The USGS and BS/EACD have both provided written responses to the criticisms of their reports (Raymond Slade, USGS, *in litt.* 1994; Nico Hauwert, BS/EACD *in litt.* 1995; Bill Couch, BS/EACD, *in litt.* 1996).

27. *Comment:* The occurrence of turbidity, accumulation of sediments, and contaminants in Barton Springs watershed could be due to natural phenomena.

Service Response: The volume of sediments observed in urbanizing portions of the Barton Springs watershed and increased turbidity during periods of major construction indicate that such activities influence these phenomena. As discussed in Factor A, the relationship between urban runoff and increased erosion and sedimentation is well documented. Increases in turbidity tend to coincide with land clearing and construction activities, and discharge of turbid runoff from construction projects has been observed entering receiving waters in the Barton Springs watershed.

Research shows that the contaminants discussed in Factor A (including elevated levels of nutrients, heavy metals, petroleum hydrocarbons, and pesticides) are primarily associated with urban runoff. The Service is unaware of any natural sources in the Barton Springs watershed that could result in significant concentrations (or any detectable concentrations for manmade compounds such as pesticides) of these contaminants in water.

28. *Comment:* A report by T.U. Taylor (*in litt.* 1922) states that elevated levels of fecal coliform bacteria have been documented at Barton Springs since 1922. However, the Service stated in the proposed rule that the City of Austin determined that the method used to measure bacterial counts at the time of the report is different from that used today, and thus ''the bacterial counts are not directly comparable to * * * current sampling techniques'' (Austin Librach, City of Austin, *in litt.*, 1991). The City of Austin's review of the report does not provide a basis for refuting its conclusions or excluding them from further consideration. The comparison of fecal coliform counts taken in the context of the standards of the time, to counts taken today and in the context of today's standards, is a valid comparison.

Service Response: To date, the Service has only been provided a copy of a cover letter (dated August 28, 1922) to a supplementary report submitted by Mr. Taylor to the City of Austin. The letter states the need to filter Barton Springs water for human consumption due to contamination with ''B. coli.'' Because no report accompanied the letter, and the Service has been unable to obtain a copy of the report, the Service can draw no further conclusions regarding its findings.

29. *Comment:* What is the basis for the Service's statement that ''contaminants that adsorb to the surface of sediments may be transported through the aquifer and later be released back into the water column ''?

Service Response: The Service based this statement on information presented in Schueler (1987), which states that once deposited, pollutants in ''enriched sediments can be remobilized under suitable environmental conditions posing a risk to benthic life'' (see Factor A).

30. Comment: The Service received a comment letter that contained a document comparing the findings and conclusions of the proposed rule with those made in a report by the Aquatic Biological Advisory Team (ABAT), which concluded that insufficient information appears to exist to support a listing decision.

Service Response: The City of Austin and Texas Parks and Wildlife Department formed the ABAT, which consisted of five nationally recognized specialists, to make research and management recommendations needed to conserve the Barton Springs and Bull Creek watersheds and their resident salamander populations (the Barton Springs and Jollyville Plateau salamanders). The ABAT members were specifically instructed not to make recommendations regarding listing nor to evaluate specific laws or regulations. The Service believes that substantial evidence exists to support a listing determination for the Barton Springs salamander, but also recognizes that additional research is important to assist in making sound management recommendations. The Service concurs with most of the ABAT's management recommendations, which could be incorporated into a regional management plan for the Barton Springs watershed, as well as a recovery plan for the Barton Springs salamander.

31. Comment: The TNRCC and TxDOT provided information regarding existing and proposed rules and regulations, which they state are adequate to protect the Barton Springs salamander.

Service Response: An evaluation of the existing rules and regulations is provided in Factor D of this final rule. The Service encourages State and local entities to identify proposed regulations and additional protective measures that can serve as a basis for a regional management plan for the Barton Springs watershed.

Summary of Factors Affecting the Species

After thorough review and consideration of all information available, the Service has determined

that the Barton Springs salamander should be classified as an endangered species. Procedures found at section 4 of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Barton Springs salamander (*Eurycea sosorum* Chippendale, Price, and Hillis) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The primary threat to the Barton Springs salamander is degradation of the quality and quantity of water that feeds Barton Springs resulting from urban expansion over the Barton Springs watershed (including roadway, residential, commercial, and industrial development). A discussion of some potential effects of contaminants on the salamander and its prey base (amphipods) is provided in this section and under Factor E. Potential factors contributing to declining water quality and quantity in this portion of the Edwards aquifer include chronic degradation, catastrophic hazardous material spills and increased water withdrawals from the aquifer. Also of concern are impacts to the salamander's surface habitat.

Urbanization can dramatically alter the normal hydrologic regime and water quality of an area. As areas are cleared of natural vegetation and topsoil and replaced with impervious cover (paved surfaces), rainfall no longer percolates through the ground but instead is rapidly converted to surface runoff. Creekflow shifts from predominantly baseflow, which is derived from natural filtration processes and discharges from local groundwater supplies, to predominantly stormwater runoff. The amount of stormwater runoff tends to increase in direct proportion to the amount of impervious cover. With increasing stormflows, the amount of baseflow available to sustain water supplies during drought cycles is diminished and the frequency and severity of flooding increases. The increased amount and velocity of runoff increases erosion and streambank destabilization, which in turn leads to increased sediment loadings, channel widening, and changes in the morphology and aquatic ecology of the affected creek (Schueler 1991). Sediment from soil erosion is ''by volume the greatest single pollutant of surface waters and is the potential carrier of most pollutants found in water'' (Menzer and Nelson 1980).

Urbanization introduces many pollutants into an area, including suspended solids, nutrients, petroleum hydrocarbons, bacteria, heavy metals, volatile organic compounds, fertilizers, and pesticides (TWC 1989; EPA 1990; Schueler 1991; Notenboom *et al.* 1994; Menzer and Nelson 1980). Stormwater runoff is a primary source of water pollution. Pollutant loadings in receiving waters, particularly in areas that have little or no pollution controls, generally increase with increasing impervious cover (Schueler 1991). A report by the USGS on the relationship between urbanization and water quality in streams throughout the Austin area (9 of 18 sample sites were along streams in the Barton Springs segment and its contributing zone) demonstrated statistically significant increases in constituent concentrations with increasing impervious cover (Veenhuis and Slade 1990). Degradation of water quality in the Barton Springs watershed is also evidenced by algal blooms, erosion, trash and debris, and accumulations of sediments and toxics (City of Austin 1995).

Water quality in the aquifer and at Barton Springs is directly affected by the quality of water in the six creeks that cross the recharge zone (see Background section). Of these creeks, water quality at Barton Springs responds most rapidly to changes in water quality in Barton Creek (Slade *et al.* 1986; City of Austin 1991). Data show that contaminants in Barton Creek can enter the aquifer near Barton Springs and discharge from the springs within hours or days of storm events (Slade *et al.* 1986; City of Austin 1991). Because groundwater originating from Barton Creek remains in the aquifer for short periods before discharging at the springs, there is little time for attenuation of pollutants before discharging at Barton Springs (Slade *et al.* 1986; City of Austin 1991). Increases in turbidity (a measure of suspended solids or sediment), algal growth, nutrients, and fecal-group bacteria have been documented along Barton Creek between SH 71 and Loop 360 and at Barton Springs, and have been largely attributed to construction activities and the conveyance and treatment of sewage in this area (Slade *et al.* 1986; Austin Librach, City of Austin *in litt.*, 1990; City of Austin 1991, 1993; Barbara Britton, TWC, *in litt.*, 1992).

Water quality in the more heavily developed areas of the Barton Springs segment and at Barton Springs is also beginning to show signs of degradation (Slade *et al.* 1986; Librach *in litt.*, 1990; City of Austin 1991, 1993; Slade 1992; Hauwert and Vickers 1994; Texas Groundwater Protection Committee (TGPC) 1995). The BS/EACD found elevated levels of sediment, fecal-group bacteria, trace metals, nutrients, and petroleum hydrocarbons in certain springs and wells between Sunset Valley and Barton Springs (Hauwert and Vickers 1994, TGPC 1994). Slade *et al.* (1986) reported that levels of fecal-group bacteria, nitrate nitrogen, and turbidity were highest in wells near creeks draining developed areas. In addition to sediments and bacteria, tetrachloroethene, a commonly used drycleaning solvent, has been detected in water samples from Barton Springs (Slade 1991). Possible sources of groundwater contamination include urban runoff, construction activities, leaking septic tanks and pipelines, and petroleum storage tank releases (Slade *et al.* 1986; TWC 1989; EPA 1990; Hauwert and Vickers 1994).

One of the most immediate threats to the Barton Springs salamander is siltation of its habitat, owing primarily to construction activities in the Barton Creek watershed (Slade *et al.* 1986, City of Austin 1991, Hauwert and Vickers 1994, TGPC 1994). Major highway, subdivision, and other construction projects along Barton Creek increased during the early 1980's and 1990's. While high turbidity has been observed in Barton Springs Pool following major storm events since the early 1980's (Slade *et al.* 1986; Hauwert 1995), the duration and frequency of sediment discharges from Barton Springs increased substantially during the 1990's (Hauwert 1995; TGPC 1994). Barton Springs discharged large amounts of sediments following most major rain events in 1993, 1994 (Hauwert and Vickers 1994; TGPC 1994), and 1995 (Collett, pers. comms., 1994–1995). Sediments have been observed emanating directly from the spring outlets in Barton Springs Pool (Doyle Mosier, Lower Colorado River Authority; Debbie Dorsey, City of Austin; pers. comms., 1993; Collett and Hansen, pers. comms., 1994–1995) about 8 to 12 hours following the start of a heavy rain (Slade *et al.* 1986; City of Austin 1991; Hauwert and Vickers 1994; David Johns, City of Austin, pers. comm. 1996).

Several uncased wells in the Barton Creek watershed, one of which is located 5 km (3 mi) south of Barton Springs near the Loop 360 bridge, have been completely filled with a cream-colored, carbonate silt (up to 45 m (150 ft)) (Hauwert and Vickers 1994). A well in Sunset Valley measured 1 to 1.5 ft accumulations of cream-colored sediment over an eight-month period prior to July 1993, and reportedly

caused the well pump to seize (Hauwert and Vickers 1994). Several well owners, drillers, and operators also reported a significant influx of sediments during 1993, particularly during periods of heavy rainfall and low water-level conditions (Hauwert and Vickers 1994).

Studies have shown that high levels of suspended solids reduce the diversity and density of aquatic fauna (EPA 1986; Barrett *et al.* 1995). In Barton Springs Pool, the lowest recorded population counts of the salamander (ranging from 1 to 6 individuals) occurred over the five-month period following an October 1994 flood event (see Background section). The flood deposited a large amount of silt and debris over the salamander's habitat in the pool, and the area occupied by the salamander during the following months was reduced to the silt-free areas immediately adjacent to the spring outlets (Hansen, *in litt.*, 1995c).

In addition to covering the salamander's habitat, problems resulting from increased sediment loads may include: Clogging of the gills of aquatic species, causing asphyxiation (Garton 1977; Werner 1983; Schueler 1987); smothering their eggs and reducing the availability of spawning sites (EPA 1986; Schueler 1987); filling interstitial spaces and voids, thereby reducing water circulation and oxygen availability (EPA 1986); filling and blocking of recharge features and underground conduits, restricting recharge and groundwater storage volume and movement; reducing light transmission needed for photosynthesis, food production, and the capture of prey by sight-feeding predators (EPA 1986; Schueler 1987); and exposing aquatic life to contaminants that readily bind to sediments (such as petroleum hydrocarbons and heavy metals). Once deposited, pollutants in ''enriched sediments can be remobilized under suitable environmental conditions, posing a risk to benthic life'' (Schueler 1987).

Research indicates that species in or near contaminated sediments may be adversely affected even if water-quality criteria are not exceeded (Landrum and Robbins 1990; Medine and McCutcheon 1989). Sediments act as a sink for many organic and inorganic contaminants (Menzer and Nelson 1980; Landrum and Robbins 1990; Medine and McCutcheon 1989) and can accumulate these contaminants to levels that may impact aquatic ecosystems (Landrum and Robbins 1990; Medine and McCutcheon 1989). Metal-contaminated sediment toxicity studies have shown *Hyallela azteca*, the primary food item of the Barton Springs salamander, to be the most sensitive organism of those tested (Phipps *et al.* 1995; Burton and Ingersoll 1994). Most polycyclic aromatic hydrocarbons (PAHs), a component of oil, are associated with sediments in aquatic ecosystems, which may be ingested by benthic organisms (Eisler 1987). *Hyallela azteca* has been shown to assimilate PAHs from contaminated sediments (Eisler 1987). Sediments collected from the main stem of Barton Creek on November 21, 1994, about 150 m above Barton Springs Pool, contained several PAHs that were 2.5 to 22 times the levels shown to always have a toxic effect (survival, growth, or maturation) on *Hyallela azteca* (City of Austin, unpubl. data, 1994; Ingersoll *et al.*, in press). Sediments collected from Barton Springs on April 20, 1995, also contained PAHs at levels up to 6.5 times those shown to be toxic to *Hyallela azteca* (City of Austin, unpubl. data, 1995; Ingersoll *et al.*, in press).

In addition to sediment concentrations, high levels of total petroleum hydrocarbons have been detected in water samples from Sunken Garden Springs (Hauwert and Vickers 1994). Petroleum hydrocarbons include both aliphatic hydrocarbons and PAHs (Albers 1995). Normal concentrations of petroleum hydrocarbons in the Edwards aquifer are below the detection limit of 1.0 mg/l. However, levels of total petroleum hydrocarbons measured 1.9 mg/l following a 9-mm (0.35-in) rain event in March 1994, and 1.3 mg/l in April 1994. A well that is hydrologically connected with Barton Springs contained a level of 2.1 mg/l in May 1993 (Hauwert and Vickers 1994; BS/EACD 1994). Petroleum hydrocarbons may enter water supplies through sewage effluents, urban and highway runoff, and chronic leakage or acute spills of petroleum and petroleum products (Eisler 1987; Hauwert and Vickers 1994; Albers 1995).

Water samples from Sunken Garden Springs also contained elevated levels of lead, which are commonly found in petroleum-contaminated waters. Total and dissolved lead levels at Sunken Garden Springs measured 0.024 and 0.015 mg/l, respectively (Hauwert and Vickers 1994; BS/EACD 1994). Typical freshwater concentrations for lead are between 0.001 and 0.01 mg/l (Menzer and Nelson 1980). The EPA drinking water standard for total lead is 0.015 mg/l. In aquatic environments, dissolved lead is the most toxic form, and adverse effects (including reduced survival, impaired reproduction, and reduced growth) on aquatic biota have been reported at concentrations of 0.001 to 0.005 mg/l (Eisler 1988a). Sources of lead in water may include industrial discharges, highway runoff, and sewage effluent (Pain 1995).

Aquatic organisms may absorb lead through skin, gills, intestines, and other organs, and may ingest lead through feeding (Pain 1995). Lead concentrations tend to be highest in benthic organisms, which may assimilate lead directly from sediments (Eisler 1988a). Research indicates that lead is not essential or beneficial to living organisms, and that all known effects are deleterious, including those on survival, growth, reproduction, development, behavior, learning, and metabolism (Eisler 1988a; Pain 1995). Adverse effects increase with elevated water temperatures, reduced pH, younger life stages, and long exposures (Eisler 1988a; Pain 1995). Synergistic and additive effects may also occur when lead is mixed with other metals or toxic chemicals (Eisler 1988a). Studies have shown that lead is highest in urban streams and lowest in rural streams, and that species diversity is also greater in rural streams than urban ones (Eisler 1988a).

Arsenic, which has been used in the manufacture of agricultural pesticides and other products (Eisler 1988b) and may be found in roadway and urban runoff, has been detected in wells in the Barton Springs watershed at levels exceeding EPA drinking water standards (0.05 mg/l) (Hauwert and Vickers 1994) and in other areas of Texas (TWC 1989). Concentrations of arsenic compounds adversely affecting aquatic biota have been reported at 0.019 to 0.048 mg/l (Eisler 1988b). Toxicity of arsenic to aquatic life depends on many factors, including water temperature, pH, suspended solids, organic content, phosphate concentration, presence of other contaminants, arsenic speciation, and duration of exposure. As with many contaminants, early life stages are most sensitive, and large differences in responses exist between species (Eisler 1988b).

Leaking underground storage tanks ''are considered to be one of the principal contributing sources of ground-water pollution, placing a significant loading on the State's aquifers, due to their regional distribution and high number which are estimated to be leaking'' (TWC 1989). Chronic releases from leaking tanks represent a serious risk of water contamination (City of Austin 1994). The TNRCC (1994) lists leaking underground storage tanks as one of the top three most frequently encountered sources of groundwater contamination in the Edwards aquifer. Common pollutants from leaking underground storage tanks include gasoline, diesel,

and other oil products (TWC 1989). The TNRCC's ''Leaking Petroleum Storage Tank Case Report'' lists 626 leaking petroleum storage tanks for Hays and Travis counties for the period between October 1984 and April 1995, of which 158 cases resulted in some form of groundwater contamination. Fifteen of the reports specifically identified impacts to the Edwards aquifer, of which only three had been officially closed or were near closure.

The conveyance and treatment of sewage in the watershed, particularly in the recharge zone, may also impair water quality. Sewage effluent may contain organics (including PAHs), metals, nutrients (nitrogen and phosphorus), inorganic acids, and microorganisms (Eisler 1987; Menzer and Nelson 1980; TWC 1989; City of Austin 1991, 1993; Notenboom *et al.* 1994). Sewage contamination has occurred at Barton Springs following major rain events (TWC 1989), and high bacterial counts and algal blooms have been reported (Slade *et al.* 1986; City of Austin 1991). In 1982, high levels of fecal coliform bacteria at Barton Springs were attributed to a sewerline leak upstream from Barton Springs Pool. While fecal coliform bacteria are believed to be harmless, they indicate the presence of other organisms that may be pathogenic to aquatic life (Lager *et al.* 1977), some of which may pose a threat to salamanders and/or their prey base.

Wastewater discharges have been identified as a primary cause of algal blooms, which have been a recurring problem in both Barton Creek and at Barton Springs (City of Austin 1991, 1993). Increased nutrients promote eutrophication of aquatic ecosystems, including the growth of bacteria, algae, and nuisance aquatic plants, and lowered oxygen levels. Menzer and Nelson (1980) note that ''changes in nutrient pools must eventually directly affect the productivity of the entire ecosystem, even though the effects may not be measurable in biologic terms until a number of years later.'' Because most nutrients in urban runoff are present in soluble form and are thus readily consumed by algae, nutrient concentrations present in urban runoff tend to stimulate algal blooms (Schueler 1987). A 5 km-(3-mi) long algal bloom observed along Barton Creek in April 1993 may have been the result of an accidental discharge of 1.6 million liters (440,000 gallons) of effluent and irrigation water from a golf course (City of Austin 1993, 1995).

Based on USGS data (Slade *et al.* 1986), the average level of nitrates at Barton Springs Pool has increased from about 1.0 mg/l (measured as nitrate nitrogen) prior to 1955 to a 1986 level of about 1.5 mg/l. Sunken Garden Springs measured greater than 2.0 mg/l nitrate nitrogen during the BS/EACD study (Hauwert and Vickers 1994). Elevated nitrate concentrations in groundwater are attributed primarily to human activities (TWC 1989). Total nitrogen (as nitrogen) concentrations measured in wells in the more urbanized areas of the Barton Springs watershed are typically two to six times higher than in rural areas (Slade 1992). Elevated levels of total phosphorus and orthophosphorus have also been detected in certain springs and wells in the Barton Springs watershed (Slade 1992; Hauwert and Vickers 1994). In addition to wastewater discharge, other possible sources of nutrients in the Barton Springs watershed include fertilizers, solid wastes, animal waste, and decomposition of natural vegetation (Hauwert and Vickers 1994; Slade *et al.* 1986).

Over 145 km (90 mi) of wastewater lines occur in the recharge zone of the Barton Springs segment (Maureen McReynolds, City of Austin Water and Wastewater Utility, pers. comm., 1993). Most of the creeks contributing recharge to the Barton Springs segment are underlain by wastewater lines, and five wastewater treatment plants are located within the Barton Springs watershed (City of Austin 1991). Leaking septic tanks and inadequate filtering in septic fields have also been identified as a major source of groundwater contamination, particularly for older systems (TWC 1989; EPA 1990; City of Austin 1991; Hauwert and Vickers 1994; TNRCC 1994). The TNRCC (1994) cites septic tanks as the most frequently encountered source of groundwater contamination in the Edwards aquifer. Although the amount of effluent leached from an individual septic system may be small, the cumulative impact over the landscape can be significant, especially for karst aquifers (EPA 1990). An estimated 4,800 septic systems currently exist in the Barton Springs watershed and may contribute as much as 23 percent of the total nitrogen load to the aquifer (City of Austin 1995).

Highways can have major impacts on groundwater quality (TNRCC 1994; Barrett *et al.* 1995). The TNRCC (1994) lists highways and roads as the fifth most common potential source of groundwater contamination in the Edwards aquifer. Elevated concentrations of metals, Kjeldahl nitrogen, and organic compounds have been detected in groundwater near highways and their control structures. Highway construction can also cause large increases in suspended solids to receiving waters (Barrett *et al.* 1995). Several major highways have been built over the recharge zone since the late 1980's, and the expansion of US 290 from SH 71 through Oak Hill to a six-lane freeway is underway. US 290 crosses the Barton Creek watershed and discharges stormwater runoff from detention ponds into tributaries of Barton Creek. Bypass events from a regional water quality pond at the US 290/Loop 360 interchange have resulted in significant sediment deposition along the entire length of an unnamed tributary and a portion of Barton Creek (City of Austin, *in litt.* 1995; City of Austin, unpubl. data, 1996; USFWS, *in litt.* 1996), less than 5 km (3 mi) from Barton Springs.

Organophosphorus pesticides commonly used in urban areas tend to degrade rapidly in the environment, but certain pesticides may remain biologically active for some time (Eisler 1986, Hill 1995). For example, diazinon, which is commonly used in commercial and residential areas, may remain biologically active in soils for up to 6 months under conditions of low temperature, low moisture, high alkalinity, and lack of microbial degraders (Eisler 1986). Diazinon has shown adverse effects on stream insects at concentrations of 0.3 micrograms/l (Eisler 1986). To ensure protection of sensitive aquatic fauna, Eisler (1986) recommends that levels of diazinon in water not exceed 0.08 micrograms/l. Many organophosphorus compounds may result in adverse effects after short-term exposures. Exposure may include contact with or ingestion of contaminated water, sediments, or food items (Hill 1995).

Increasing urbanization also increases the risk of catastrophic spills. Because of the Barton Springs salamander's limited range, a single catastrophic spill has the potential to impact the entire species and its habitat. Catastrophic spills can result from major transportation accidents, underground storage tank leaks, pipeline ruptures, sewage spills, vandalism, and other sources. Because no designated route for hazardous materials exists for the Austin area, potentially hazardous materials may be transported on major roadways crossing the Barton Springs watershed (City of Austin 1994). Expansion of major roadways and increasing volumes of traffic, particularly across the recharge zone near Barton Springs, increases the threat of catastrophic spills.

Oil pipeline ruptures also represent a source of groundwater contamination with potentially catastrophic

consequences. Three oil pipelines run roughly parallel to each other across the Barton Springs watershed and cross Barton Creek near the Hays/Travis county line. Two of these lines have ruptured within the recharge zone about 13 km (8 mi) south of Barton Springs, which constitute the largest spills reported from Hays and Travis counties between 1986 and 1992 (TWC, unpubl. data). The first major spill occurred in 1986, about 270 m (300 yards) from Slaughter Creek, when an oil pipeline was severed during a construction operation and released about 366,000 liters (96,600 gallons) of oil. Although about 91 percent of the spill was reportedly recovered (Rose 1986), petroleum hydrocarbon fumes were detected about six weeks later in caves located up to 2.7 km (1.7 mi) northeast of the spill (Russell 1987). The second pipeline break occurred in 1987 near the first spill site and released over 190,000 liters (49,000 gallons) of oil. According to the TWC database, more than 97 percent of this spill was recovered (TWC, unpubl. data).

Response times to hazardous materials spills vary, depending on several factors including detection capability, location and size of the spill, weather conditions, whether or not the spill is reported, and the party performing the cleanup. In some cases, spills may go undetected and/or unreported. Generally, cleanup is initiated within several hours once the spill has been detected and reported, but many weeks or possibly years may be necessary to complete the cleanup effort. In areas where access is difficult (due to remoteness, steep terrain, or other factors), remediation may not be possible or may be ineffective due to delays in initiating cleanup.

Increased demands on water supplies from the aquifer can also reduce the quality and quantity of water in the Barton Springs segment and at Barton Springs. The volume of springflow is regulated by the level of water in the aquifer. Discharge decreases as water storage in the aquifer drops, which historically has resulted primarily from a lack of recharging rains rather than groundwater withdrawal for public consumption. During these low flow conditions, ''bad water'' within the San Antonio segment of the Edwards aquifer may move northward and contribute to flows from Barton Springs (Slade *et al.* 1986; Stein 1995). In addition, increased withdrawals could result in upward leakage from the underlying Trinity aquifer, which has higher levels of dissolved solids and fluoride than water in the Barton Springs segment (Slade *et al.* 1986).

Under low flow conditions, Barton Springs and a well near the bad water line (YD–58–50–216) have shown increased dissolved solids concentrations, particularly sodium and chloride, indicating encroachment of bad water (Slade *et al.* 1986). The BS/EACD (Hauwert and Vickers 1994) measured high levels of dissolved solids at Sunken Garden Springs, indicating a significant influence of bad water during low flow conditions. The potential for encroachment of the bad water line and/or recharge from the Trinity aquifer increases with pumpage of the aquifer and extended low recharge or low flow conditions (Slade *et al.* 1986). The encroachment of bad water could have negative impacts on the plants and animals associated with Barton Springs. High sodium and chloride levels have been shown to increase fish mortality by disturbing ion balances (Werner 1983).

Based on water-budget analyses and pumpage estimates for 1982 (Slade *et al.* 1985, 1986), discharge from the Barton Springs segment (withdrawal plus springflow) was determined to be roughly equal to recharge from surface waters. Thus, a substantial increase in groundwater withdrawal would be expected to cause a decrease in the quantity of water in the aquifer and discharge from Barton Springs. The estimated total pumpage in 1982 was 470 hectare-meters (3,800 acre-feet), or about 10 percent of the long-term mean discharge of 1,400 l/s (50 cfs) for Barton Springs (Slade *et al.* 1985, 1986). The BS/EACD estimated total pumpage for 1994 to be about 570 hectare-meters (4,600 acre-feet) (Botto and Rauschuber 1995). The exact volume of water that is pumped from the aquifer is difficult to estimate, since meter reports are only required for municipal, industrial, irrigation, and commercial wells and not for wells that pump less than 38,000 l (10,000 ga) per day, domestic wells, or agricultural wells used for non-commercial livestock and poultry operations (BS/EACD 1994). Groundwater pumpage increases considerably and its effects on aquifer levels and springflows become more pronounced during dry spells (Slade *et al.* 1986; D.G. Rauschuber & Associates and R.J. Brandes Co. 1990; BS/EACD 1994; Nico Hauwert and Ron Fiesler, BS/EACD, pers. comms., 1995).

The number of wells in the Barton Springs segment is growing with the increasing dependence on the Edwards aquifer for drinking water, irrigation, and industrial use (BS/EACD 1994 and 1995; Botto and Rauschuber 1995). In the 235 sq mi area of the Barton Springs segment, a total of 54 new wells were drilled between fiscal year (FY) 1989 (September 1, 1988 to August 31, 1989) and FY 1993, with a maximum of 18 wells drilled during a single year (BS/EACD 1995). During FY 1994, 46 new wells were drilled, which is more than two and a half times the number drilled in FY 1993 (BS/EACD 1994). An additional 45 wells were drilled in FY 1995 (BS/EACD 1995). As urbanization in the outlying areas of Austin expands and reliance on groundwater supplies increases, the number of wells and the total volume of water withdrawal is also expected to continue to increase.

In addition to contributing to declining groundwater supplies, the TWC (1989) cites water wells as a major source of groundwater contamination by providing direct access of pollutants into the aquifer and possibly through inter-aquifer transfer of bad water. Reduced groundwater levels exacerbate the problem through decreased dilution of pollutants.

Under the 1996 pumping and drought regime, flows from Barton Springs approached historically low conditions. Because the flows from Eliza and Sunken Garden springs are considerably less than flows from the main springs in Barton Springs Pool (see Background section), the impacts of increased groundwater withdrawals and drought are realized more quickly for these spring outlets. As of July 1996, the water level in both Eliza Pool and Sunken Garden Springs was less than a foot deep (O'Donnell, pers. obs., 1996). Both springs ceased flowing during the drawdown of Barton Springs Pool (Hansen, pers. comm., 1996; O'Donnell, pers. obs. 1996).

Other potential impacts to the salamander's surface habitat may include the use of high pressure fire hoses in areas where the salamander occurs, hosing silt from the shallow end of Barton Springs Pool into the salamander's habitat, diverting water from Sunken Garden Springs into Barton Creek below Barton Springs, and runoff from the train station above Eliza Pool. Following the 1992 fish kill (see Background section), chlorine is no longer used to clean Barton Springs Pool. The City of Austin has drafted a management plan to avoid, minimize, and mitigate impacts to the salamander from pool cleaning and other park maintenance practices.

Impervious cover over the Barton Springs watershed is currently estimated at 4 to 6 percent (Slade 1992; City of Austin 1995). This area is under increasing pressure from urbanization (Austin Transportation Study (ATS) 1994). The ATS has projected that the Austin metropolitan area will support a

population of over 1.3 million by the year 2020, up from 815,000 in 1994. Southwest Austin, which covers only a portion of the Barton Springs watershed, is projected to almost double in size, from an estimated 32,000 people in 1994 to 58,000 by the year 2020. Likewise, the population in northern Hays County is expected to more than triple in size by the year 2020, from 18,000 in 1994 to 68,000 in 2020 (ATS 1994). According to the Capital Area Planning Council (CAPCO), Hays County has the second highest growth rate in the ten-county CAPCO region. Dripping Springs, which is located in the contributing zone between Onion Creek and Barton Creek, ''will likely continue to experience a high rate of growth as development continues along U.S. 290 from the Oak Hill area westward'' (CAPCO 1990).

Several major highways, including a segment of State Highway 45, the southern extension of Loop 1 (''MOPAC''), and the Southwest Parkway have been built in the last decade to accommodate the projected population growth, real estate speculation, and traffic demands in this area. Justification for the Highway 290 expansion was largely based on the population growth projected for and already occurring in this area (ATS 1994). In addition to these roadways, the remainder of State Highway 45, an 82-mi loop around Austin, is proposed to be built within the next 20 to 25 years. This highway would cross Barton Creek and several other creeks in the Barton Springs watershed (City of Austin 1994).

Less than 2,400 ha (6,000 ac) of preserve lands currently exist in the Barton Springs watershed (USFWS 1996). Much of the remaining area along Barton Creek and within the City of Austin's Extra-territorial Jurisdiction (ETJ) is slated for development at levels of greater than 30 percent impervious cover (City of Austin unpubl. data).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No threat from overutilization of this species is known at this time.

C. *Disease or predation.* No diseases or parasites of the Barton Springs salamander have been reported. Primary predators of the Barton Springs salamander are believed to be predatory fish and crayfish; however, no information exists to indicate that predation poses a major threat to this species.

D. *The inadequacy of existing regulatory mechanisms.* No existing rules or regulations specifically require protection of the Barton Springs salamander or the Barton Springs ecosystem, and no comprehensive plan is in place to protect the Barton Springs watershed from increasing threats to water quality and quantity. The salamander is not included on the TPWD's list of threatened and endangered species, so the species is not protected by that agency.

Since the publication of the proposed rule, the City of Austin's ''Save Our Springs'' (SOS) ordinance was overturned by a Hays County jury in November 1994 (*Jerry J. Quick, et al.* v. *City of Austin*). Prior to its invalidation, the SOS ordinance was the most stringent water quality protection regulation in the Barton Springs watershed, requiring impervious cover limitations of 15 to 25 percent (based on net site area), buffers along major creeks, no increases in loadings of 13 pollutants, barring of exemptions and variances from the ordinance provisions, and attempts to reduce the risk of accidental contamination (Camille Barnett, City of Austin, *in litt.*, 1993).

In addition to the overturning of the SOS ordinance, several bills passed during the State's 74th (1995) legislative session that curtail the City of Austin's ability to implement water quality protective measures within its five-mile ETJ. Senate Bill 1017 and House Bill 3193 exempt large developments (over 1,000 acres, or 500 acres if approved by the TNRCC) from all City of Austin water quality ordinances and land use regulations. The TNRCC has determined that this legislation conflicts with State and Federal regulations; does not address groundwater quality; is inadequate to ensure protection of surface water quality and would not meet State water quality standards; provides little or no inspection, enforcement, or compliance safeguards; and would allow surface and groundwater quality to degrade (Mark Jordan, TNRCC, *in litt.*, 1995). Other laws passed during the 1995 session that limit the enforcement authority of local governments include Senate Bill 14, which allows landowners to sue local and State governments to invalidate regulations or seek compensation for actions that would decrease property values by 25 percent or more; and Senate Bill 1704, which ''grandfathers'' developers from updated health and safety ordinances.

Other laws and regulations potentially affecting water quality in the Barton Springs watershed include the Federal Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, and Comprehensive Environmental Response, Compensation, and Liability Act; the Edwards Rules and Texas Underground Storage Tanks Act (30 Texas Administrative Code, Chapters 313 and 334), which are promulgated and enforced by the TNRCC; the City of Austin's water quality protective ordinances (Williamson Creek Ordinance (1980), Barton Creek Watershed Ordinance (1981), Lower Watersheds Ordinance (1981), Comprehensive Watersheds Ordinance (1986), ''Composite Ordinance'' (1991), and the amended Composite Ordinance (1994); and the City of Dripping Springs' Site Development Ordinance 52B. In addition to the inadequacies of these rules and regulations (discussed below), many of the agencies charged with their administration lack adequate resources to carry out their responsibilities (TNRCC 1994).

The purpose of the Clean Water Act is ''to restore and maintain the physical, chemical, and biological integrity of the Nation's waters.'' Section 304 of the Clean Water Act provides the EPA authority to develop water quality criteria to protect water resources, including groundwater. However, the primary focus of the Clean Water Act is on surface water, and the law does not mandate protection of groundwater resources. Furthermore, surface and groundwater tend to be treated as separate and distinct resources rather than interactively, and protection focuses on human use rather than effects on aquatic organisms. Section 302, which provides for a National Pollution Discharge Elimination System (NPDES), primarily addresses point source pollution and not non-point source pollution or groundwater contamination. Efforts are needed to integrate the relationship between surface and groundwater into the regulatory framework and to assess the impact of surface water regulations and management practices on groundwater resources.

Part C of the Safe Drinking Water Act, the Underground Injection Control Program, requires that the injection of fluids underground not endanger drinking water supplies. Section 1427 (Sole Source Aquifer Program) requires that federally funded projects potentially affecting a sole source aquifer ensure that drinking water will not be contaminated. A portion of the Barton Springs watershed has been designated as a Sole Source Aquifer. The Sole Source Aquifer Program applies only to Federal projects and not to State or private projects, unless they receive Federal funds, and no requirements related to aquatic organisms are included.

The Federal Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response, Compensation, and Liability Act focus on remedial actions once groundwater contamination has occurred, rather than on prevention. Under these Acts, monitoring is required to determine when remediative cleanup actions following groundwater contamination by chemical and waste sites is complete. In addition, the RCRA requires that all underground storage tanks installed since 1988 be equipped with spill and overfill protection devices, protected from corrosion that could result in releases, and equipped with devices that would detect any releases that might occur. Previously existing tanks are to be upgraded to these same standards over a ten-year period.

Much of the responsibility for protecting surface and groundwaters is directed to and administered by the states. Section 106 of the Clean Water Act provides funds to the states for water quality programs, including comprehensive groundwater protection programs. Section 303 requires states to set water quality standards for surface waters, employing the criteria established by the EPA under section 304, and to designate uses for each water body. Section 319 provides technical and financial assistance to the states to implement programs to control nonpoint source pollution for both surface water and groundwater. The EPA's policy, ''Protecting the Nation's Groundwater: EPA's Strategy for the 1990's'' also recognizes states as having the primary role of protecting groundwater. Section 1428 of the Safe Drinking Water Act, the Wellhead Protection Program, directs states to control sources of contaminants near public supply wells used for drinking water. Most of the State of Texas' efforts to protect surface and groundwater resources focus on point sources of pollution, monitoring, and remediative actions (TNRCC 1994). The TNRCC's Tier II Antidegradation Policy applies only to regulatory actions that would exceed fishable/swimmable quality of Barton and Onion creeks, and allows degradation if necessary for important economic or social development.

The Edwards Rules regulate construction-related activities on the recharge zone of the Edwards aquifer that may ''alter or disturb the topographic, geologic, or existing recharge characteristics of a site'' as well as any other activity ''which may pose a potential for contaminating the Edwards aquifer,'' including sewage collection systems and hazardous materials storage tanks. The Edwards Rules regulate construction activities though review of Water Pollution Abatement Plans (WPAPs). The WPAPs do not require site-specific water quality performance standards for developments over the recharge zone nor do they address land use, impervious cover limitations, nonpoint source pollution, application of fertilizers and pesticides, or retrofitting for developments existing prior to the implementation of the Rules. (Travis County was incorporated into the Rules in March 1990; Hays County was incorporated in 1984.) The WPAPs also do not apply to development activities in the aquifer's contributing zone. To date, the Edwards Rules do not include a comprehensive plan to address the effects of cumulative impacts on water quality in the aquifer or its contributing zone.

The Edwards Rules and the Texas Underground Storage Tanks Act (Title 31, Chapters 313 and 334 of the Texas Administrative Code) require that all tanks installed after September 29, 1989, be equipped with release detection devices, corrosion protection, and spill/overflow protection; that all previously existing tanks be upgraded to the same standards by December 22, 1994; and that tanks located in the Edwards aquifer recharge and transition zones be of double-walled or equivalent construction with continuous monitoring of the space between the tank and piping walls for leak detection. The adequacy of these measures in preventing groundwater contamination, particularly over the long term, has not been demonstrated. Routine testing of tanks to ensure proper functioning is not required until after a leak has been detected, and no routine monitoring or testing by the TNRCC is conducted to determine compliance with the regulations. Formal approval by the TNRCC of construction plans for new tanks is only required for the recharge zone and not the contributing zone. The TNRCC does not maintain a database of the total number of storage tanks that have been upgraded, those that still need to be upgraded, or those that are in violation of the regulations (Jackie Hardee, TNRCC, pers. comm., 1995).

A Section 10(a)(1)(B) permit allowing the incidental taking of two endangered songbirds and six endangered karst invertebrates, known as the Balcones Canyonlands Conservation Plan (BCCP), was issued to Travis County and the City of Austin in May 1996 (USFWS 1996). The BCCP does not allow incidental taking of the Barton Springs salamander, and requires that all permit applicants ensure that their activities do not degrade waters in the Barton Springs watershed. The guidance provided in the Available Conservation Measures section of this final rule is intended to assist landowners in achieving this goal. Acquisition of 4,000 acres in the Barton Creek watershed as BCCP preserve land will provide additional benefits to the salamander by preserving the natural integrity of the landscape and positively contributing to water quality and quantity in Barton Creek and Barton Springs. The BCCP does not apply to development activities in Hays County.

To protect water quantity in the Barton Springs segment, the BS/EACD has developed a Drought Contingency Plan (D.G. Rauschuber & Associates and R.J. Brandes Co. 1990). Barton Springs has always flowed during recorded history, and one of the BS/EACD's goals is to assure that Barton Springs flow ''does not fall appreciably below historic low levels'' (D.G. Rauschuber & Associates and R.J. Brandes Co. 1990). The BS/EACD regulates about 60 to 80 percent of the total volume that is pumped from the Barton Springs segment and has the ability to limit development of new wells, impose water conservation measures, and curtail pumpage from these wells during drought conditions (Bill Couch, BS/EACD, pers. comm., 1992, and *in litt.* 1994; Botto and Rauschuber 1995). According to the BS/EACD (B. Couch, pers. comm., 1992), water well production in the higher elevations of the Barton Springs segment has been limited during periods of lower aquifer levels in recent years. However, the ability of the BS/EACD to ensure the success of the plan is limited, since it does not regulate 20 to 40 percent of the total volume that is pumped from the Barton Springs segment.

E. *Other natural or manmade factors affecting its continued existence.* The very restricted range of the Barton Springs salamander makes this species especially vulnerable to acute and/or chronic groundwater contamination. Since the salamander is fully aquatic, there is no possibility for escape from contamination or other threats to its habitat. A single incident (such as a contaminant spill) has the potential to eliminate the entire species and/or its prey base. Crustaceans, particularly amphipods, on which the salamander feeds are especially sensitive to water pollution (Mayer and Ellersieck 1986; Phipps *et al.* 1995; Burton and Ingersoll 1994).

Research indicates that amphibians, particularly their eggs and larvae, are sensitive to many pollutants, such as heavy metals; certain insecticides,

particularly cyclodienes (endosulfan, endrin, toxaphene, and dieldrin), and certain organophosphates (parathion, malathion); nitrite; salts; and petroleum hydrocarbons (Harfenist *et al.* 1989). Christine Bishop (Canadian Wildlife Service) states that ''the health of amphibians can suffer from exposure to pesticides (Harfenist *et al.* 1989). Because of their semipermeable skin, the development of their eggs and larvae in water, and their position in the food web, amphibians can be exposed to waterborne and airborne pollutants in their breeding and foraging habitats * * *. [Furthermore] pesticides probably change the quality and quantity of amphibian food and habitat (Bishop and Pettit 1992).'' Toxic effects to amphibians from pollutants may be either lethal or sublethal, including morphological and developmental aberrations, lowered reproduction and survival, and changes in behavior and certain biochemical processes.

Observations of central Texas *Eurycea* salamanders in captivity indicate that these species, including the Barton Springs salamander, are very sensitive to changes in water quality and are ''quite delicate and difficult to keep alive'' (Sweet, *in litt.*, 1993). Sweet reported that captive individuals exhibit adverse reactions to plastic containers, aged tapwater, and detergent residues. The water in which these salamanders are kept also requires frequent changing (Sweet, *in litt.*, 1993). Unsuccessful attempts at captive propagation of the San Marcos salamander (Janet Nelson, Southwest Texas State University, pers. comm., 1992) and very limited success at inducing captive spawning in the Barton Springs salamander (Ables, Coale, and Dwyer, pers. comms., 1996) may also be due to these species' sensitivity to environmental stress.

Several citizens have expressed concern over impacts to the salamander from recreational use of Barton Springs Pool for swimming. However, no evidence exists to indicate that swimming in Barton Springs Pool poses a threat to the salamander population, which is located 3 to 5 m (10 to 15 ft) below the water's surface. The survey data show no correlation between recreational use of the pool and salamander abundance. Furthermore, salamander population declines have occurred in Eliza Pool, which is closed to the public. Although certain pool maintenance practices may impact individual salamanders occurring in the pools, they are unlikely to have a major impact on the entire species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. The best scientific data indicate that listing the Barton Springs salamander as endangered is warranted. Critical habitat is determined to be not prudent for this species for the reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which protection under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of the springs occupied by the Barton Springs salamander as critical habitat would not be prudent because it would not provide a conservation benefit to the species.

Designation of critical habitat benefits a listed species only when adverse modification or destruction of critical habitat could occur without the survival and recovery of the species also being jeopardized. Because the Barton Springs salamander is restricted to one area that discharges water from the entire Barton Springs watershed, any action that would result in adverse modification or destruction of the salamander's critical habitat would also jeopardize its continued survival and recovery. Designating critical habitat would therefore not provide a benefit to the species beyond the benefits already provided by listing and subsequent evaluation of activities under the jeopardy standard of section 7 of the Act. Because jeopardy to the species and adverse modification of its critical habitat are indistinguishable, the Service has determined that designation of critical habitat for the Barton Springs salamander is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

The health of the aquifer and Barton Springs, and the long-term survival of the Barton Springs salamander, can only be ensured through a concerted, organized effort on the part of all affected Federal, State, and local governments and the private citizenry to protect the Barton Springs watershed. Conservation and management of the Barton Springs salamander will entail removing threats to its survival, including—(1) protecting the quality and quantity of springflow from Barton Springs by implementing comprehensive management programs to control and reduce point and nonpoint sources of pollution throughout the Barton Springs watershed; (2) minimizing the risk and likelihood of pollution events that would affect water quality; (3) strengthening efforts to protect groundwater and springflow quantity; (4) continuing to examine and implement pool cleaning practices and other park operations that protect and perpetuate the salamander's surface habitat and population; and (5) public outreach and education. It is also anticipated that listing will encourage continued research on the critical aspects of the Barton Springs salamander's biology (e.g., longevity, natality, sources of mortality, feeding and breeding ecology, and sensitivity to contaminants and other water quality constituents).

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered

or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(1) requires Federal agencies to use their authorities to further the purposes of the Act by carrying out programs for listed species. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into consultation with the Service, unless the Service agrees with the agency that the action is not likely to adversely affect the species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect, or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies. The Barton Springs salamander is not known to be commercially traded and such permit requests are not expected.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

It is the policy of the Service (59 FR 34272; July 1, 1994) to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of listing on proposed and ongoing activities within a species' range, and to assist the public in identifying measures needed to protect the species. Aside from the potential for catastrophic spills, no single development activity or water withdrawal in and of itself is likely to significantly impact water quality and quantity in the Barton Springs watershed. Rather, it is the sum of all of these activities and their associated impacts that threaten this resource and the survival of the Barton Springs salamander. Because most of the threats to the salamander come from diffuse sources that are cumulative in nature, their effects will be observable at the ecosystem and population level rather than at the individual level. Thus, the purpose of this guidance is not only to identify activities that would or would not likely result in ''take'' of individuals, but activities that in combination will ultimately affect the long-term survival of the Barton Springs salamander. This guidance should not be used to substitute for local efforts to develop and implement comprehensive management programs for the Barton Springs watershed.

Activities that the Service believes are unlikely to result in a violation of section 9 for the Barton Springs salamander are:

(1) Range management and other agricultural practices that promote good vegetative cover and soil conditions (for example, low to moderate stocking rates, rotational and deferred grazing, and maintaining native bunchgrasses);

(2) Swimming in Barton Springs pool;

(3) Buying or selling of property;

(4) Improvements to existing structures, such as renovations, additions, repairs, or replacement;

(5) New developments or construction that do not result in an appreciable change in the quality or quantity of water in the Barton Springs watershed above normal background conditions (non-degradation). Generally, new developments and construction designed and implemented pursuant to State and local water quality protection regulations in effect as of the date of this rule will not result in a violation of section 9;

(6) Routine residential lawn maintenance; and

(7) Upgrading or replacing existing structures (such as bridge crossings, BMPs, septic systems, underground storage tanks) in order to minimize pollutant loadings into receiving waters.

Activities that the Service believes could potentially harm the Barton Springs salamander and result in a violation of section 9 include:

(1) Collecting or handling of the species without appropriate permits;

(2) Alteration or disturbance of the Barton Springs salamander's habitat in the pools where it occurs (including use of chemicals to clean the pools where the salamander occurs; use of high pressure fire hoses in salamander habitat; removal of beneficial aquatic plants; dredging; and frequent and/or prolonged drawdown, particularly during drought);

(3) Illegal discharges or dumping of chemicals, silt, sewage, fertilizers, pesticides, heavy metals, oil, organic wastes, or other pollutants into the Barton Springs watershed;

(4) New developments or construction not designed and/or implemented pursuant to State and local water quality protection regulations in effect as of the date of this rule, that result in an appreciable change in the quality or quantity of water in the Barton Springs watershed above normal background conditions (non-degradation);

(5) Withdrawal of water from the aquifer to the point at which springflows at Barton Springs appreciably diminish;

(6) Withdrawal of water from the contributing zone to the point at which baseflows in the creeks appreciably diminish;

(7) Introduction of non-native aquatic species (fish, plants, other) into Barton Springs or the Barton Springs segment of the Edwards aquifer;

(8) Destruction or alteration of caves, sinkholes, or other significant recharge features (including dumping, vandalism, and/or diverting contaminated water into these features); and

(9) Destruction or alteration of spring orifices that provide water to Barton Springs.

Questions as to whether specific activities will constitute a violation of section 9 should be directed to the Service's Austin Ecological Services Field Office (see **ADDRESSES** section). Requests for copies of the regulations regarding listed wildlife and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone: 505/248–6920; facsimile: 505/248–6922).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

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

References Cited

A complete list of all references cited in this rule is available upon request from the Austin Ecological Services Field Office (see **ADDRESSES** section).

Author: The primary author of this final rule is Lisa O'Donnell, Austin Ecological Services Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under AMPHIBIANS, to the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
AMPHIBIANS							
*	*	*	*	*	*	*	*
Salamander, Barton Springs	*Eurycea sosorum*	U.S.A. (TX)	Entire	E	612	NA	NA
*	*	*	*	*	*	*	*

Dated: April 24, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–11194 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 62, No. 83
Wednesday, April 30, 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 1220

[No. LS–97–005]

Soybean Promotion and Research: Amend the Order to Adjust Representation on the United Soybean Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust the number of members for certain States on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the Board was reapportioned in 1994. These adjustments are required by the Soybean Promotion and Research Order (Order) and would result in an increase in Board membership from 59 to 62 effective with the Secretary's 1998 appointments.

DATES: Written comments must be received by May 30, 1997.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, Room 2604–S; P.O. Box 96456; Washington, D.C. 20090–6456, comments will be available for public inspection during regular business hours at the above office in Room 2606, South Agricultural Building, 14th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988, and Regulatory Flexibility Act

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

This rule was reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a 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 Soybean Promotion, Research, and Consumer Information Act (Act) provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with the Secretary 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 requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for this purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it only adjusts representation on the Board to reflect changes in production levels that have occurred since the Board was reapportioned in 1994. As such, these changes will not impact on persons subject to the program. There are an estimated 381,000 soybean producers who pay assessments and an estimated 10,000 first purchasers who collect assessments, most of whom would be considered small entities under the criteria established by the Small Business Administration (13 CFR 121.601).

Background and Proposed Changes

The Act (7 U.S.C. 6301–6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective July 9, 1991. The Order established a Board of 60 members. For purposes of establishing the Board, the United States was divided into 31 geographic units. Representation on the Board from each unit was determined by the level of production in each unit. The Secretary appointed the initial Board on July 11, 1991. The Board is composed of soybean producers.

Section 1220.201(c) of the Order provides that at the end of each three (3) year period, the Board shall review soybean production levels in the geographic units throughout the United States. The Board may recommend to the Secretary modification in the levels of production necessary for Board membership for each unit. At its March 1997 meeting the Board voted to recommend to he Secretary that no modification by made.

Section 1220.201(d) of the Order provides that at the end of each three (3) year period, the Secretary must review the volume of production of each unit and adjust the boundaries of any unit and the number of Board members from each such unit as necessary to conform with the criteria set forth in § 1220.201(e): (1) To the extent practicable, States with annual average soybean production of less than 3,000,000 bushels shall be grouped into geographically contiguous units, each of which has a combined production level equal to or greater than 3,000,000 bushels, and each such group shall be entitled to at least one member on the Board; (2) units with at least 3,000,000 bushels, but fewer than 15,000,000 bushels shall be entitled to one board member; (3) units with 15,000,000 bushels or more but fewer than 70,000,000 bushels shall be entitled to two Board members; (4) units with 70,000,000 bushels or more but fewer than 200,000,000 bushels shall be entitled to three Board members; and (5) units with 200,000,000 bushels or more shall be entitled to four Board members.

Current representation on the Board (59), and the number of geographical units (30), have been based on average production levels for the years 1989–

1993 (excluding the crops in years in which production was the highest and in which production was the lowest) as reported by the National Agricultural Statistics Service (NASS) of the U.S. Department of Agriculture.

Proposed representation on the Board (62) is based on average production levels for the years 1992–1996 (excluding the crops in years in which production was the highest and in which production was the lowest) as reported by NASS.

The number of geographical units would remain at 30.

This proposed rule would adjust representation on the Board as follows:

State	Current representation	Proposed representation
Indiana	3	4
Minnesota	3	4
South Dakota	2	3
North Dakota	1	2
Virginia	2	1

Board adjustment as proposed by this rulemaking would be effective, if adopted, with the 1998 nominations and appointments.

List of Subjects in 7 CFR 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Reporting and recordkeeping requirements, Soybeans and soybean products.

For the reasons set forth in the preamble, it is proposed that Title 7, part 1220 be amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311.

2. In § 1220.201, the table immediately following paragraph (a) is revised to read as follows:

§ 1220.201 Membership of board.

(a) * * *

Unit	Number of members
Illinois	4
Iowa	4
Minnesota	4
Indiana	4
Missouri	3
Ohio	3
Arkansas	3
Nebraska	3
South Dakota	3
Mississippi	2
Kansas	2
Louisiana	2
Tennessee	2
North Carolina	2
Kentucky	2
Michigan	2
North Dakota	2
Maryland	2
Wisconsin	2
Virginia	1
Georgia	1
South Carolina	1
Alabama	1
Delaware	1
Texas	1
Pennsylvania	1
Oklahoma	1
New Jersey	1
Eastern Region (New York, Massachusetts, Connecticut, Florida, Rhode Island, Vermont, New Hampshire, Maine, West Virginia, District of Columbia, and Puerto Rico	1
Western Region (Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California, Hawaii, and Alaska)	1

* * * * *

Dated: April 24, 1997.

Barry L. Carpenter,

Director, Livestock and Seed Division.

[FR Doc 97–11105 Filed 4–29–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1703

RIN 0572–AB31

Distance Learning and Telemedicine Loan and Grant Program; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule: Correction.

SUMMARY: This document contains corrections to the proposed regulations which were published Wednesday, April 16, 1997 (62 FR 18686). The regulations related to the requirements for submitting an application for financial assistance.

FOR FURTHER INFORMATION CONTACT: Barbara L. Eddy, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, telephone number (202) 720–9554.

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections, supersede paragraph (c) of § 1703.113 as proposed and would affect persons submitting applications for financial assistance under 7 CFR 1703, subpart D. Title VII, section 704, of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) amended Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 by authorizing the Secretary of Agriculture to make loans for distance learning and telemedicine services in rural areas. The proposed regulations would amend 7 CFR part 1703 to set forth the rules for this new loan program to be administered by the RUS.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the **Federal Register** document 97–9422 published on April 16, 1997, at 62 FR 18677 is corrected as follows:

§ 1703.113 [Corrected]

1. On page 18686, in the third column, in § 1703.113, paragraph (c), line three, the date ''May 31, 1997,'' is corrected to read ''[60 days from the date of publication of the final rule],.''

2. On page 18686, in the third column, in § 1703.113, paragraph (c), line 24, the date ''by May 31'' is corrected to read ''[not later than 60 days from the date of publication of the final rule].''

Dated: April 23, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–11102 Filed 4–29–97; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 70, and 72

RIN 3150–AF64

Self-Guarantee of Decommissioning Funding by Non-Profit and Non-Bond Issuing Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to allow additional materials licensees and non-electric utility reactor licensees who meet certain financial criteria to self-guarantee funding for decommissioning. Certain commercial corporate licensees who issue bonds are presently allowed to self-guarantee funding if they meet stringent financial criteria. The proposed rule would allow non-profit licensees, such as colleges, universities, and hospitals, and also some commercial licensees who do not issue bonds, to self-guarantee funding, provided they meet similarly stringent financial criteria. Allowing qualified non-profit and non-bond-issuing licensees to use self-guarantee would reduce the costs of complying with NRC financial assurance requirements while providing adequate confidence to the NRC that funds for decommissioning will be available when needed.

DATES: Submit comments by July 29, 1997. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Comments may be sent to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Docketing and Service Branch. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Single copies of this proposed rulemaking may be obtained by written request to Distribution and Services Section, Printing, Graphics and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, or by telefax to (301) 415–2260. For information on submitting comments electronically see the discussion under Electronic Access in the Supplementary Information section. Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this rulemaking as indicated in the discussion under Electronic Access.

FOR FURTHER INFORMATION CONTACT: Dr. Clark Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)415–6203, e-mail cwp@nrc.gov.

SUPPLEMENTARY INFORMATION: Licensees subject to 10 CFR Parts 30, 40, 70, and 72, whose operations involve the use of substantial amounts of nuclear materials, and those subject to 10 CFR Part 50 who are applicants for or holders of operating licenses for production or utilization facilities must provide financial assurance for decommissioning funding by selecting from a variety of mechanisms: surety bond or letter of credit, prepayment, insurance, an external sinking fund coupled with a surety or insurance,[1] parent company guarantee for licensees that have a qualifying corporate parent, and, for certain financially strong corporations, self-guarantee. A statement of intent regarding obtaining funds to satisfy decommissioning obligations may be used by some licensees that are governmental entities (for example, public universities whose charter provides for a direct link to the State Government).

Licensees currently using self-guarantee must pass a stringent financial test that is given in Appendix C to 10 CFR Part 30. Self-guarantee is currently not available to non-profit licensees, such as hospitals and universities, or to for-profit licensees who do not issue bonds, because the financial test for self-guarantee uses the rating of the bonds issued by the licensee as one measure of its financial resources and ability to fund decommissioning.

The NRC has determined that the use of self-guarantee, currently limited to bond-issuing industrial corporations, could be made available to additional categories of licensees without jeopardizing the present high level of financial assurance that the decommissioning obligation requires. Allowing qualified non-profit and non-bond issuing licensees to use self-guarantee would reduce the costs of complying with NRC financial assurance requirements for those who meet the specified criteria.

I. Background

On December 29, 1993 (58 FR 68726), as corrected on January 12, 1994 (59 FR 1618), the NRC published a notice of final rulemaking that allows financially strong corporations with A or better bond ratings the option of using self-guarantee as a mechanism for complying with the regulations on financial assurance for decommissioning. Self-guarantee was added to the list of financial assurance mechanisms as a cost-saving option for those licensees able to meet the stringent financial test required. The NRC's self-guarantee procedure requires licensees to pass the financial test annually. In addition, NRC's requirements for self-guarantee provide for early reporting by licensees of any deterioration in financial condition.

The NRC's decision to add self-guarantee by qualified licensees to the list of approved financial assurance mechanisms came in response to a petition for rulemaking filed by General Electric and Westinghouse (PRM–30–59, notice of receipt published September 25, 1991 (56 FR 48445). The petition presented a case for allowing self-guarantee as a cost-saving option for corporate licensees able to pass a stringent financial test. The NRC published a notice of proposed rulemaking on January 11, 1993 (58 FR 3515), in response to the petition. Several comment letters were received from universities requesting that self-guarantee also be applied to non-profit entities able to pass a financial test. At that time, the NRC had not conducted an analysis of the feasibility of applying self-guarantee to non-profit entities. In the final rule, the NRC stated that ''In order to extend the use of self-guarantee to non-profit entities, new criteria would have to be developed to assess the financial strength of the non-profit licensees. Development of financial criteria to assess the qualifications of a non-profit entity to provide a self-guarantee is likely to require detailed consideration of the different financial accounting methods used by medical institutions. The financial accounting and reporting of non-profit entities are unique and substantially different from the accounting and reporting of for-profit entities'' (58 FR 68728).

Subsequent to the December 29, 1993, final rule, the Commission initiated a study to determine whether criteria could be developed and applied by NRC for non-profit licensees and non-bond issuing commercial licensees to use self-guarantee while maintaining the required level of confidence regarding the availability of decommissioning funds when needed. The study, ''Analysis of Potential Self-Guarantee Tests for Demonstrating Financial Assurance by Nonprofit Colleges and Universities and Hospitals and by

[1] Pursuant to 10 CFR 50.75(e)(3), an electric utility can satisfy the decommissioning funding requirements with an external sinking fund, standing alone. This rulemaking does not apply to electric utilities, and does not affect the NRC's Advance Notice of Proposed Rulemaking which addresses decommissioning funding assurance issues associated with electric utility restructuring (see Financial Assurance Requirements for Decommissioning Nuclear Power Reactors—61 FR 15427 April 8, 1996).

Business Firms that Do Not Issue Bonds,'' NUREG/CR–6514,[2] identified a variety of financial criteria that could be applied to additional categories of licensees regarding the use of self-guarantee. The financial criteria proposed here were selected by the NRC based on information in this report. The NRC believes that the financial criteria proposed in this notice would maintain the high level of assurance of availability of decommissioning funding provided by the present self-guarantee mechanism for bond-issuing licensees.

II. Analysis of Financial Criteria

The NRC must have evidence of adequate financial strength on the part of the licensee to ensure that decommissioning funding obligations will be met when the need arises. If self-guarantee is permitted, the applicant or licensee must submit a basis for concluding that decommissioning financial assurance is still provided. Financial strength does not necessarily depend on the type of licensee. Many colleges and universities have very strong financial positions, with large endowment funds that could be used, if needed, for decommissioning funding. Some hospitals are also quite financially strong. With respect to non-bond issuing commercial firms, their lack of any bond issuance could reflect financial resources great enough to preclude the need to issue debt.

If a college, university, or hospital has an A or better bond rating, the financial assurance risk of allowing it to self-guarantee decommissioning funding is comparable to the financial assurance risk of institutions currently allowed to self-guarantee. This risk is also based on an A or better bond rating. The risk of default of industrial bond issuers with an A or better bond rating has been estimated at less than 1 percent annually.[3] An A or better bond rating indicates that the issuer has passed a stringent review by the independent ratings agencies of its ability to meet financial obligations. Bond ratings are reviewed often and changed in response to changes in the issuer's financial condition. The A or better bond rating should be for uninsured bonds. As discussed in NUREG/CR–6514, insured bond ratings are in fact the rating of the insuring company and may not apply to the institution that holds the NRC license.

Regarding financial criteria that are based on factors other than bond ratings, quantitative estimates of financial assurance risk are not available because of the lack of a large financial database such as that maintained by the bond-rating agencies on bond-issuing entities. The NRC has deliberately chosen non-bond rating financial criteria that are conservative. The NRC regulations have included a self-guarantee mechanism for only a few years. It seems prudent to set the threshold financial criteria at a high level. At some future time, as more experience is gained with self-guarantee, the financial criteria can be reviewed, and appropriate revisions can be proposed.

A. Criteria for Colleges and Universities

Approximately 75 percent of NRC's college and university licensees issue bonds and have bond ratings. Bond rating can thus be used as a basis for financial criteria for most college and university licensees. Note that many college or university licensees are public institutions and a large portion of these can use a governmental statement of intent that funds for decommissioning will be obtained when necessary, a mechanism which does not involve any significant cost to the licensee. The NRC believes that the A or better bond rating (for uninsured bonds) criterion used in the existing self-guarantee financial test can also be used as the criterion in a financial test for use by colleges and universities. Even if an applicant or licensee were a non-profit entity or a for-profit firm that does not issue bonds, it may obtain a bond rating from one of the major ratings agencies. This option would be allowed. Having obtained a bond rating, the licensee would be subject to the same requirements as the bond-issuing institutions.

For licensees without a bond rating, a level of unrestricted endowment of at least $50 million, or at least 30 times projected decommissioning costs, whichever is larger, should be sufficient to allow use of self-guarantee. This level of endowment is adequate to generate annual income sufficient to cover the upper range of estimated decommissioning costs. The multiple of 30 has been chosen because this would mean that any level of decommissioning costs could be covered by the annual return on an endowment invested at 3 percent.

B. Criteria for Hospitals

Approximately 50 percent of hospital licensees issue bonds and have bond ratings. For the same reasons outlined above, a criterion of an A or better bond rating could be used for hospital licensees. The A or better rating should be for unguaranteed, uninsured, or uncollateralized bonds.

For hospital licensees without a bond rating, three financial ratios are identified as most accurate indicators of financial strength: (1) liquidity—(current assets and depreciation fund, divided by current liabilities), (2) net revenue—(total revenue less total expenses, divided by total revenue), and (3) leverage—(ratio of long term debt to net fixed assets). Numerical values for these ratios have been developed by reviewing the financial characteristics of hospitals. The licensee must meet all three ratios. The proposed values are as follows, and based upon the analysis performed for the NRC, represent a level of financial risk comparable to an A bond rating:

(a) Liquidity—(Current assets and depreciation fund, divided by current liabilities) greater than or equal to 2.55.

(b) Net revenue—(Total revenues less total expenditures divided by total revenues) greater than or equal to .04.

(c) Leverage—(Long term debt divided by net fixed assets) less than or equal to .67.

In addition, a hospital must be of a minimum size relative to estimated decommissioning costs. The financial test calls for hospital operating revenues to be at least 100 times decommissioning costs.

C. Criteria For Non-Bond Issuing Industrial Corporations

A financial ratios test is an alternative to bond rating which is currently allowed by NRC regulations. The NRC parent guarantee test in Appendix A to 10 CFR Part 30 includes a ratio test as an alternative to a bond rating test. The proposed criterion is Cash Flow divided by Total Liabilities greater than 0.15, Total Liabilities divided by Net Worth less than 1.5, and Net Worth greater than $10 million or at least 10 times decommissioning costs, whichever is greater. The financial assurance risk of using such a criterion is estimated to be comparable to the risk associated with current regulations.[4]

D. Cost Savings

Cost savings would result because qualifying licensees would not have to purchase other types of financial assurance instruments such as letters of

[2] Copies are available for inspection or copying for a fee from the NRC Public Document Room at 2120 L St. NW, Washington, DC; the PDR's mailing address is Mail Stop LL–6, Washington, DC 20555–0001; telephone (202) 634–3273; fax (202) 634–3343. Single copies are available from the NRC contact.

[3] Corporate Bond Defaults and Default Rates, Moodys Special Report, January 1991, p. 32.

[4] ''Analysis of Potential Self-Guarantee Tests for Demonstrating Financial Assurance by Nonprofit Colleges and Universities and Hospitals and by Business Firms that do not Issue Bonds'', NUREG/CR–6514, 1995, p. 47.

credit or surety bonds. These types of financial assurance instruments typically cost a licensee approximately 1.5 percent per annum of the amount of financial assurance purchased.

Estimates of the numbers of NRC licensees who could qualify for self-guarantee under the proposed financial criteria and estimated total cost savings on an annual basis are as follows, and for colleges and universities includes estimates for the reactors licensed to them as well as materials licenses:

Type of licensee	Number qualifying	Total annual cost savings (thousands)
College and University	25–30	$350—$400
Hospital	10–14	$120—$150
Non-Bond Issuing Industrial	2–4	$20—$40

The total cost savings for all licensees estimated to qualify for self-guarantee could range from approximately $500K to $600K per annum. Greater cost savings would result if Agreement States allow self-guarantee for their licensees.

There would be no significant cost impact on NRC as review time for the various financial assurance mechanisms is essentially the same.

III. Section-by-Section Description of Changes

10 CFR Part 30

Section 30.35 is amended to permit self-guarantee for financial assurance which can be used by qualified non-profit licensees and non-bond issuing licensees.

Appendix D is added to 10 CFR Part 30 to establish requirements for self-guarantee by non-bond issuing commercial licensees. Appendix E is added to 10 CFR Part 30 to establish requirements for self-guarantee for non-profit college, university, and hospital licensees.

10 CFR Part 40

Section 40.36 is amended to permit self-guarantee for financial assurance which can be used by qualified non-profit licensees and non-bond issuing licensees.

10 CFR Part 50

Section 50.75 is amended to permit self-guarantee for financial assurance which can be used by qualified non-profit licensees and non-bond issuing licensees.

10 CFR Part 70

Section 70.25 is amended to permit self-guarantee for financial assurance which can be used by qualified non-profit licensees and non-bond issuing licensees.

10 CFR Part 72

Section 72.30 is amended to permit self-guarantee for financial assurance which can be used by qualified non-bond issuing licensees.

IV. Issues for Public Comment

(A) Agreement State Implementation Issues

Financial assurance mechanisms are a Division II compatibility item. Agreement States may adopt regulations of equal or greater stringency. States would therefore have the option to allow self-guarantee. An Agreement State does not need to change its financial assurance regulations if this proposed rule becomes final. The existing Agreement State regulations on financial assurance do not have to include self-guarantee as a financial assurance mechanism. Agreement States have the flexibility to allow self-guarantee as a financial assurance mechanism or not to allow it. The NRC invites comments on the general issue of the compatibility status of its financial assurance regulations.

(B) Financial Criteria for Non-Bond Issuing Entities

As discussed, substantial data exist on the default risks associated with various levels of bond rating. However, a quantitative estimate is not available for the financial assurance risk associated with the non-bond rating criteria proposed here. The NRC invites comment on whether these proposed criteria are sufficiently rigorous with respect to financial assurance risk, or conversely, whether they are so stringent as to exclude licensees who should not be excluded because their financial position is such that the financial assurance risk is acceptable.

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take the user to the NRC online main menu. The NRC online area also can be accessed directly by typing ''/go NRC'' at a FedWorld command line. If the user accesses NRC from FedWorld's main menu, he or she may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC online Main Menu. However, if the user accesses NRC at FedWorld by using NRC's toll-free number, he or she will have full access to all NRC systems but will not have access to the main FedWorld system.

If the user contacts FedWorld using Telnet, he or she will see the NRC area and menus, including the Rules Menu. Although the user will be able to download documents and leave

messages, he or she will not be able to write comments or upload files (comments). If the user contacts FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all the user will see is a list of files without descriptions (normal Gopher look). An index file is available listing and describing all files within a subdirectory. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Finding of No Significant Environmental Impact: Availability

The proposed amendments would allow qualified non-profit and non-bond-issuing licensees the option of using self-guarantee as a mechanism for financial assurance for decommissioning. For-profit corporate licensees that issue bonds are already allowed to use self-guarantee if they meet the regulatory criteria. Other licensees may currently elect to use a variety of financial assurance mechanisms, such as surety bonds, letters of credit, and escrow accounts to comply with decommissioning regulations. The proposed action is intended to offer non-profit and non-bond-issuing nuclear materials licensees and non-power reactor licensees greater flexibility by allowing an additional mechanism for licensees that meet the financial criteria for use of self-guarantee.

This proposed revision to the NRC's regulations simply would add one more financial assurance mechanism to the mechanisms currently available. It would not affect the cost of decommissioning materials and non-power reactor facilities. Allowing self-guarantee for additional types of licensees would not lead to any increase in the effect on the environment of the decommissioning activities considered in the final rule published on June 27, 1988 (53 FR 24018), as analyzed in the Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities (NUREG–0586, August, 1988).[5] Promulgation of this rule would not introduce any impacts on the environment not previously considered by the NRC. Therefore, the Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR Part 51, that this proposed rule would not be a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement is not required. No other agencies or persons were contacted in making this determination, and the NRC staff is not aware of any other documents related to the environmental impact of this action. The foregoing constitutes the environmental assessment and finding of no significant impact for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

The public reporting burden for this collection of information is estimated to average 9–14 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of the burden correct?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory affairs, NEOB–10202, (3150–0017, –0020, –0011, –0009, and –01320, Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues should be submitted by May 30, 1997. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Clark Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6203.

The NRC requests public comment on the draft analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would expand the number of options available to licensees to comply with the Commission's financial assurance requirements, thus enhancing the flexibility of these regulations. It is estimated that this proposed rule, if promulgated as final, would result in significant cost savings to qualifying licensees.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, that a backfit analysis is not

[5] Copies of NUREG–0586 are available for inspection or copying for a fee from the NRC Public Document Room at 2120 L Street NW (Lower Level), Washington, DC 20555–0001; telephone (202)634–3273; fax (202)634–3343. Copies may be purchased at current rates from the U.S. Government Printing Office, P.O. Box 370892, Washington, DC 20402–9328 (telephone (202)512–2249); or from the National Technical Information Service by writing NTIS at 5285 Port Royal Road, Springfield, VA 22161.

required for this proposed rule, because 10 CFR 50.109 addresses only the process for controlling backfits of nuclear power reactors and this proposed rule does not affect the Commission's decommissioning financial assurance requirements regarding nuclear power reactors (*see* Statement of Considerations: Final Rule—Revision of Backfitting Process for Power Reactors, 50 FR 38097; September 20, 1985).

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 30, 40, 50, 70, and 72.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

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

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.8 paragraph (b) is revised to read as follows:

§ 30.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 30.9, 30.11, 30.15, 30.19, 30.20, 30.32, 30.34, 30.35, 30.36, 30.37, 30.38, 30.50, 30.51, 30.55, 30.56, and Appendices A, C, D, and E.

* * * * *

3. In § 30.35, the introductory text of paragraph (f)(2) is revised to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

* * * * *

(f) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to this Part. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to this Part. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to this Part. For non-profit entities, such as colleges, universities, and non-profit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in Appendix E to this Part. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

4. New Appendices D and E to Part 30 are added to read as follows:

Appendix D to Part 30—Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have No Outstanding Rated Bonds

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. Financial Test

A. To pass the financial test a company must meet the following criteria:

(1) Tangible net worth greater than $10 million, or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

(2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

(3) A ratio of cash flow divided by total liabilities greater than 0.15, and a ratio of total liabilities divided by net worth less than 1.5.

B. In addition, to pass the financial test, a company must meet all of the following requirements:

(1) The company's independent certified public accountant must have compared the data used by the company in the financial test, which is required to be derived from the independently audited year end financial statement based on United States generally accepted accounting practices for the latest fiscal year, with the amounts in such

financial statement. In connection with that procedure, the licensee shall inform NRC within 90 days of any matters that may cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(2) After the initial financial test, the company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

(3) If the licensee no longer meets the requirements of paragraph II. A of this appendix, the licensee must send notice to the NRC of intent to establish alternate financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

III. Company Self-Guarantee

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the NRC. Cancellation may not occur until an alternate financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in the regulations within 90 days following receipt by the NRC of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

Appendix E to Part 30—Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Non-Profit Colleges, Universities, and Hospitals

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the applicant or licensee passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

II. Financial Test

A. For colleges and universities, to pass the financial test a college or university must meet either the criteria in Paragraph II. A. (1) or the criteria in Paragraph II. A. (2) of this Appendix.

(1) For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P) or Aaa, Aa, or A as issued by Moodys.

(2) For applicants or licensees that do not issue bonds, unrestricted endowment consisting of assets located in the United States of at least $50 million, or at least 30 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee.

B. For hospitals, to pass the financial test a hospital must meet either the criteria in Paragraph II. B. (1) or the criteria in Paragraph II. B. (2) of this Appendix:

(1) For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P) or Aaa, Aa, or A as issued by Moodys.

(2) For applicants or licensees that do not issue bonds, all of the following tests must be met:

(a) (Total Revenues less total expenditures) divided by total revenues must be equal to or greater than .04.

(b) Long term debt divided by net fixed assets must be less than or equal to .67.

(c) (Current assets and depreciation fund) divided by current liabilities must be greater than or equal to 2.55.

(d) Operating revenues must be at least 100 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the hospital is responsible as a self-guaranteeing license.

C. In addition, to pass the financial test, a licensee must meet all of the following requirements:

(1) The licensee's independent certified public accountant must have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year end financial statements, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform NRC within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

(2) After the initial financial test, the licensee must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

(3) If the licensee no longer meets the requirements of Section I. of this appendix, the licensee must send notice to the NRC of its intent to establish alternate financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

III. The Terms of a Self-Guarantee Which an Applicant or Licensee Furnishes Must Provide That—

A. The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, and/or return receipt requested, to the Commission. Cancellation may not occur unless an alternate financial assurance mechanism is in place.

B. The licensee shall provide alternative financial assurance as specified in the Commission's regulations within 90 days following receipt by the Commission of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The applicant or licensee must provide to the Commission a written guarantee (a written commitment by a corporate officer or officer of the institution) which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Commission, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.

E. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of ''A'' or above by either Standard and Poors or Moodys, the licensee shall provide notice in writing of such fact to the Commission within 20 days after publication of the change by the rating service.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. In § 40.36 the introductory text of paragraph (e)(2) is revised to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

* * * * *

(e) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to Part 30. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to Part 30. For non-profit entities, such as colleges, universities, and non-profit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in Appendix E to Part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

7. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

8. In § 50.75 the introductory text of paragraph (e)(2)(iii) is revised to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(e) * * *

(2) * * *

(iii) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to Part 30. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to Part 30. For non-profit entities, such as colleges, universities, and non-profit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in Appendix E to Part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

9. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 USC 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 USC 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 USC 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 USC 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 USC 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 USC 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 USC 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 USC 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 USC 2138).

10. In § 70.25, the introductory text of paragraph (f)(2) is revised to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

* * * * *

(f) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to Part 30. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to Part 30. For non-profit

entities, such as colleges, universities, and non-profit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in Appendix E to Part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

11. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 USC 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 USC 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 USC 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 USC 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 USC 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 USC 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 USC 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 USC 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 USC 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 USC 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 USC 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 USC 10153) and sec. 218(a), 96 Stat. 2252 (42 USC 10198).

12. In § 72.30 the introductory text of paragraph (c)(2) is revised to read as follows:

§ 72.30 Decommissioning Planning including financing and recordkeeping.

* * * * *

(c) * * *

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to Part 30. For commercial corporations that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to Part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

* * * * *

Dated at Rockville, Maryland, this 24th day of April, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–11203 Filed 4–29–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–221–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require replacing the Abex alternating current (AC) electric motor with a new modified Abex AC electric motor having an improved fan. This proposal is prompted by reports indicating that the integrated hydraulic package (IHP) unit stopped functioning during flight because the fan on the AC electric motor came into contact with the housing of the motor due to inadequate clearance. The actions specified by the proposed AD are intended to prevent loss of IHP function that, if combined with other hydraulic system failures, could result in reduced controllability of the airplane.

DATES: Comments must be received by June 9, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–221–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 SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; 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–221–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–221–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises of reports indicating that the integrated hydraulic package (IHP) unit suddenly stopped functioning during flight because the fan on the alternating current (AC) electric motor came into contact with the housing of the motor due to inadequate clearance. This condition, if not corrected, and if combined with other failures in the hydraulic system, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000–29–004, dated September 18, 1995, which describes procedures for replacing the Abex AC electric motor with a new modified Abex AC electric motor having an improved fan. This service bulletin also includes Attachment 1 (Abex NWL Service Bulletin 42103–29–232, dated August 23, 1995) and Attachment 2 (Abex NWL Service Bulletin, 4208901–29–232, dated September 15, 1995). These attachments provide specific procedures for replacing certain Abex AC electric motors.

The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD 1–076, dated September 18, 1995, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden 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 LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, 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 replacing the Abex AC electric motor with a new modified Abex AC electric motor having an improved fan. These actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 2 Saab Model SAAB 2000 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $960, or $480 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:

SAAB Aircraft AB: Docket 96–NM–221–AD.

Applicability: Model SAAB 2000 series airplanes, serial numbers –004 through –029 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the integrated hydraulic package (IHP) function that, if combined with other hydraulic system failures, could result in reduced controllability of the airplane, accomplish the following:

(a) Within 4 months after the effective date of this AD, replace the Abex alternating current (AC) electric motor with a new

modified Abex AC electric motor having an improved fan, in accordance with Saab Service Bulletin 2000–29–004, dated September 18, 1995, including Attachment 1 (Abex NWL Service Bulletin 42103–29–232, dated August 23, 1995) and Attachment 2 (Abex NWL Service Bulletin 4208901–29–232, dated September 15, 1995).

(b) As of the effective date of this AD, no person shall install an Abex AC electrical motor, part number (P/N) 42103, Model HPS1VC–02; or an Abex AC electrical motor, P/N 4208901, Model HPS1VC–01–01; on any airplane.

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

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

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

Issued in Renton, Washington, on April 23, 1997.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–11093 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–020]

Proposed Establishment of Class E Airspace; Sayre, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E airspace at Sayre, PA. The development of a new Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving the Robert Parker Hospital Heliport, has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the heliport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA–530, Docket no. 97–AEA–020, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–020''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Sayre, PA. A GPS Point In Space Approach has been developed for Robert Parker Hospital Heliport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this approach and for IFR operations to the heliport. The area would be depicted on appropriate aeronautical charts.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

* * * * *

AEA PA E5 Sayre, PA [New]

Robert Parker Hospital Heliport, PA
Point In Space Coordinates
(lat. 41°59′15″N., long. 76°31′52″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Robert Parker Hospital Heliport.

* * * * *

Issued in Jamaica, New York, on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11222 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–023]

Proposed Establishment of Class E Airspace; University of Maryland, Baltimore, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E airspace at Cowley Shock Trauma Center, University of Maryland Medical System, Baltimore, MD. The development of a new Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving the Trauma Center Heliport, Baltimore, MD has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the heliport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before June 3, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 97–AEA–023, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–023''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Cowley Shock Trauma Center, Baltimore, MD. A GPS Point In Space Approach has been developed for the Trauma Center Heliport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this approach and for IFR operations to the heliport. The area would be depicted on appropriate aeronautical charts.

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

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

is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

* * * * *

AEA MD E5 University of Maryland Medical System, MD [New]

Cowley Shock Trauma Center Heliport, MD
Point In Space Coordinates
(lat. 39°16′36″N., long. 76°39′25″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Cowley Shock Trauma Center Heliport excluding that portion that coincides with the Baltimore, MD Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11223 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–022]

Proposed Establishment of Class E Airspace; Fort McHenry, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E airspace at Fort McHenry, MD. The development of a new Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving the Maryland State Police Heliport, Fort McHenry, MD has made this proposal necessary. The intended effort of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the heliport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 97–AEA–022, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–022''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Fort McHenry, MD. A GPS Point In Space Approach has been developed for the Maryland State Police Heliport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this approach and for IFR operations to the heliport. The area would be depicted on appropriate aeronautical charts.

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

* * * * *

AEA MD E5 Fort McHenry, MD [New]

Maryland State Police Heliport, MD
Point In Space Coordinates
(lat. 39° 15′ 16″N., long. 76° 34′ 06″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Maryland State Police Heliport excluding that portion that coincides with the Baltimore, MD Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11224 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–021]

Proposed Establishment of Class E Airspace; Centerville, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E airspace at Centerville, MD. The development of a new Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving the Maryland State Police Trooper 6 Heliport, has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the heliport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 97–AEA–021, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–021''. The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Centerville, MD. A GPS Point In Space Approach has been developed for Trooper 6 Heliport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this approach and for IFR operations to the heliport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR

71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR 1950–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

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

* * * * *

AEA MD E5 Centerville, MD [New]

Maryland State Police Trooper 6 Heliport, MD

Point In Space Coordinates
(lat. 39°01′21″N., long. 76°00′34″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Maryland State Police Trooper 6 Heliport.

* * * * *

Issued in Jamaica, New York, on April 18, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–11225 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209817–96]

RIN 1545–AU19

Treatment of Obligation-Shifting Transactions; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the treatment of certain multiple-party financing transactions in which one party realizes income from leases or similar agreements and another party claims deductions related to that income.

DATES: The public hearing that was rescheduled for May 14, 1997, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Evangelista C. Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations under section 7701 of the Internal Revenue Code. A notice, changing the date and location of the public hearing on the proposed rule, appearing in the **Federal Register** on Wednesday, February 5, 1997 (62 FR 5355), announced that the public hearing was rescheduled for Wednesday, May 14, 1997, beginning at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC 20224.

The public hearing rescheduled for Wednesday, May 14, 1997, is cancelled.

Cynthia E. Grigsby,

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

[FR Doc. 97–11141 Filed 4–29–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209709–94]

RIN 1545–AS77

Amortization of Intangible Property; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of time and locations of public hearing, and extension of time to request to speak.

SUMMARY: This document changes the time and location of the public hearing and extends the date by which commentators should submit requests to speak on proposed regulations relating to the amortization of intangible assets under sections 167(f) and 197 of the Internal Revenue Code. In addition, this document announces that persons wishing to testify who are outside the Washington, DC area, will be able to make their presentations from one of four Internal Revenue Service remote teleconference sites.

DATES: The public hearing is being held on May 15, 1997, beginning at 1 p.m. (EDT). Requests to speak and outlines of oral comments must be received by May 9, 1997.

ADDRESSES: The public hearing will be held in room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. The addresses of the remote teleconference sites are listed below under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Michael Slaughter of the Regulations unit, Assistant Chief Counsel (Corporate), (202) 622–8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Thursday, January 16, 1997 (62 FR 2336), announced that a public hearing with respect to proposed regulations relating to the amortization of certain intangible property under sections 167(f) and 197 of the Internal Revenue Code would be held Thursday, May 15, 1997, beginning at 10 a.m. in room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC and that requests to speak and outlines of oral comments should be received by Thursday, April 24, 1997.

The time of the public hearing has changed. The room number of the Washington, DC location has been

changed and four remote teleconference sites have been added. The date of the public hearing remains Thursday, May 15, 1997.

The hearing will be held in room 3411 of the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC, and in the four remote teleconference sites listed below:

Federal Building, 5th Floor, Room 5003, 300 N. Los Angeles Street, Los Angeles, California
Van Ness Plaza Building, 5th Floor, Room 511, 1650 Mission Street, San Francisco, California
Santa Fe Building., 6th Floor, Room 609, 1114 Commerce Street, Dallas, Texas
Federal Building, 32nd Floor, 230 South Dearborne Street, Chicago, Illinois

The public hearing will begin at 1 p.m. (EDT); attendees will be admitted beyond the lobby of the Internal Revenue Building in Washington, DC after 12:30 p.m. Hearing times at the remote teleconference sites will be concurrent with the hearing in Washington, DC. (*i.e.*, 10 a.m. PDT and 12 noon CDT).

Requests to speak and outlines of oral comments should be received by Friday, May 9, 1997. All persons who have notified the Service by May 9, 1997, of their desire to testify will be given the opportunity to do so. Requests should specify the site from which the speaker wishes to testify; if no specific site is named, the speaker will be scheduled to appear in Washington, DC. Requests to testify at remote teleconference sites should include a telephone number in case the Service needs to contact the speaker prior to the public hearing.

Due to limited seating capacity at the remote teleconference sites, no more than 12 people may be accommodated at any one time in each teleconference room. Seating in the teleconference rooms will be made available based on the order of presentations. IRS personnel will be available at the remote teleconference sites to assist speakers in using the teleconference equipment.

The Service will prepare an agenda showing the scheduling of speakers and will make copies of the agenda available free of charge at the hearing. Testimony will begin with the speakers at the remote teleconference sites in the following order: Los Angeles, San Francisco, Dallas and Chicago, and will conclude with presentations by the speakers in Washington, DC.

Michael L. Slaughter,

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

[FR Doc. 97–11393 Filed 4–28–97; 3:45 pm]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–97–018]

RIN 2115–AE47

Drawbridge Operation Regulations; Bronx River, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating rules for the Bruckner Boulevard Bridge, over the Bronx River in the Bronx, New York. In addition, the location of bridge in this section will be more clearly identified and redundant language regarding openings for public vessels and vessels in distress will be removed. The owner of the bridge has requested that 4 hours notice for openings be provided, except between 7 a.m. and 9 a.m. and 4 p.m. and 6 p.m., Monday through Friday, when the bridge need not open for the passage of vessels. This change is expected to provide for the needs of navigation and relieve the bridge owner of the burden of crewing the bridge at all times.

DATES: Comments must be received on or before June 30, 1997.

ADDRESSES: Comments should be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, 10004–5073. The telephone number is (212) 668–7165. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. J. Arca, project officer, First Coast Guard District, (212) 668–7069.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–97–018), and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, persons may request a public hearing by writing to the address under **ADDRESSES**. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The Bruckner Boulevard Bridge, at mile 1.1, over the Bronx River in the Bronx, New York, has vertical clearances of 27′ above mean high water (MHW) and 34′ above mean low water (MLW) in the closed position. The existing rules at 33 CFR part 117.771(a) require the Bruckner Boulevard Bridge to open on signal, except during designated rush hour periods. On September 27, 1988, the Coast Guard approved plans for the rehabilitation of the bridge. To facilitate the work, a temporary final rule (54 FR 18282, April 28, 1989) was approved, permitting the bridge to remain closed for 36 months from April 9, 1989, through April 9, 1992. Prior to the rehabilitation of the bridge, there were three openings recorded in 1988. Since the rehabilitation was completed in 1992, there have been no requests for openings.

Discussion of Proposed Amendments

This proposal will amend 33 CFR 117.771 to require at least a 4 hour advance notice be given to the bridge owner for openings of the Bruckner Boulevard Bridge, except between 7 a.m. and 9 a.m., and 4 p.m., and 6 p.m., Monday through Friday, when the bridge need not open. The locations of the Bruckner Boulevard and Conrail Bridges are unclear in the existing regulation. This proposal correctly identifies the locations of the bridges as the Bronx, New York. The requirement that public vessels and vessels in distress be passed as soon as possible will be removed from section 117.771 since it is now a requirement under section 117.31 of the general operating regulations.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has 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 rule 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 fact that information from the bridge owner indicates that there have been no requests for openings since 1992. This rule will not prevent mariners from passing through the Bruckner Boulevard Bridge so long as they provide advance notice.

Small Entities

The Coast Guard has considered the economic impact of this rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). For the reasons discussed in the Regulatory Evaluation above, the Coast Guard has determined that this rule will not affect a substantial number of small entities.

Collection of Information

This 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 rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, (as revised by 60 FR 32197, June 20, 1995), this rule promulgates operating regulations for drawbridges and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR part 117

Bridges.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 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; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.771 is revised to read as follows:

§ 117.771 Bronx River.

(a) The draw of the Bruckner Boulevard Bridge, mile 1.1, at the Bronx, New York, shall open on signal if at least 4 hours notice is given to the New York City Department of Transportation (NYCDOT) Radio Hotline, or NYCDOT Bridge Operations office, except that between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m. Monday through Friday, the bridge need not be opened for the passage of vessels.

(b) The draw of the Conrail Bridge, mile 1.6 at the Bronx, New York, need not be opened for the passage of vessels.

(c) The owners of the Bruckner Boulevard Bridge, mile 1.1, and the Conrail Bridge, mile 1.6, both at the Bronx, New York, shall provide and keep in good legible condition two clearance gauges designed, installed and maintained in accordance with the provisions of § 118.160 of this chapter.

Dated: April 16, 1997.

J.L. Linnon,

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

[FR Doc. 97–11211 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ28–1–168, FRL–5816–8]

Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plan and Phase I and II Ozone Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on a State Implementation Plan (SIP) revision submitted by New Jersey which is intended to meet several Clean Air Act requirements. EPA is proposing approval of revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budgets; and enforceable commitments. EPA is also proposing conditional interim approval of New Jersey's 15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard (NAAQS) for ozone.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the New Jersey submittals and EPA's Technical Support Document are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

and

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249

SUPPLEMENTARY INFORMATION:

I. Introduction/Background

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. EPA has issued the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (General Preamble) describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale.

New Jersey is divided into four ozone nonattainment areas: one classified as marginal—the Allentown Bethlehem

Easton Area; one classified as moderate—the Atlantic City Area; and two classified as severe—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. New Jersey has met the requirements of the Act for the marginal area and EPA has determined that this area has attained the ozone standard (October 6, 1994, 59 FR 50848). For the moderate Atlantic City Area, EPA has found that air quality data indicates that this area has attained the standard and that a 15 Percent Rate of Progress (ROP) Plan and an attainment demonstration are not needed. EPA will be publishing a separate **Federal Register** document for the Atlantic City Area which will discuss the ozone air quality data and implications and waive the 15 Percent ROP Plan requirement. This finding is contingent on New Jersey continuing to conduct air quality monitoring and that this data continues to demonstrate attainment. It should be noted that should the Atlantic City area monitor a violation of the standard prior to being redesignated to attainment, the area would have to address all pertinent Act requirements including a new 15 Percent ROP Plan and the State would have to submit them as a SIP revision.

The two severe nonattainment areas are the primary subject of this **Federal Register** action.

II. State Submittal

On December 31, 1996, Commissioner Shinn of the New Jersey Department of Environmental Protection (NJDEP) submitted to EPA a major revision to the SIP to meet requirements related to attainment of the national ambient air quality standards (NAAQS) for ozone. This was supplemented on February 25, 1997. These submittals address the requirements for the two severe ozone nonattainment areas—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For the purposes of this action these areas will be referred to as, respectively, the Northern New Jersey ozone nonattainment area (NAA) and the Trenton NAA. New Jersey's two submittals revised the previously submitted 15 Percent ROP Plan dated November 15, 1993. In addition, these revisions are intended to fulfill EPA's Phase I requirement (''Ozone Attainment Demonstrations,'' March 2, 1995 memo from Mary Nichols) and includes the following: revisions of the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; 9 Percent Reasonable Further Progress (RFP) Plan; contingency measures; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; enforceable commitments for Phase II; and transportation conformity budgets. EPA will be acting on the contingency measures in a separate **Federal Register** document.

III. Clean Air Act Requirements

A. Phase I Elements

1. Revisions to the 1990 Base Year Emissions Inventory

Sections 172(c)(3) and 182(b)(1) of the Act require that SIP revisions for 15 Percent ROP and 9 Percent RFP Plans include comprehensive, accurate, current inventories of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the approval of such inventories is necessary for an area's 15 Percent ROP Plan and the Attainment Demonstration, the emissions inventory must be approved prior to or with the 15 Percent ROP Plan submission.

EPA previously approved New Jersey's 1990 base year inventory on October 2, 1995 (60 FR 51351). In the Phase I SIP submittal, which includes the 15 and 9 Percent plans, New Jersey has made minor revisions to the approved 1990 base year emission inventory. These revisions are summarized below. The reader is referred to the Technical Support Document for additional details.

The major point source inventory was revised to reflect changes due to more accurate information collected from major oxides of nitrogen (NO_X) emitters in New Jersey as part of the Ozone Transport Commission NO_X Baseline Project and further quality assurance of New Jersey's emissions data. The highway mobile source inventory was revised to reflect different methodology used to calculate highway mobile source emissions. New Jersey originally used the Highway Performance Monitoring System (HPMS) to estimate vehicle miles traveled (VMT), but now uses the more comprehensive, Transportation Demand Model. There were no changes to the minor point sources, area sources, off-highway mobile sources, and biogenic sources portion of the emission inventory.

Tables 1A and 1B contain the revised 1990 base year volatile organic compounds (VOC), NO_X, and carbon monoxide (CO) emission inventories for the Northern New Jersey and Trenton NAAs:

TABLE 1A.—Northern New Jersey NAA, 1990 Base Year, 1996 and 1999 Projection Year Inventories; Ozone Seasonal VOC, NO_X, AND CO EMISSIONS (TONS/DAY)

Pollutant	Major point sources	Minor point sources	Area sources	Highway mobile sources	Off-highway mobile sources	Biogenic sources	Total
Revised 1990 Base Year Ozone Season VOC, NO_X, and CO Emissions (tons/day)							
VOC	238	164	123	297	137	210	[b] 959
NO_X	486	44	9	332	141	N/A	1012
CO	73	8	33	2371	974	N/A	3459
1996 Projection Year Ozone Season VOC, NO_X, and CO Emissions (tons/day)							
VOC	[a] 212	163	125	247	140	N/A	887
NO_X	459	42	9	305	143	N/A	958
CO	69	7	33	1812	993	N/A	2914
1999 Projection Year Ozone Season VOC, NO_X, and CO Emissions (tons/day)							
VOC	[a] 216	167	126	241	141	N/A	891
NO_X	482	43	9	301	144	N/A	979

TABLE 1A.—Northern New Jersey NAA, 1990 Base Year, 1996 and 1999 Projection Year Inventories; Ozone Seasonal VOC, NO_X, AND CO EMISSIONS (TONS/DAY)—Continued

Pollutant	Major point sources	Minor point sources	Area sources	Highway mobile sources	Off-highway mobile sources	Biogenic sources	Total
CO	72	8	34	1662	1002	N/A	2778

N/A = not applicable
[a] With 1993 rule effectiveness factors applied.
[b] Rate of Progress base year emission inventory (without biogenic source emissions).
Note: Numbers in a table are rounded to nearest whole number.

TABLE 1B.—TRENTON NAA, 1990 BASE YEAR, 1996 AND 1999 PROJECTION YEAR INVENTORIES OZONE SEASONAL VOC, NO_X, AND CO EMISSIONS (TONS/DAY)

Pollutant	Major point sources	Minor point sources	Area sources	Highway mobile sources	Off-highway mobile sources	Biogenic sources	Total
Revised 1990 Base Year Ozone Season VOC, NO_X, and CO Emissions (tons/day)							
VOC	112	61	37	103	46	203	[b] 359
NO_X	278	9	3	115	41	N/A	446
CO	55	1	14	686	314	N/A	1070
1996 Projection Year Ozone Season VOC, NO_X, and CO Emissions (tons/day)							
VOC	[a] 86	61	39	89	48	N/A	323
NO_X	264	8	3	105	43	N/A	423
CO	53	1	14	575	330	N/A	973
1999 Projection Year Ozone Season VOC, NO_X, and CO Emissions (tons/day)							
VOC	[a] 88	63	40	89	49	N/A	329
NO_X	276	9	3	104	44	N/A	436
CO	54	1	15	543	338	N/A	951

[a] With 1993 rule effectiveness factors applied.
[b] Rate of Progress base year emission inventory (without biogenic source emissions).
Note: Numbers in a table are rounded to nearest whole number.

The revisions have been made in accordance with EPA guidance. Therefore, EPA is proposing to approve the revisions to the 1990 base year VOC, NO_X, and CO emission inventories for the Northern New Jersey and Trenton ozone NAAs.

2. 1996 Projection Year Inventory

A projection of 1996 man-made emissions is required to determine the reductions needed for the 15 Percent ROP Plan. The 1996 projection year emission inventory is calculated by multiplying the 1990 ROP base year inventory by factors which estimate growth from 1990 to 1996. A specific growth factor for each source type in the inventory is required since sources typically grow at different rates.

The difference between the 1990 ROP base year inventory estimates and the 1996 emissions projection is the emissions growth estimate. Total 1996 growth for the four source categories including the emissions offsets is estimated to be a reduction of 72 tons per day (tpd) in the Northern New Jersey NAA and a reduction of 36 tpd in the Trenton NAA. In addition, the 1996 projection year inventory reflects 1993 rule effectiveness factors. The reader is referred to the technical support document for further details.

Projection Methodology. Major Point Sources. For the major point source category, New Jersey projected emissions to 1996 using value added data available at the two-digit Standard Industrial Classification (SIC) Code level from 1984 to 1991. For the years 1987 to 1991, value added data showed a sharp decline. In extrapolating to determine the 1996 value added, New Jersey constrained these growth rates at a 1.0 percent decline each year rather than the larger predicted decline to prevent any significant under-prediction of the 1996 emissions. For cases where value added data were not available, New Jersey used a State average to project emissions for those remaining SIC codes.

Since value added is one of the preferred growth indicators to use, as outlined in EPA's ''Procedures for Preparing Emissions Projections,'' July 1991, EPA finds New Jersey's 1996 major point source projection methodology to be acceptable.

Minor Point Sources. For the minor point source category, New Jersey projected emissions to 1996 using value added data available at the two-digit SIC Code level for all categories with the following exceptions. For traffic paints, New Jersey used 1996 lane mile growth rates. For gasoline handling categories (such as gasoline unloading, gasoline tank breathing, gasoline refueling, gasoline transit by rail car, and gasoline transit by truck), New Jersey used daily VMT growth rates to project emissions to 1996.

Since value added is one of the preferred growth indicators, EPA finds New Jersey's 1996 minor point source projection methodology to be acceptable. The methods used for the exceptions above are also acceptable.

Area Sources. For the area source category, New Jersey projected emissions to 1996 using population growth rates. This is in accordance with EPA's recommended growth indicators for projecting emissions for area source categories outlined in ''Procedures for

Preparing Emissions Projections,'' July 1991. EPA finds New Jersey's area source projection methodology to be acceptable.

Highway Mobile Sources. For the highway mobile source category, New Jersey projected emissions to 1996 using VMT growth rates. New Jersey used zonal transportation demand models to model VMT. EPA finds New Jersey's methodology for projecting highway mobile sources to be acceptable.

Off-highway Mobile Sources. For the off-highway mobile source category, New Jersey projected emissions using population growth rates for all subcategories with one exception, the aircraft category. For the aircraft category, emissions were projected to 1996 using landing and takeoff operations. EPA finds New Jersey's methodology for projecting off-highway mobile sources to be acceptable.

Tables 1A and 1B show the 1996 and 1999 projected emissions using the above-mentioned growth indicators/methodologies. States are required to account for banked emission offsets which will be used during the period covered by the 15 Percent ROP Plan. New Jersey did this and accounted for 5 tpd of pre-1990 emissions offsets in the Northern New Jersey NAA and 3 tpd of pre-1990 emissions offsets in the Trenton NAA.

The 1996 projection year emission inventories were calculated in accordance with EPA guidance. Therefore, EPA is proposing to approve the 1996 projection year VOC, NOx, and CO emission inventories for the Northern New Jersey and Trenton ozone NAAs.

3. 1999 Projection Year Inventory

A projection of 1999 man-made emissions is required for the 9 Percent RFP calculation. The calculation is made by multiplying the 1996 projection year inventory by factors which estimate growth from 1996 to 1999. A specific growth factor for each source type in the inventory is required since sources typically grow at different rates.

The difference between the 1996 projection year inventory and the 1999 emissions projection is the emissions growth estimate. Total growth for the four source categories is estimated at 5 tpd in the Northern New Jersey NAA and 5 tpd in the Trenton NAA. In addition, the 1999 projection year inventory reflects 1993 rule effectiveness factors. The reader is referred to the technical support document for further details.

Projection Methodology. Major Point Sources. For the major point source category, New Jersey projected emissions from 1996 to 1999 using historical and projected data for the years 1973, 1979, 1983, 1988, and every fifth year from 1995 to 2040. These data were obtained from the United States Department of Commerce, Bureau of Economic Analysis (earnings data). The data for the relevant years, i.e., 1996 and 1999, were obtained by interpolating between the two closest years.

Since the use of earnings data is one of the preferred growth indicators, as outlined in EPA's ''Procedures for Preparing Emissions Projections,'' July 1991, EPA finds New Jersey's 1999 major point source projection methodology to be acceptable.

Minor Point Sources. For the minor point source category, New Jersey projected emissions to 1999 using earnings data available at the two-digit SIC code level for all categories with two exceptions, traffic paint and gasoline handling. Since the use of earnings data is one of the preferred growth indicators, EPA finds New Jersey's 1999 minor point source projection methodology to be acceptable.

Unlike 1996, for which New Jersey used lane miles as a growth indicator for traffic paints, New Jersey did not project any growth in traffic paint emissions to 1999 since there were no projected lane mile data available for 1999. For gasoline handling categories (such as gasoline unloading, gasoline tank breathing, gasoline refueling, gasoline transit by rail car, and gasoline transit by truck), as done for 1996, New Jersey used daily VMT growth rates to project emissions to 1999. These approaches are also acceptable.

Area Sources. The 1996 area source projection methodology was also used for 1999 projections and is therefore, acceptable.

Highway Mobile Sources. The 1996 highway mobile source projection methodology was also used for 1999 projections and is therefore, acceptable.

Off-highway Mobile Sources. The 1996 off-highway projection methodology was also used for 1999 projections and is therefore, acceptable.

The 1999 projection year emission inventories have been calculated in accordance with EPA guidance. Therefore, EPA is proposing to approve the 1999 projection year VOC, NO_X, and CO emission inventories for the Northern New Jersey and Trenton ozone NAAs.

4. 15 Percent Rate of Progress Plan

Section 182(b)(1) of the Act as amended in 1990 requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide VOC emissions by 15 percent from a 1990 adjusted baseline. The plans were to be submitted by November 15, 1993 and the reductions were required to be achieved within six years of enactment or by November 15, 1996. The Act also sets limitations on the creditability of certain types of reductions. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emissions standards) promulgated prior to 1990 and Reid Vapor Pressure (RVP) programs promulgated prior to 1990. Furthermore, the Act does not allow credit for corrections to vehicle Inspection and Maintenance Programs (I/M) or corrections to reasonably available control technology (RACT) rules (RACT fix-ups) that were required to have been made to meet requirements in effect prior to 1990.

The target emission reductions were calculated in accordance with EPA guidance. The reader is referred to ''Guidance On The Adjusted Base Year Emissions Inventory and The 1996 Target For The 15 Percent Rate of Progress Plans,'' (EPA–452/R–92–005). New Jersey's 15 Percent ROP Plan is summarized in Table 2.

The reader should note that the differences in VOC emissions between 1990 and 1996 as depicted in Tables 1A and 1B are not the same as the emission reductions for the same time period depicted in Table 2, Summary of 15 Percent ROP Plan. This is because the emissions changes between 1990 and 1996 have been adjusted for purposes of the 15 Percent ROP Plan to eliminate emission changes not creditable according to the Act. These adjustments are explained in detail in the previously referenced guidance.

TABLE 2.—SUMMARY OF 15 PERCENT ROP PLAN

	Northern New Jersey NAA VOC (tons/day)	Trenton NAA VOC (tons/day)
Required VOC reductions to meet 15 Percent Plan	129.82	37.18
Creditable reductions		
Mobile source control measures:		
Tier I vehicles	1.96	0.73
Reformulated gasoline—on highway	47.99	17.51
Reformulated gasoline—off highway	4.32	1.33
Enhanced inspection & maintenance	33.08	11.91
Stationary source control measures:		
Barge loading	21.08	1.21
Subchapter 16—VOC RACT	16.34	3.75
Consumer products rule—Subchapter 23	5.93	1.79
Federal HON rule	0.12	0.06
Total VOC reductions	130.82	38.28
Surplus	1.00	1.10
Reductions not credited in today's action		
Employer trip reduction and transportation control measures	2.36	0.64

Measures Achieving the Projected Reductions. New Jersey has provided a plan to achieve the reductions required for the two nonattainment areas. The following is a concise description of each control measure New Jersey used to achieve emission reduction credit within its 15 Percent ROP Plan. All the State measures have been adopted and submitted as SIP revisions. EPA has previously approved some of the control measures, others EPA has proposed action upon, including the enhanced vehicle I/M program. EPA agrees with the emission reductions projected in the State submittal except where noted in Table 2 under the heading ''Reductions not credited in today's action.''

Mobile source control measures. Tier I Federal Motor Vehicle Control Program (FMVCP). EPA promulgated standards for 1994 and later model year light-duty vehicles and light-duty trucks (56 FR 25724, June 5, 1991). Since the standards were adopted after the Clean Air Act Amendments of 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal. EPA agrees with the emission reductions calculated by the State due to the FMVCP.

Reformulated Gasoline. Section 211(k) of the Act requires that after January 1, 1995 in severe and above ozone nonattainment areas, only reformulated gasoline be sold or dispensed. This gasoline is reformulated to burn cleaner and produce fewer evaporative emissions. On December 6, 1991 the State requested that the entire State of New Jersey participate in the reformulated gasoline program. EPA's approval of this request was published in the **Federal Register** on March 26, 1991, 57 FR 11077. EPA agrees with the emission reductions calculated by the State due to the sale of reformulated gasoline for both on-road and off-road use.

Enhanced I/M. On October 31, 1996 (61 FR 56172), EPA proposed a conditional interim approval of New Jersey's enhanced I/M program submittal.

The reader is referred to that proposal for the details on the enhanced I/M program and EPA's findings. That notice called for the State to commit within 30 days to correct the major deficiencies in the submittal by specific dates. EPA identified two major deficiencies and dates by which the State was to address them: (1) Test procedures, standards, and equipment specifications which were to be submitted by January 31, 1997, and (2) program performance modeling which is to be submitted within one year after conditional interim approval. On November 27, 1996, New Jersey committed to submit test procedures and equipment specifications by the date specified and program modeling by October 30, 1997. The equipment information was received as scheduled and is currently under review. In a separate action, EPA will be publishing conditional interim approval of the enhanced I/M program.

New Jersey's 15 Percent ROP Plan includes I/M modeling to provide estimates for the level of reduction expected from the program (see Table 2). However, New Jersey's modeling was completed prior to and is not consistent with, EPA's final guidance on the methodology to be used for making these calculations (December 23, 1996 memo entitled ''Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance). Therefore, the State must commit within 30 days of the publication of this document to submit, within 12 months of the final conditional interim approval of the 15 Percent ROP and the 9 Percent RFP Plans, recalculated emission reduction benefits attributable to the I/M program for both the 15 Percent ROP Plan and the 9 Percent RFP Plan. This recalculation must take into account actual I/M program conditions as they are scheduled to occur, including, but not limited to, program start date, cut points, and test type. Also, New Jersey must still fulfill the condition in the October 31, 1996 **Federal Register** document to perform modeling in order to determine if the I/M program meets the enhanced performance standard. The State has committed to submit the performance standard modeling by October 30, 1997.

By today's action, EPA proposes to approve emission credits for the 15 Percent ROP and 9 Percent RFP Plans on an interim basis, pending verification of the I/M Program's performance, pursuant to section 348 of the NHSDA. This interim approval of the 15 Percent ROP and the 9 Percent RFP Plans will expire at the end of the 18 month period, and will be replaced by appropriate EPA action based on the evaluation EPA receives concerning the Program's performance. If the evaluation indicates a shortfall in emission reductions compared to the remodeling that the 15 Percent ROP and 9 Percent RFP Plans is conditioned on, the State would need to find additional emission credits. Failure of the State to make up for an emission shortfall from the enhanced I/M program may subject the

State to sanctions and imposition of a Federal Implementation Plan.

In addition, in a separate document, EPA is taking both a limited conditional approval of the New Jersey enhanced I/M program under section 110 which strengthens the SIP, as well as an interim conditional approval under section 348 of the NHDSA. The limited approval of the enhanced I/M program will not expire at the time the interim approval of the 15 Percent ROP and 9 Percent RFP plans and the interim approval of the enhanced I/M program under the NHSDA expire. As explained above, the credits provided by the I/M program on an interim basis for those plans may be adjusted based on EPA's evaluation of the I/M Program's performance.

Enhanced I/M ''as soon as practicable''. Section 182(b)(1) of the Act requires that states containing ozone nonattainment areas classified as moderate or above prepare SIPs that provide for a 15 percent VOC emissions reduction by November 15, 1996. Most of the 15 Percent ROP Plans originally submitted to EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, many states became concerned over the cost and convenience of the enhanced I/M program as they were originally envisioned.

In a response to these concerns in September 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs. Subsequently, Congress enacted the NHSDA, which provides states with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to redesign enhanced I/M programs, in accordance with the guidance contained within the NHSDA, and set up the infrastructure to perform the testing program has precluded states that revised their I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

Given the heavy reliance by many states upon enhanced I/M programs to help achieve the 15 percent VOC emissions reduction required under section 182(b)(1), and the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA recognized that it was no longer possible for many states to achieve the portion of the 15 percent reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15 Percent ROP Plans would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow states that pursue redesign of enhanced I/M programs to receive emission reduction credit from these programs within their 15 Percent ROP Plans, even though the emissions reductions from the I/M program will occur after November 15, 1996.

Specifically, EPA can propose approval of 15 Percent ROP Plans if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15 Percent ROP Plan measures, will achieve the 15 percent level as soon after November 15, 1996 as practicable. To make this ''as soon as practicable'' determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15 percent level is achieved. EPA does not believe that measures meaningfully accelerate the 15 percent date if they provide only an insignificant amount of reductions.

In the case of New Jersey, the State has submitted a 15 Percent ROP Plan that would achieve the amount of reductions needed from I/M by November 15, 1999. New Jersey has submitted a 15 Percent ROP Plan that achieves all other reductions by 1996. In addition, EPA is pursuing federal rulemaking on a national scope which will result in additional emission reductions. EPA proposes to determine that this SIP does contain all measures, including enhanced I/M, that achieves the required reductions as soon as practicable.

EPA has examined other potentially available SIP measures to determine if they are practicable for New Jersey and if they would meaningfully accelerate the date by which the area reaches the 15 percent level of reductions. In most cases New Jersey has already adopted and implemented stationary control measures that other states are considering or which other states have included in their 15 Percent ROP Plans. EPA proposes to determine that the SIP does contain the appropriate measures.

Stationary source measures. Barge loading. New Jersey has adopted a VOC control regulation for the loading of marine vessels with gasoline. The State submitted an adopted revision to Subchapter 16 ''Control and Prohibition of Air Pollution by Volatile Organic Substances'' which regulates the loading of gasoline into marine vessels to EPA on June 20, 1990. On November 10, 1992, EPA published a final rulemaking (57 FR 53440) approving the rule as a revision to the SIP. EPA agrees with the reductions projected in the New Jersey 15 Percent ROP Plan due to the implementation of this rule.

Subchapter 16—VOC RACT. New Jersey has submitted adopted revisions to Subchapter 16 ''Control and Prohibition of Air Pollution by Volatile Organic Compounds'' which regulates major sources not covered in EPA issued control techniques guidelines (CTG) documents. This is referred to as ''non-CTG major sources.'' It also regulates sources for which EPA has published CTGs since 1990. On April 11, 1997 (62 FR 17766), EPA published a proposal approving the rule as a revision to the SIP. EPA agrees with the reductions projected in the New Jersey 15-Percent ROP Plan due to the implementation of this rule.

Consumer Products rule—Subchapter 24. New Jersey has adopted a VOC control regulation limiting the VOC content of designated consumer and commercial products. The State submitted an adopted revision to Subchapter 24 ''Control and Prohibition of Volatile Organic Compounds from Consumer and Commercial Products'' to EPA on January 25, 1996. On January 21, 1997 (62 FR 2984), EPA published a proposal approving the rule as a revision to the SIP. EPA received no comments on this proposal and is preparing a notice announcing its final action. EPA agrees with the reductions projected in the New Jersey 15 Percent ROP Plan due to the implementation of this rule.

Federal HON rule. On April 22, 1994 EPA promulgated Part 63, Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks. This requires facilities which manufacture or process organic hazardous air pollutants to develop and implement a program for leak detection and repair. EPA agrees with the reductions projected in the New Jersey 15 Percent ROP Plan due to the implementation of this rule.

Measures Not Creditable in Today's Action. Employer Trip Reduction and Transportation Control Measures. On November 15, 1993, New Jersey submitted a SIP revision for an Employer Trip Reduction program (ETR), as required in section 182(d)(1)(B) of the Act. EPA proposed approval of that program on December 6, 1994 (59 FR 62646). Subsequently, the State made changes to this program, but failed to submit these changes to EPA as a SIP revision. On December 23, 1995, Congress repealed the mandatory nature of the employer commute option program (which New Jersey calls ''ETR''), allowing states discretion to implement the program on a voluntary basis. On November 1, 1996, the New

Jersey Legislature repealed the State's mandatory ETR program.

On October 15, 1996, EPA published direct final approval of revisions to New Jersey's SIP for ozone submitted by New Jersey on November 15, 1992 and November 15, 1993 (61 FR 53624). One of the intended effects of this action was to incorporate TCMs as part of New Jersey's effort to attain the national ambient air quality standard for ozone. Those TCMs included New Jersey's ETR program. On November 13, 1996, New Jersey indicated it was in the process of amending the list of TCMs. Consequently, at New Jersey's request, EPA withdrew this approval on December 18, 1996 (61 FR 66606).

New Jersey plans on replacing its mandatory ETR program with an ''ETR Replacement Package,'' including TCMs and transportation technology measures, and has provided a schedule. While EPA acknowledges that the ETR program may have achieved emission reductions during the 1996 ozone season, the program the State implemented was not submitted as a SIP revision and the State did not require the employers to report on the results of their programs. Without this reporting, EPA is unable to verify the effectiveness of the program. Because of the uncertainties associated with both ETR and TCMs, EPA is considering the emissions reductions associated with ETR and TCMs to be noncreditable with respect to New Jersey's Phase I Ozone SIP at this time. EPA will take action on the State's ''ETR Replacement Package'' once it is submitted as a SIP revision.

15 Percent ROP Plan Evaluation. New Jersey has identified the control measures necessary for achieving the required emission reductions and, with the exception of enhanced I/M, all the measures have been adopted and implemented. New Jersey may also have achieved emission reductions from the ETR program as part of the 15 Percent ROP Plan, but EPA is unable to verify the reductions. EPA is proposing to find that the 15 Percent ROP Plan contains the necessary measures as identified in Table 2 to achieve the required emission reductions. The Plan also satisfies the requirement of achieving these reductions ''as soon as practicable'' and there are no remaining measures which could be implemented any sooner to offset the delay in the enhanced I/M program. Therefore, EPA is proposing conditional interim approval of the 15 Percent ROP Plan.

5. The 9 Percent Reasonable Further Progress Plan (24 Percent Plan)

Section 182(c)(2)(B) of the Act requires ozone nonattainment areas with classifications of serious and above to develop plans to reduce area-wide VOC emissions by 3 percent per year averaged over the next three-year period (1997–1999) from a 1990 baseline. This is referred to as the 9 Percent RFP Plan. The plan was to be submitted by November 15, 1994 and the reductions are required to be achieved by November 15, 1999. The Act also sets limitations on the creditability of certain types of reductions.

The target emission reductions were calculated in accordance with EPA guidance. The reader is referred to ''Guidance On The Post-1996 Rate of Progress Plan and the Attainment Demonstration,'' (EPA–452/R–93–015). New Jersey's 9 Percent RFP Plan (New Jersey refers to this as its 24 Percent Plan) is summarized in Table 3.

TABLE 3.—SUMMARY OF NEW JERSEY 9 PERCENT RFP PLAN

	Northern New Jersey NAA (tons/day)		Trenton NAA (tons/day)	
	VOC [1]	NO_x [1]	VOC [1]	NO_x [1]
Required VOC reductions to meet 9 Percent Plan	94.66	.....	40.34	.....
Creditable Reductions				
Mobile source control measures:				
Tier I vehicles	12.87	29.53	4.80	10.14
Reformulated gasoline—on highway	.....	0.74	.....	0.22
Reformulated gasoline—off highway	0.05	.....	0.03	.....
Enhanced inspection & maintenance	3.77	33.70	1.58	10.81
National low emission vehicle program	0.48	0.44	0.18	0.17
Stationary source control measures:				
Barge and tanker loading	0.23	.....	0.06	.....
Subchapter 16 & 19—RACT	0.17	70.92	.....	58.21
Federal CTG—RACT	0.22	.....	0.04	.....
Consumer products rule—Subchapter 24	0.05	.....	0.05	.....
Total reductions	17.84	[2] 135.33	6.74	[2] 79.55
Shortfall	76.82	.....	33.60	.....
VOC equivalents from NO_X substitution	124.48	.....	62.63	.....
Surplus reduction	47.66	.....	29.03	.....

[1] VOC emission reductions claimed occur from 1997 through 1999. NO_X emission reductions claimed occur from 1990 through 1999.
[2] 135 tons/day of NO_X converts to 124.48 tons/day of VOC equivalent in the Northern New Jersey NAA. 79.55 tons/day of NO_X converts to 62.63 tons/day of VOC equivalent in the Trenton NAA.

Measures Achieving the Projected Reductions. New Jersey has provided a plan to achieve the reductions required for the two nonattainment areas. The following is a concise description of each control measure New Jersey used to achieve the emission reduction credit within its 9 Percent RFP Plan. All of the State's measures have been adopted and submitted as SIP revisions. EPA has previously approved some of the control measures, others EPA has proposed action on, including the enhanced vehicle I/M program. EPA agrees with the emission reductions projected in the State's submittal as they appear in Table 3. In addition, New Jersey has shown that NO_X reductions will contribute toward attaining the ozone standard (See section B.1., Modeling discussion below). Section 182(c)(2)(C) therefore allows NO_X reductions to be used toward meeting RFP requirements. Table 3 includes columns showing the VOC and NO_X reductions that will result from the implementation of the control measures.

Mobile Source Measures. Tier I Federal Motor Vehicle Control Program. This is the same measure as contained

in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with the FMVCP.

Reformulated Gasoline. This is the same measure as contained in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with reformulated gasoline.

Enhanced Inspection and Maintenance. This is the same measure as contained in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with reformulated gasoline.

National Low Emissions Vehicle Program. On October 10, 1995, EPA proposed a national low emission vehicle program (60 FR 52734) and is soon expected to sign a final rulemaking. This would provide more stringent tailpipe standards for cars and light-duty trucks and be a substitute for the Ozone Transport Commission low emission vehicle program. EPA agrees with the calculated emission reductions associated with this program.

Stationary Source Measures. Barge and Tanker Loading. AThis is the same measure as contained in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with barge and tanker controls.

Subchapter 16. This is the same measure as contained in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with Subchapter 16.

Subchapter 19. New Jersey has submitted adopted revisions to Subchapter 19 ''Control and Prohibition of Air Pollution From Oxides of Nitrogen'' which regulates combustion sources that emit NO_X. On January 27, 1997, EPA published a final rulemaking (62 FR 3804) approving the rule as a revision to the SIP. EPA agrees with the calculated emission reductions associated with Subchapter 19.

Federal CTG—RACT. This is the same measure as contained in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with the post-1990 CTG source categories included in Subchapter 16.

Consumer Products rule—Subchapter 24. This is the same measure as contained in the 15 Percent ROP Plan except it is only taking the additional credit that would be generated for the years 1997–1999. EPA agrees with the calculated emission reductions associated with Subchapter 24.

9 Percent RFP Plan Evaluation. New Jersey has identified the control measures necessary for achieving the required emission reductions and, with the exception of enhanced I/M, all the measures have been adopted and implemented. EPA is proposing to find that the 9 Percent RFP Plan contains the necessary measures as identified in Table 3 to achieve the required emission reductions. However, as discussed under the 15 Percent ROP Plan section, the State must remodel the effectiveness of the enhanced I/M program as it pertains to the 9 Percent RFP Plan. Therefore, EPA is proposing conditional interim approval.

6. Analysis of Growth in Emissions Due to Increases in VMT

Section 182(d)(1)(A) of the Act requires states containing ozone nonattainment areas classified as ''severe'' pursuant to section 181(a) of the Act to adopt transportation control measures and transportation strategies to offset growth in emissions from growth in VMT or number of vehicle trips, and to attain reductions in motor vehicle emissions (in combination with other emission requirements) as necessary to comply with the Act's RFP milestone and attainment requirements. The requirements for establishing a VMT offset program are discussed in the section 182(d)(1)(A) and the General Preamble.

Section 182(d)(1)(A) requires New Jersey to offset any growth in emissions from growth in VMT. As discussed in the General Preamble, the purpose is to prevent a growth in motor vehicle emissions from canceling out the emission reduction benefits of the federally mandated programs in the Act. EPA interprets this provision to require that sufficient measures be adopted so that projected motor vehicle VOC emissions will never be higher during the ozone season in one year than during the ozone season in the year before. When growth in VMT and vehicle trips would otherwise cause a motor vehicle emissions upturn, this upturn must be prevented by offsetting reductions. The emissions level at the point of an upturn becomes a ceiling on motor vehicle emissions. This requirement applies to projected emissions in the years between the submission of the SIP revision and the attainment deadline, and is above and beyond the separate requirements for the RFP and the Attainment Demonstrations. The ceiling level is defined, therefore, up to the point of an upturn, as motor vehicle emissions that would occur in the ozone season of that year, with VMT growth, if all measures for that area in that year were implemented as required by the Act. When this curve begins to turn up due to growth in VMT or vehicle trips, the ceiling becomes a fixed value. The ceiling line would include the effects of federal measures such as new motor vehicle standards, phase II reid vapor pressure controls, and reformulated gasoline, as well as the Act mandated SIP requirements.

As noted previously, on October 15, 1996, EPA published direct final approval of revisions to New Jersey's SIP for ozone submitted by New Jersey on November 15, 1992 and November 15, 1993 (61 FR 53624). In addition to the intended approval of New Jersey's ETR program, this action was also intended to approve New Jersey's demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary. While this approval was subsequently withdrawn at New Jersey's request, EPA's rationale for separating the three elements of Section 182(d)(1)(A) (i.e., offsetting growth in mobile source emissions, attainment of the RFP reduction, and attainment of ozone NAAQS) is outlined therein and is still valid.

Included in the 15 Percent ROP Plan, New Jersey submitted an analysis of the growth in motor vehicle emissions due to growth in VMT: emissions from motor vehicles are projected to continually decline from 1990 levels in both the Northern New Jersey and Trenton NAAs through the year 2012. The attainment deadline for the Northern New Jersey NAA is 2007 and for the Trenton NAA is 2005. Therefore, the State is not required to implement any measures to offset growth in emissions due to growth in VMT. Should increases occur after these dates, they would be addressed in the Attainment Demonstration or maintenance plan. EPA is proposing to find that the State has adequately demonstrated that transportation control measures are not needed to offset growth in emissions due to growth in VMT.

7. Photochemical Assessment Monitoring Station

Section 182(c)(1) of the Act and the General Preamble (57 FR 13515) require that EPA promulgate rules for enhanced monitoring of ozone, NO_X and VOCs (see 58 FR 8452, February 12, 1993) and that states classified serious and above develop and operate a photochemical assessment monitoring station network (PAMS). NJDEP submitted its PAMS Network Plan which included a schedule for implementation. This submittal was reviewed and approved on January 27, 1994 by EPA and was judged to satisfy the requirements of 40 CFR 58.40(a). NJDEP has been establishing its PAMS network according to its approved Work Plan and implementation schedule. EPA is proposing to approve New Jersey's PAMS network.

B. Other Phase I Elements

1. Modeling Work Completed to Date

Photochemical grid modeling is used to support the State's submittal in two ways: first, meet the requirements set out in EPA's March 2, 1995 memo for a preliminary modeling analysis and to support the State's ability to use reductions in VOC and $NONO_X$ emission as part of its ROP and RFP Plans.

New Jersey has submitted a preliminary modeling analysis using assumptions about transported ozone and precursors, as required by the March 2, 1995 memo previously referenced. This analysis does not have to show attainment of the ozone standard. Two episodes were modeled and ozone concentrations were predicted using emission control programs mandated by the Act plus various strategies proposed by the Ozone Transport Commission for reduction of ozone and its precursors in the Ozone Transport Region. Even with these programs, the modeling predicts that the State will not attain the ozone standard. To address this, New Jersey has actively participated in the multi-state Ozone Transport Assessment Group as required in the March 2, 1995 policy memo.

The modeling also predicts that ozone will be reduced if emissions of VOC or of NO_X are reduced. This is based on modeling the impact of proportionally reducing emissions of VOC and NO_X together and separately and showing that the peak ozone concentration is reduced. Thus, emissions of either VOC and NO_X can be reduced to improve ozone air quality in New Jersey and either can be used in the 15 Percent ROP and 9 Percent RFP Plans to the extent allowed in the Act. EPA is proposing to accept New Jersey's modeling efforts as fulfilling EPA's Phase I requirements.

2. Ozone Transport Commission NO_X MOU

On September 27, 1994, the Ozone Transport Commission agreed to develop a regional program to achieve significant reduction in NO_X emissions from large combustion sources. New Jersey signed the Memorandum of Understanding (MOU) which formalized this program. EPA's March 2, 1995 policy requires states to provide enforceable commitment to implement the NO_X MOU. New Jersey provided a schedule for completing the rule development effort by November 1997 which will implement the NO_X MOU. EPA is proposing to accept this as satisfying EPA's Phase I requirement for NO_X MOU.

3. Commitments to Future Action

EPA's March 2, 1995 policy requires states to provide enforceable commitments to: (1) participate in the consultative process to address regional transport; (2) adopt additional control measures as necessary to attain the ozone standard, meet rate of progress requirements, and eliminate significant contribution to nonattainment downwind; and (3) identify any reductions that are needed from upwind areas for the area to meet the ozone standard.

As part of the December 31, 1996 SIP revision, New Jersey made commitments for all three of the above requirements. New Jersey is an active participant to the Ozone Transport Assessment Group process and chairs the Modeling and Assessment Subgroup. EPA is proposing to accept these commitments as satisfying EPA's Phase I requirements.

4. Clean Fuel Fleet

Section 182(c)(4) requires a Clean Fuel Fleet or substitute measure. New Jersey submitted a substitute measure on February 15, 1996 and supplemented the submittal on March 6, 1997. EPA will be taking action on this requirement in a separate **Federal Register** document.

IV. Transportation Conformity Budgets

By virtue of proposing approval of the 15 Percent ROP Plan and 9 Percent RFP Plan, EPA is also proposing approval of the motor vehicle emissions budgets for VOC and NO_X. For the purpose of transportation conformity determinations, final approval of this 15 Percent ROP Plan revision will eliminate the need for a build/no-build test and less-than-1990 emissions test for VOC and NO_X for the 1996 analysis year. For the 1999 analysis year and later, conformity determinations addressing VOC and NO_X must demonstrate consistency with the 9 Percent RFP Plan revision's VOC and NO_X motor vehicle emissions budget.

The tables 5 and 6 summarize New Jersey's Emission Budgets.

TABLE 4.—EMISSION BUDGETS FOR CONFORMITY

	VOC (tons/day)	NO_X (tons/day)
1996		
North Jersey Transportation Planning Authority	164.71	270.99
Delaware Valley Regional Planning Commission (NJ portion)	52.26	79.66
South Jersey Transportation Planning Organization	29.62	32.64
1999		
North Jersey Transportation Planning Authority	144.06	244.93
Delaware Valley Regional Planning Commission (NJ portion)	46.48	72.36
South Jersey Transportation Planning Organization	17.44	29.53

TABLE 5.—EMISSION BUDGETS FOR MCGUIRE AIR FORCE BASE

	VOC (tons/year)	NO_X (tons/year)
1990 Baseline	1,112	1,038
1996	1,186	1,107
1999	1,223	1,142

EPA is proposing to approve New Jersey's emission budgets.

V. Phase I Findings

On July 3, 1996, EPA notified the Governor of New Jersey that EPA was making a finding of failure to submit all the Act elements required to fulfill the March 2, 1995 ''Ozone Attainment Demonstration'' policy as committed to by New Jersey. EPA announced the start of the sanction process in a July 10, 1996 **Federal Register** notice (61 FR 36292). With New Jersey's submittals of December 31, 1996 and February 25, 1997 (Phase I SIP revision), and March 6, 1997 (Clean Fuel Fleets Program SIP revision), New Jersey has now submitted all the Phase I requirements. EPA has determined these submittals are complete and will notify New Jersey in a letter shortly that the sanction process that started on July 3, 1996 is terminated.

VI. Summary

EPA has evaluated these submittals for consistency with the Act, applicable EPA regulations, and EPA policy. EPA is proposing approval of New Jersey's: revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions; modeling efforts completed to date; transportation conformity budget; and enforceable commitments for Phase II.

In addition, EPA is proposing conditional interim approval of New Jersey's 15 Percent ROP Plan and the 9 Percent RFP Plan if New Jersey commits, in writing, within 30 days of EPA's proposal to correct the following condition. New Jersey must remodel the enhanced I/M program to estimate the emission reductions that will result from the I/M program as implemented. This remodeling must be completed and submitted to EPA within one year of EPA's final action on the 15 Percent ROP and the 9 Percent RFP Plans.

If New Jersey submits a commitment to this effect, EPA will publish a conditional interim approval of New Jersey's 15 Percent ROP Plan and the 9 Percent RFP Plan. EPA will consider all information submitted as a supplement or amendment to the December 31, 1996 submittal prior to any final rulemaking action.

If New Jersey does not make the required commitment to EPA within 30 days, EPA is today proposing in the alternative that the 15 Percent ROP Plan and 9 Percent RFP Plan be disapproved.

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 Requirements

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.

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.

Conditional approvals of SIP submittals 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, EPA 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 Act, preparation of a 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. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that this disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

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 annual costs to State, local, or tribal governments in the aggregate; or to 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 proposed does not include a federal mandate that may result in estimated annual 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 Regional Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and part D of the Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 16, 1997.

William J. Muszynski,

Deputy Regional Administrator.

[FR Doc. 97–11125 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA60–7135b; WA61–7136b; and WA63–7138b; FRL–5812–8]

Approval and Promulgation of State Implementation Plans: State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve three State Implementation Plan (SIP) revisions submitted by the State of Washington (Washington) for the purpose of removing the requirement for oxygenated fuel in the Vancouver, Washington, and Central Puget Sound carbon monoxide (CO) maintenance areas. One requested revision removes the requirement for oxygenated fuel from the Washington regulations; a second requested revision removes the requirement for oxygenated fuel from the Puget Sound Air Pollution Control Agency (PSAPCA) regulations; and a third requested revision removes the requirement for oxygenated fuel from the Southwest Air Pollution Control Authority (SWAPCA) regulations. The SIP revisions were submitted by Washington because the Vancouver and Central Puget Sound areas have been redesignated as attainment for carbon monoxide (CO) and oxygenated fuel is no longer required in those areas, as specified in the CO Maintenance Plans previously approved for those areas. In the Final Rules Section of this **Federal Register**, the EPA is approving Washington'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 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. EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by May 30, 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.

The State of Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington 98504–8711.

FOR FURTHER INFORMATION CONTACT: William M. Hedgebeth, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–7369.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: April 3, 1997.

Chuck Clarke,

Regional Administrator.

[FR Doc. 97–11156 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126–0032b; FRL–5815–6]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) that concern a wide range of administrative and traditional source category rules.

The intended effect of proposing approval of these rules is to regulate emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_X) and other pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, 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 document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 30, 1997.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 96503 and

California Air Resources Board, Stationary Source Divison, Rule

Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1189

SUPPLEMENTARY INFORMATION: This document concerns Placer County Air Pollution Control District Rule 101, Title; Rule 102, Definitions; Rule 103, Validity; Rule 201, Coverage; Rule 202, Visible Emissions; Rule 203, Exemptions to Rule 202; Rule 204, Wet Plumes; Rule 208, Orchard or Citrus Heaters; Rule 209, Fossil Fuel-Steam Facility; Rule 210, Specific Contaminants; Rule 211, Process Weight; Rule 213, Gasoline Transfer into Stationary Storage Containers; Rule 214, Transfer of Gasoline into Tank Trucks, Trailers and Railroad Cars at Loading Facilities; Rule 217, Cutback and Emulsified Asphalt Paving Materials; Rule 219, Organic Solvents; Rule 220, Abrasive Blasting; Rule 221, Compliance Tests; Rule 222, Reduction of Animal Matter; Rule 225, Wood Fired Appliances; Rule 226, Sulfur Content of Fuels—Lake Tahoe Basin; Rule 228, Fugitive Dust—Lake Tahoe Air Basin; Rule 406, Combination of Emissions; Rule 407, Circumvention; and Rule 408, Source Recordkeeping and Reporting. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 14, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–11157 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AL–40–7142; FRL–5818–4]

Approval and Promulgation of Implementation Plans for the State of Alabama-Proposed Disapproval of the Request to Redesignate the Birmingham, Alabama (Jefferson and Shelby Counties) Marginal Ozone Nonattainment Area to Attainment and the Associated Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove the State of Alabama's request submitted through the Alabama Department of Environmental Management (ADEM) to redesignate the Birmingham marginal ozone nonattainment area (Jefferson and Shelby Counties) to attainment and the associated maintenance plan as a revision to the State Implementation Plan (SIP). Prior to the end of the close of the administrative record, EPA determined that the area registered a violation of the ozone national ambient air quality standard (NAAQS). As a result, the Birmingham area no longer meets the statutory criteria for redesignation to attainment of the ozone NAAQS.

DATES: Comments on this proposed action must be received in writing by May 30, 1997.

ADDRESSES: Written comments on this action should be addressed to Kimberly Bingham at the Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of documents relative to this action 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. Reference file AL–40–7142. The Region 4 office may have additional background documents not available at the other locations.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Kimberly Bingham, (404) 562–9038.

Alabama Department of Environmental Management, 1751 Congressman, W. L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham at (404) 562–9038.

SUPPLEMENTARY INFORMATION: On March 16, 1995, ADEM submitted a request to EPA to redesignate the Birmingham, Alabama, marginal ozone nonattainment area to attainment. On that date, they also submitted a maintenance plan for the area as a revision to the Alabama SIP.

According to section 107(d)(3)(E) of the Clean Air Act (CAA), 42 U.S.C. 7407(d)(3)(E), redesignation requests must meet five specific criteria in order for EPA to redesignate an area from nonattainment to attainment:

1. The Administrator determines that the area has attained the ozone NAAQS;

2. The Administrator has fully approved the applicable implementation plan for the area under section 110(k);

3. The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollution control regulations and other permanent and enforceable reductions;

4. The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

5. The State containing such area has met all requirements applicable to the area under section 110 and part D.

The EPA provided guidance on redesignation in the General Preamble for the Implementation of the CAAA of 1990, 57 FR 13498 (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992). The primary memorandum providing further guidance with respect to section 107(d)(3)(E) of the amended Act is dated September 4, 1992, and issued by the Director, Air Quality Management Division, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment (Calcagni Memorandum).

The State submitted its request for redesignation on March 16, 1995. The request included information showing that the Birmingham area had three years of air quality attainment data from 1990–1993. The area continued to maintain the ozone NAAQS through 1994. The submittal was rendered administratively complete on April 11, 1995. Supplemental information needed for the submittal to be approvable which was initially requested from ADEM in a February 15, 1995, letter addressing the prehearing submittal was submitted on July 21, 1995. A direct final rule approving the redesignation request was signed by the Regional Administrator and forwarded to the EPA Federal Register Office on August 15, 1995. The direct final rule as drafted contained a thirty day period for public comment on the redesignation request.

Prior to publication of the document and therefore prior to close of the administrative record, EPA determined that the area registered a violation of the ozone NAAQS on August 18, 1995. The EPA directed the Office of Federal Register to recall the document from being published. The ambient data has been quality assured according to established procedures for validating such monitoring data. The State of Alabama does not contest that the area violated the NAAQS for ozone during

the 1995 ozone season. As a result, the Birmingham area no longer meets the statutory criteria for redesignation to attainment of the ozone NAAQS found in section 107(d)(3)(E)(i) of the CAA. The maintenance plan SIP revision is also not approvable because its demonstration is based on a level of ozone precursor emissions in the ambient air thought to represent an inventory of emissions that would provide for attainment and maintenance. That underlying basis of the maintenance plan's demonstration is no longer valid due to the violation of the NAAQS that occurred during the 1995 ozone season.

Even though the Regional Administrator signed the direct final rule prior to the violation, the document was not published. Since the Agency's decision was neither published nor subject to notice or comment, EPA neither proposed nor took final action with respect to the redesignation.

The Administrator is prohibited under section 107(d)(3)(E)(i) from redesignating an area to attainment when it has not attained the NAAQS. Furthermore, section 107(d)(1)(A) defines a nonattainment area as ''any area that does not meet'' the NAAQS. Consequently, if a violation occurs prior to EPA's final action on redesignation, the area is no longer in attainment and does not meet the definition of an attainment are under section 107. The EPA has consistently followed these principles in disapproving redesignations for areas that violate the NAAQS while their requests are pending. In the September 4, 1992, policy memorandum of John Calcagni, EPA stated: ''Regions should advise States of the practical planning consequences if EPA disapproves the redesignation request or if the request is invalidated because of violations recorded during EPA's review.'' See for example, 59 FR 22757 dated May 3, 1994, disapproving the redesignation of Richmond, Virginia due to violations occurring after the proposed approval; 61 FR 50718 dated September 27, 1996, disapproving the redesignation request for the Kentucky portion of the Cincinnati-Hamilton nonattainment area; and 61 FR 19193 dated May 1, 1996, disapproving of the redesignation request for Pittsburgh, Pennsylvania.

Proposed Action

EPA is proposing to disapprove the State of Alabama's March 16, 1995, redesignation request and maintenance plan SIP revision.

EPA is soliciting public comments on this document and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the person listed in the **ADDRESSES** section.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the CAA. The Agency has determined that this action does not conform with the statute as amended and should be disapproved. The Agency has examined the issue of whether this action should be reviewed only under the provisions of the law as it existed on the date of submittal to the Agency (i.e., prior to November 15, 1990) and has determined that the Agency must apply the new law to this revision.

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.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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.

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).

Because this action is not subject 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.*).

Redesignation—State-Submitted Requests

EPA's denial of the State's redesignation request under section 107(d)(3)(E) does not affect any existing requirements applicable to small entities nor does it impose new requirements. The area retains its current designation status and will continue to be subject to the same statutory requirements. To the extent that the area must adopt regulations, based on its nonattainment status, EPA will review the effect of those actions on small entities at the time the state submits those regulations. Therefore, I certify (for Table 2 and 3 redesignations, use: ''The Administrator certifies * * *'') that denial of the redesignation request will not affect a substantial number of small entities.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 15, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–11076 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–5819–6]

Outer Continental Shelf Consistency Update for Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking, consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf

(''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act (''the Act''), the Clean Air Act Amendments of 1990, the applicable requirements for certain areas for Air Pollution from OCS Activities. The portion of the OCS air regulation that is being updated pertains to the requirements for OCS sources for which the State of Florida will be the designated COA. This action proposes to incorporate the requirements contained in ''State of Florida Requirements Applicable to OCS Sources'' (February 7, 1997). Proposed changes to the existing requirements are in **SUPPLEMENTARY INFORMATION.**

DATES: Comments on the proposed update must be received on or before May 30, 1997.

ADDRESSES: Comments must be mailed (in duplicate if possible) to EPA Air Docket, Attn: Docket No. A–93–31, Part III, U.S. Environmental Protection Agency, Region 4, Air, Pesticides, and Toxics Management Division, 61 Forsyth Street, SW, Atlanta, GA 30303. (Attn: R. Scott Davis).

Docket: Supporting information used in developing the proposed notice and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–31, Part III. This docket is available for public inspection and copying Monday through Friday during regular business hours at the following locations:

EPA Air Docket, Attn: Docket No. A–93–31, Part III, Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460, Room M–1500.

EPA Air Docket, Attn: Docket No. A–93–31, Part III, Environmental Protection Agency, Region 4 Library, 61 Forsyth Street, SW, Atlanta, GA 30303.

FOR FURTHER INFORMATION CONTACT: R. Scott Davis, Air, Pesticides, and Toxics Management Division, U.S. EPA Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303. Telephone (404) 562–9127.

SUPPLEMENTARY INFORMATION: On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to comply with federal and state ambient air quality standards and the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the states, except those located in the Gulf of Mexico west of 87.5 degrees longitude, approximately west of the Florida/Alabama state border. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to 40 CFR 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent (NOI) under 40 CFR 55.4 of the OCS rule; and (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This Notice of Proposed Rulemaking is being proposed in response to the receipt of a NOI, submitted by Mobil Exploration & Producing U.S., Inc., on January 22, 1997, and represents the third update of part 55 for the State of Florida. The NOI includes general company information, a description of the proposed facility, estimated potential air emissions, emissions points, fuels, air pollution controls, and any proposed operating limitations. Public comments received in writing within 30 days of publication of this document will be considered by EPA before promulgation of the final updated rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

EPA Evaluation and Proposed Action

In updating 40 CFR part 55, EPA reviewed the state rules for inclusion in part 55 to ensure that they comply with the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources (40 CFR 55.1). EPA has also evaluated the rules to ensure they are not arbitrary or capricious (40 CFR section 55.12 (e)). In addition, EPA has excluded administrative or procedural rules.[2]

In today's document EPA proposes to incorporate the rules applicable to sources for which the State of Florida will be the COA. These rules include revisions to existing rules that already apply to OCS sources, the recodification and renumbering of existing Florida air regulations, and the adoption of amendments to other existing air regulations:

Florida Administrative Code-Department of Environmental Protection. The following sections of Chapter 62:

204.100 Purpose and Scope (Adopted 3/13/96)
204.200 Definitions (Adopted 3/13/96)
204.220 Ambient Air Quality Protection (Adopted 3/13/96)
204.240 Ambient Air Quality Standards (Adopted 3/13/96)
204.260 Prevention of Significant Deterioration Increments (Adopted 3/13/96)
204.800 Federal Regulations Adopted by Reference (Adopted 10/17/96)
210.100 Purpose and Scope (Adopted 11/23/94)
210.200 Definitions (Adopted 10/15/96)
210.220 Small Business Assistance Program (Adopted 10/15/96)
210.300 Permits Required (Adopted 10/7/96)
210.360 Administrative Permit Corrections (Adopted 11/23/94)
210.370 Reports (Adopted 3/21/96)
210.550 Stack Height Policy (Adopted 11/23/94)
210.600 Enhanced Monitoring (Adopted 11/23/94)
210.650 Circumvention (Adopted 9/25/92)

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

[2] Upon delegation the onshore area will use its administrative and procedural rules as onshore. In those instances where EPA does not delegate authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

210.700 Excess Emissions (Adopted 11/23/94)
210.900 Forms and Instructions (Adopted 3/21/96)
210.920 Notification Form for Air General Permits (Adopted 8/15/96)
212.100 Purpose and Scope (Adopted 3/13/96)
212.300 General Preconstruction Review Requirements (Adopted 1/1/96)
212.400 Prevention of Significant Deterioration (PSD) (Adopted 3/13/96)
212.500 Preconstruction Review for Nonattainment Areas (Adopted 3/13/96)
212.600 Category-Specific Preconstruction: Sulfur Storage and Handling Facilities (Adopted 3/13/96)
213.100 Purpose and Scope (Adopted 3/13/96)
213.205 Annual Operation Licensing Fee (Adopted 6/25/96)
213.300 Title V Air General Permits (Adopted 10/7/96)
213.400 Permits and Permit Revisions Required (Adopted 3/13/96)
213.410 Changes Without Permit Revision (Adopted 11/23/94)
213.412 Immediate Implementation Pending Revision Process (Adopted 3/13/96)
213.415 Trading of Emissions Within a Source (Adopted 3/13/96)
213.420 Permit Applications (Adopted 10/7/96)
213.430 Permit Issuance, Renewal, and Revision (Adopted 3/20/96)
213.440 Permit Content (Adopted 3/20/96)
213.460 Permit Shield (Adopted 11/23/94)
213.900 Forms and Instructions (Adopted 6/25/96)
256.100 Declaration and Intent (Adopted 11/30/94)
256.200 Definitions (Adopted 11/30/94)
256.300 Prohibitions (Adopted 11/30/94)
256.600 Industrial, Commercial, Municipal and Research Open Burning (Adopted 8/26/87)
256.700 Open Burning Allowed (Adopted 11/30/94)
273.200 Definitions (Adopted 9/25/92)
273.300 Air Pollution Episodes (Adopted 9/25/92)
273.400 Air Alert (Adopted 9/25/92)
273.500 Air Warning (Adopted 9/25/92)
273.600 Air Emergency (Adopted 9/25/92)
296.100 Purpose and Scope (Adopted 3/13/96)
296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 3/13/96)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) Emitting Facilities (Adopted 1/1/96)
296.570 Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities (Adopted 1/1/96)
296.600 Reasonably Available Control Technology (RACT)—Lead (Adopted 3/13/96)
296.601 Lead Processing Operations in General (Adopted 1/1/96)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 1/1/96)
297.100 Purpose and Scope (Adopted 3/13/96)
297.310 General Test Requirements (Adopted 3/13/96)
297.401 EPA Test Procedures (Adopted 10/7/96)
297.440 Supplementary Test Procedures (Adopted 1/1/96)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 1/1/96)
297.520 EPA Continuous Monitor Performance Specifications (Adopted 3/13/96)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 11/23/94)

The following rules are proposed to be deleted from the State of Florida requirements applicable to OCS sources. These rules have either been incorporated into the recodified and renumbered Florida air regulations or repealed:

4.001 Scope of Part I
4.020 Definitions
4.021 Transferability of Definitions
4.030 General Prohibitions
4.040 Exemptions
4.050 Procedure to Obtain Permit; Application
4.070 Standards for Issuing or Denying Permits; Issuance; Denial
4.080 Modification of Permit Conditions
4.090 Renewals
4.100 Suspension and Revocation
4.110 Financial Responsibility
4.120 Transfer of Permits
4.130 Plant Operation—Problems
4.160 Permit Conditions
4.200 Scope of Part II
4.210 Construction Permits
4.220 Operation Permits for New Sources
4.510 Scope of Part III
4.520 Definitions
4.530 Procedures
4.540 General Conditions for all General Permits
210.400 Emission Estimates
210.500 Air Quality Models
210.980 Severability
212.200 Definitions
212.410 Best Available Control Technology (BACT)
212.510 Lowest Achievable Emission Rate (LAER)
212.700 Emissions Unit
256.450 Burning for Cold or Frost Protection
272.100 Purpose and Scope
272.200 Definitions
272.300 Ambient Air Quality Standards
272.500 Maximum Allowable Increases (Prevention of Significant Deterioration)
272.750 Department of Environmental Protection Ambient Test Methods
296.200 Definitions
296.310 General Particulate Emission Limiting Standards
296.330 Best Available Control Technology (BACT)
296.400 Specific Emission Limiting and Performance Standards
296.800 Standards of Performance for New Stationary Sources (NSPS)
296.810 National Emission Standards for Hazardous Air Pollutants (NESHAP)—Part 61
296.820 National Emission Standards for Hazardous Air Pollutants (NESHAP)—Part 63
297.200 Definitions
297.330 Applicable Test Procedures
297.340 Frequency of Compliance Tests
297.345 Stack Sampling Facilities Provided by the Owner of an Air Pollution Point Source
297.350 Determination of Process Variables
297.400 EPA Methods Adopted by Reference
297.411 DEP Method 1
297.412 DEP Method 2
297.413 DEP Method 3
297.414 DEP Method 4
297.415 DEP Method 5
297.416 DEP Method 5A
297.417 DEP Method 6
297.418 DEP Method 7
297.419 DEP Method 8
297.420 DEP Method 9
297.421 DEP Method 10
297.422 DEP Method 11
297.423 DEP Method 12—Determination of Inorganic Lead Emissions from Stationary Sources
297.424 DEP Method 13
297.570 Test Report

Administrative Requirements

A. Executive Order 12291 (Regulatory Impact Analysis)

The Office of Management and Budget has exempted this rule from the

requirements of Section 3 of Executive Order 12291. This exemption continues in effect under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a ''significant impact on a substantial number of small entities.'' Small entities include small businesses, organizations, and governmental jurisdictions.

As was stated in the final regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this notice of proposed rulemaking will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final OCS rulemaking dated September 4, 1992, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 35012 *et seq.*, and has assigned OMB control number 2060–0249. This consistency update does not add any further requirements.

List of Subjects in 40 CFR Part 55

Administrative practice and procedures, Air pollution control, Environmental protection, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 14, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 55, Chapter I, title 40 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraph (e) (6) (i) (A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states, seaward boundaries, by state.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(A) State of Florida Requirements Applicable to OCS Sources, August 20, 1993.

* * * * *

3. Appendix A to Part 55 is amended by revising paragraph (a) (1) under the heading Florida to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Florida

(a) * * *

(1) The following requirements are contained in State of Florida Requirements Applicable to OCS Sources, February 7, 1997:

Florida Administrative Code-Department of Environmental Protection. The following sections of Chapter 62:

204.100 Purpose and Scope (Adopted 3/13/96)
204.200 Definitions (Adopted 3/13/96)
204.220 Ambient Air Quality Protection (Adopted 3/13/96)
204.240 Ambient Air Quality Standards (Adopted 3/13/96)
204.260 Prevention of Significant Deterioration Increments (Adopted 3/13/96)
204.800 Federal Regulations Adopted by Reference (Adopted 10/17/96)
210.100 Purpose and Scope (Adopted 11/23/94)
210.200 Definitions (Adopted 10/15/96)
210.220 Small Business Assistance Program (Adopted 10/15/96)
210.300 Permits Required (Adopted 10/7/96)
210.360 Administrative Permit Corrections (Adopted 11/23/94)
210.370 Reports (Adopted 3/21/96)
210.550 Stack Height Policy (Adopted 11/23/94)
210.600 Enhanced Monitoring (Adopted 11/23/94)
210.650 Circumvention (Adopted 9/25/92)
210.700 Excess Emissions (Adopted 11/23/94)
210.900 Forms and Instructions (Adopted 3/21/96)
210.920 Notification Form for Air General Permits (Adopted 8/15/96)
212.100 Purpose and Scope (Adopted 3/13/96)
212.300 General Preconstruction Review Requirements (Adopted 1/1/96)
212.400 Prevention of Significant Deterioration (PSD) (Adopted 3/13/96)
212.500 Preconstruction Review for Nonattainment Areas (Adopted 3/13/96)
212.600 Category-Specific Preconstruction: Sulfur Storage and Handling Facilities (Adopted 3/13/96)
213.100 Purpose and Scope (Adopted 3/13/96)
213.200 Annual Operation Licensing Fee (Adopted 6/25/96)
213.300 Title V Air General Permits (Adopted 10/7/96)
213.400 Permits and Permit Revisions Required (Adopted 3/13/96)
213.410 Changes Without Permit Revision (Adopted 11/23/94)
213.412 Immediate Implementation Pending Revision Process (Adopted 3/13/96)
213.415 Trading of Emissions Within a Source (Adopted 3/13/96)
213.420 Permit Applications (Adopted 10/7/96)
213.430 Permit Issuance, Renewal, and Revision (Adopted 3/20/96)
213.440 Permit Content (Adopted 3/20/96)
213.460 Permit Shield (Adopted 11/23/94)
213.900 Forms and Instructions (Adopted 6/25/96)
256.100 Declaration and Intent (Adopted 11/30/94)
256.200 Definitions (Adopted 11/30/94)
256.300 Prohibitions (Adopted 11/30/94)
256.600 Industrial, Commercial, Municipal and Research Open Burning (Adopted 8/26/87)
256.700 Open Burning Allowed (Adopted 11/30/94)
273.200 Definitions (Adopted 9/25/92)
273.300 Air Pollution Episodes (Adopted 9/25/92)
273.400 Air Alert (Adopted 9/25/92)
273.500 Air Warning (Adopted 9/25/92)
273.600 Air Emergency (Adopted 9/25/92)
296.100 Purpose and Scope (Adopted 3/13/96)
296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 3/13/96)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Emitting Facilities (Adopted 1/1/96)

296.570 Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities (Adopted 1/1/96)
296.600 Reasonably Available Control Technology (RACT)—Lead (Adopted 3/13/96)
296.601 Lead Processing Operations in General (Adopted 1/1/96)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 1/1/96)
297.100 Purpose and Scope (Adopted 3/13/96)
297.310 General Test Requirements (Adopted 3/13/96)
297.401 EPA Test Procedures (Adopted 10/7/96)
297.440 Supplementary Test Procedures (Adopted 1/1/96)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 1/1/96)
297.520 EPA Continuous Monitor Performance Specifications (Adopted 3/13/96)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 11/23/94)

[FR Doc. 97–11161 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250119; FRL–5599–1]

Worker Protection Standard, Glove Requirements; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a proposed regulation under 40 CFR part 170 (the Worker Protection Standard). This action is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act. The proposed rule would, first, revise the Worker Protection Standard to allow separable absorbent liners to be worn beneath chemical-resistant gloves. Second, it would eliminate the requirement that chemical-resistant gloves be worn by pilots when entering or exiting aircraft used to apply pesticides.

FOR FURTHER INFORMATION CONTACT: By mail: Joshua First, Certification and Occupational Safety Branch (7506C), Field Operation Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1114, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: (703) 305–7437, e-mail: first.joshua@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 25(a)(2) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime thereafter. As required by FIFRA section 25(a)(3), a copy of the proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Authority: 7 U.S.C. 136 *et seq.*

List of Subjects in 40 CFR Part 170

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

Dated: April 21, 1997.

Penelope A. Fenner-Crisp,

Acting Director, Office of Pesticide Programs.

[FR Doc. 97–11152 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 384

Criteria for Granting Waivers of the Requirement for Exclusive U.S.-Flag Vessel Carriage of Certain Cargo Covered by Public Resolution 17, 33rd Congress (PR 17)

AGENCY: Maritime Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given that a public meeting will be held on May 29, 1997. The purpose of the forum is for members of the U.S. Government involved in the administration of Public Resolution 17 of the 33rd Congress (PR 17) to meet with the public and review comments and suggestions received with respect to the Advance Notice of Proposed Rulemaking published by the Maritime Administration (MARAD) on October 28, 1996 (61 FR 55614). The intent is to simplify and standardize the statutory waiver process of PR 17.

DATES: The meeting will be held May 29, 1997, at 9:30 am.

ADDRESSES: The meeting will be held in Room 1143 of the Export-Import Bank of the United States, 811 Vermont Avenue, N.W., Washington, D.C. Those wishing to attend the meeting should write to the Maritime Administration, Office of Cargo Preference, MAR–590, Room 8118, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Lester Levay, (202) 366–5512.

SUPPLEMENTARY INFORMATION: To accommodate all participants, individuals planning to attend should inform the Maritime Administration in writing at the address listed above. Please indicate the company represented, if any, including the names and titles of individuals attending and whether individuals plan to present verbal comments at the meeting. Initial comments will be limited to five minutes and taken in the order in which the participants sign in the day of the meeting.

Dated: April 25, 1997.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 97–11188 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–125, RM–9058]

Radio Broadcasting Services; Payson, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Steven D. Bingham, seeking the allotment of Channel 257A to Payson, Arizona, as that community's third local FM transmission service. Coordinates used for this proposal are 34–13–54 and 111–20–12. Payson, Arizona, is located within 320 kilometers (199 miles) of the

Mexico border, and therefore, the Commission must obtain the concurrence of the Mexican government in this proposal.

DATES: Comments must be filed on or before June 16, 1997, and reply comments on or before July 1, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Steven D. Bingham, 500 West Sherwood Dr., Payson, AZ 85541.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–125, adopted April 16, 1997, and released April 25, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte contacts*.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–11132 Filed 4–29–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No.97–123, RM–9062]

Radio Broadcasting Services; Grand Isle, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Grand Isle Radio requesting the allotment of Channel 283A to Grand Isle, Louisiana, as the community's first local aural transmission service. Channel 283A can be allotted to Grand Isle in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 283A at Grand Isle are 29–13–54 NL and 89–59–54 WL.

DATES: Comments must be filed on or before June 16, 1997, and reply comments on or before July 1, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William J. Pennington, III, Post Office Box 403, Westfield, Massachusetts 01086 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–123, adopted April 16, 1997, and released April 25, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–11130 Filed 4–29–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–124; RM–9073]

Radio Broadcasting Services; Blue Lake, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Vixon Valley Broadcasting requesting the allotment of Channel 292A to Blue Lake, California, an incorporated community, as its first local aural transmission service. Coordinates used for Channel 292A at Blue Lake are 40–52–54 and 123–59–12.

DATES: Comments must be filed on or before June 16, 1997, and reply comments on or before July 1, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Vixon Valley Broadcasting, Attn: Victor A. Michael, Jr., President, c/o Magic City Media, 1912 Capitol Avenue Suite 300, Cheyenne, WY 82001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–124, adopted April 16, 1997, and released April 25, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–11129 Filed 4–29–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 62, No. 83
Wednesday, April 30, 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

Agricultural Marketing Service

[Docket No. FV–97–928–1NC]

Papayas Grown in Hawaii; Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for a currently-approved information collection for Papayas Grown in Hawaii, Marketing Order No. 928.

DATES: Comments on this notice must be received by June 30, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Terry Vawter, California Marketing Field Office, F & V Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, CA, 93721, telephone (209) 487–5901 or facsimile (209) 487–5906 or Charles L. Rush, Marketing Order Administration Branch, F & V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC (202) 720–5053 or Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Papaya Grown in Hawaii, Marketing Order No. 928.

OMB Number: 0581–0102.

Expiration Date of Approval: September 30, 1997.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables, and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 USC 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order's operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the papaya marketing order program, which has been in operation since 1971.

The order authorizes production and marketing research and development projects, including paid advertising. The research and promotion activities are paid for by assessments on handlers of papaya.

The order, and rules and regulations issued thereunder, authorize the Papaya Administrative Committee (committee), the agency responsible for local administration of the order, to require handlers and growers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The committee has developed forms as a means for persons to file required information with the committee relating to papaya supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the Act and order. Papayas may be shipped year-round and these forms are utilized accordingly. A USDA form is used to allow growers to vote on amendments to or continuance of the marketing order. In addition, papaya growers and grower/handlers who are nominated by their peers to serve as representatives on the committee must file nomination forms with the Secretary.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order.

Shipments of Hawaiian papayas have decreased in recent years due to an infestation of Papaya Ringspot Virus. However, there has been little change in the number of growers and handlers. The committee estimates that there are approximately 400 producers and 60 handlers of papaya currently operating in the production area.

The committee added three new forms to its information collection. The committee added the Handler Information/Update Form which asks handlers to provide information such as their current address. A Transgenic Seed Distribution Registration Form is used to determine how many handlers will need to plant transgenic seeds which are resistant to papaya ringspot virus. The committee also approved the use of a Crop Report which will ask handlers how many acres are planted and harvested. Use of these forms is authorized under § 928.60 of the order. The addition of these forms to the current information request will increase the burden.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff, and authorized employees of the committee. Authorized committee employees and the industry are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .319 per response.

Respondents: Hawaiian papaya growers and handlers and two public members in the production area of Hawaii.

Estimated Number of Respondents: 75.

Estimated Number of Responses per Respondent: 51.6.

Estimated Total Annual Burden on Respondents: 1153.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility; (2) 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; (3)

ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden, including use of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should reference OMB No. 0581–0102 and Hawaiian Papaya Marketing Order No. 928, and be mailed to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523-S, Washington, DC, 20090-6456. Comments should reference the docket number and the date and page of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave. SW, Washington, DC, Room 22523 South Building.

All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of the public record.

Dated: April 24, 1997.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 97–11108 Filed 4–29–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Palmetto Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request to an anticipated request by Palmetto Electric Cooperative for financing assistance to construct a district office facility in Jasper County, South Carolina. The FONSI is based on a borrower's environmental report (BER) submitted to RUS by Palmetto Electric Cooperative. RUS conducted an independent evaluation of the report and concurs with its scope and content. In accordance with RUS Environmental Policies and Procedures, 7 CFR 1794.61, RUS has adopted the BER as its environmental assessment for the project.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, E-mail at bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The district office facility is proposed to be located on the northern side of U.S. Highway 278 on the western side of a railroad right-of-way south of State Route 141. The size of the proposed site for the district office facility is approximately 40 acres of which approximately 20 acres would be developed.

The district office facility would consist of a 20,000 square foot administration building, a 10,000 square foot warehouse and operations building, a 3,200 square foot fleet maintenance building with covered car and truck wash and diesel and gasoline refueling station with two 2,500 gallon underground storage tanks, a 2,400 square foot transformer and metering equipment repair and maintenance building, an asphalt covered pole storage yard, a concrete covered transformer storage area with oil spill containment, two 3,200 square foot wire and vehicle equipment storage sheds, paved parking to accommodate 50 employee, 75 visitor, and 25 company vehicles, a 100-foot high, self-supporting lattice type radio and microwave communications tower, and a 200 kilowatt emergency diesel power electric generator to supply backup power to the facility in the event of a power outage.

RUS considered the alternatives of no action, expanding Palmetto Electric Cooperative's existing district office, and three alternative site locations. Under the no action alternative, RUS would not approve financing assistance for construction of the district office facility. Since RUS believes that Palmetto Electric Cooperative has a need to expand its district facility to adequately serve its rapidly growing consumer base, it has determined that the no action alternative is not acceptable. The expansion of the existing district office is not practicable as there is not enough space available there for the proposed new facilities. Of the four sites considered for locating the proposed district, the preferred site was selected based on flexibility of site layout and reasonable cost.

Copies of the BER and FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Berl Davis, Jr., Palmetto Electric Cooperative, P.O. Box 21239, 111 Mathews Drive, Hilton Head, South Carolina, telephone (803) 681–5551.

Dated: April 24, 1997.

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 97–11185 Filed 4–29–97; 8:45 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition 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: May 30, 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 March 7, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (62 F.R. 10519) of proposed addition to the Procurement List. Comments were received from two Government agencies, three minority business associations, one small business owner, a labor union, two political organizations, 133 employees of the Government facility where the service will be performed, two contractors at that facility, an employee of the current janitorial contractor, and one other individual. All commenters opposed the addition of this service to the Procurement List.

This service is currently being performed by a small disadvantaged business which is graduating from the Small Business Administration's 8(a) Program. The two commenting Government agencies claimed that removal of the service from the 8(a) Program would cause severe adverse impact on the Program's ability to provide business development opportunities for small disadvantaged businesses, both nationally and at the Government agency where the service is being performed. Another commenter claimed that the 8(a) Program cannot

meet its goals if the Committee's Javits-Wagner-O'Day (JWOD) Program continues to remove services from the 8(a) Program, and that the Committee's practice of adding these services when a specific 8(a) contractor graduates from the 8(a) Program ignores the legislative intent of the Small Business Act and the responsibility of Government agencies to support the 8(a) Program. Other commenters declared that Congress did not intend for the JWOD and 8(a) Programs to compete, and that 8(a) contracts should remain in that Program.

The 8(a) Program's share of Government contracting dollars is approximately ten times the size of the JWOD Program's share. Consequently, the Committee does not believe that adding this service to the Procurement List, will have a severe adverse impact on the 8(a) Program, even if the limited number of other 8(a) services which have been added to the Procurement List are taken into account. Similarly, the Government agency where the service is being performed has an extremely successful 8(a) Program of which the contract for this service represents a minute portion. As a result, the Committee does not believe that adding this service to the JWOD Program will have a substantial negative impact on the agency's overall 8(a) Program.

The Committee's priority over small business setaside programs has long been established, and the Committee believes its policy of only adding 8(a) services to the Procurement List when a contractor graduates from the 8(a) Program shows that the Committee attempts to minimize its impact on small disadvantaged businesses who have performed the services and still remain in the 8(a) Program. Because JWOD nonprofit agencies are normally in the same size range as small disadvantaged businesses and can perform the same types of work, it is inevitable that there will be some overlap between them. The Committee does not know of any legislative intent that they not compete or that the JWOD Program be limited in carrying out its statutory mission to services which have not previously been performed by 8(a) contractors.

One commenter, a trade association representing 8(a) companies, stated that all Government contracts should be available to competition and that the JWOD Act should be amended to limit Government awards to JWOD nonprofit agencies to amounts below a specific dollar ceiling.

These proposals, which would necessitate changes to the 8(a) Program as well, would require legislative action and are thus outside the scope of the Committee's decision on this addition to the Procurement List.

The same commenter suggested that 8(a) contractors should be permitted to subcontract with JWOD nonprofit agencies so that both 8(a) and JWOD entities would benefit from the same Government contracts. The Committee explored this approach with representatives of the Government contracting activity, which raised the issue too late for the proposal to be given the thorough consideration the Committee deemed necessary. The Committee does intend to consider in the coming months whether the proposed approach warrants in-depth examination for possible future use.

Many commenters noted that a large number of janitorial employees at the Government facility would be displaced by the Committee's action, despite, in some cases, long years of excellent service. One commenter claimed that if any current employees were hired by the JWOD nonprofit agency, they would take a substantial pay cut. Two commenters asked whether the Committee would provide for the displaced workers. Another commenter suggested that people with disabilities be hired by the current 8(a) contractor as vacancies occur rather than displacing the current workers.

The Committee is sensitive to the issue of displacing longstanding workers at janitorial projects, and permits nonprofit agencies performing JWOD contracts to accommodate such workers on a transitional basis as much as possible consistent with its statutory requirement that the majority of workers on JWOD contracts be people with severe disabilities. JWOD nonprofit agencies, like all Government service contractors, are required to maintain the union wage for the first year after they succeed a union contractor, as they are doing in this case. If the new workforce does not elect to be unionized, after the first year, the JWOD nonprofit agency must pay a Department of Labor-determined wage rate, which normally tracks prevailing union wages. In this case, the new rate, while lower than the current union rate, significantly exceeds the minimum wage.

Since the current contractor is graduating from the 8(a) Program and is not eligible to perform the contract in the future, the suggestion that it continue employing the existing workforce and hire people with severe disabilities as vacancies occur is not possible. In addition, people with severe disabilities have an unemployment rate exceeding 65 percent, well above any other group. Accordingly, the Committee believes that the guarantee of jobs for a large number of people with severe disabilities outweighs the possible harm to the displaced workers, who will be more likely to find other employment. In addition, NISH has agreed to try and help interested displaced workers find janitorial jobs by referring them to other nonprofit agencies in the area that participate in the JWOD Program.

Many commenters urged that the displaced workers be relocated to other jobs at the same Government facility or other Government facilities. This approach, while laudatory, is outside the Committee's jurisdiction.

The union representing the current workers, and other commenters, urged the Committee to work with the union to avoid pitting union and disabled workers against each other. Other commenters expressed fears that the Committee's action will break the union, and stated that it would be better to keep the contract unionized to maintain current wage levels. Many commenters claimed that the JWOD nonprofit agency's workers would be taken advantage of in the areas of wages and benefits because they will not be union members.

The Committee has no objection to nonprofit agencies with JWOD contracts being unionized, and some of them are union shops when the workers have elected to be represented by unions. As indicated in a previous paragraph, wages and benefit levels under the JWOD contract will—if the workforce is not unionized after the first year—be lower than those that have existed in the union shop, but consistent with prevailing wages for comparable jobs in the area.

Two commenters claimed that the quality of service will decrease once the JWOD nonprofit agency becomes the contractor. Another commenter claimed that people with severe disabilities will injure themselves or harm critical flight hardware at the facility as they clean. The nonprofit agency is already successfully performing janitorial work at several other Government agencies, and the contracting activity has advised the Committee that it believes the nonprofit agency is capable of performing the work involved. As a consequence, the Committee has no reason to doubt that the nonprofit agency will be able to perform the services in question successfully and without injury to personnel or equipment.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide

the service and impact of the addition 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, NASA Goddard Space Flight Center, Greenbelt, Maryland.

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. 97–11135 Filed 4–29–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

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: April 30, 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, NW., Washington, DC 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 March 3, 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–602–039
Australia
Canned Bartlett Pears
Objection Date: March 4, 1997
Objector: California Pear Advisory Board
Contact: Mathew Rosenbaum at (202) 482–0198

A–122–503
Canada
Construction Castings
Objection Date: March 6, 1997
Objector: East Jordan Iron Works
Contact: Laurel LaCivita at (202) 482–4470

A–337–602
Chile
Standard Carnations
Objection Date: March 31, 1997
Objector: Floral Trade Council
Contact: Lyn Johnson at (202) 482–5287

A–427–602
France
Brass Sheet & Strip
Objection Date: March 11, 1997
Objector: Copper & Brass Fabricators Council
Contact: Thomas Killiam at (202) 482–2704

A–508–602
Israel
Oil Country Tubular Goods
Objection Date: March 12, 1997
Objector: North Star Steel Ohio
Contact: Michael Heaney at (202) 482–4475

A–475–401
Italy
Certain Valves and Connections of Brass, for Use in Fire Protection Equipment
Objection Date: March 28, 1997
Objector: AFAC Inc.
Contact: Leon McNeill at (202) 482–4236

A–475–601
Italy
Brass Sheet & Strip
Objection Date: March 11, 1997
Objector: Copper & Brass Fabricators Council, Inc.
Contact: Tom Killiam at (202) 482–2704

A–588–015
Japan
Television's
Objection Date: March 31, 1997
Objector: AFL-CIO, et al
Contact: Sheila Forbes at (202) 482–5253

A–401–601
Sweden
Brass Sheet & Strip
Objection Date: March 11, 1997
Objector: Copper & Brass Fabricators Council, Inc.
Contact: Tom Killiam at (202) 482–2704

A–583–803
Taiwan
Light-Walled Welded Rectangular Carbon Steel Tubing
Objection Date: March 25, 1997
Objector: Hannibal Industries, Inc.
Contact: Thomas O. Barlow at (202) 482–0410

A–570–002
The People's Republic of China
Chloropicrin
Objection Date: March 31, 1997
Objector: Niklor Chemical Co., et al
Contact: Andrea Chu at (202) 482–4794

Dated: April 17, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 97–11177 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–808, A–823–808, A–570–849, A–791–804]

Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China (PRC), the Russian Federation, the Republic of South Africa, and Ukraine: Postponement of Preliminary Determination in Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determination of antidumping duty investigation.

SUMMARY: The Department of Commerce (the Department) is postponing the preliminary determination for the investigation on certain cut-to-length carbon steel plate products from the People's Republic of China, the Russian Federation, the Republic of South Africa, and Ukraine. This postponement is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Elizabeth Patience, for companies from the PRC, at 202–482–0190 or 482–0195; for companies from the Russian Federation or Ukraine, contact Nithya Nagarajan or Steven Presing at 482–0193 or 482–0194; for companies from the Republic of South Africa contact Charlie Rast or Robin Gray at 482–5811 or 482–0196; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Postponement of Preliminary Determinations

We have determined that these investigations are extraordinarily complicated within the meaning of section 733(c)(1)(B)(i) of the Act. Among other considerations, there is a large number of respondents, and claims for separate rates will have to be analyzed individually (see Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement to Robert S. LaRussa, Acting Assistant Secretary, Import Administration, April 24, 1997).

Furthermore, we have determined that the parties concerned are cooperating, as required by section 733(c)(1)(B) of the Act, and that additional time is necessary to make these preliminary determinations in accordance with section 733(c)(1)(B)(ii) of the Act. The Department had originally postponed its preliminary determination for 30 days for similar reasons (see 62 FR 14887, March 28, 1997) and is now postponing the preliminary determinations for the 20 remaining days available under 733(c)(1)(B)(ii) of the Act.

For these reasons, the deadline for issuing the preliminary determination in these cases is now no later than June 3, 1997.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: April 25, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement, Group III.

[FR Doc. 97–11175 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Brigham and Womens's Hospital, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated 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 am and 5 pm in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Numbers: 97–002, 97–003 and 97–006. *Applicant:* Brigham and Women's Hospital, Boston, MA 02115. *Instrument:* (3) Digital Sleep Recorders, Model Vitaport 2.

Docket Number: 97–005. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Digital Sleep Recorder, Model Vitaport 2. *Manufacturer:* TEMEC Instruments BV, The Netherlands. *Intended Use:* See notice at 62 FR 8928, February 27, 1997. Reasons: The foreign instrument provides 16-channel digital recording of polysomnographic and other physiological variables using a wireless monitor worn on the waist for studies of sleep and performance of astronauts aboard the Space Shuttle. Advice received from: National Institutes of Health, February 4, 1997.

Docket Number: 97–010. *Applicant:* Stanford University, Stanford, CA 94304–5119. *Instrument:* Ambulatory Recorder, Model Embla. *Manufacturer:* Flaga hF. Medical Service, Iceland.

Intended Use: See notice at 62 FR 8929, February 27, 1997.

Reasons: The foreign instrument provides ambulatory signal processing and recording of physiological measurements with: (1) 1.0 μV noise level at 200 Hz with an input range of ±250 mV, (2) direct measurement of 16 channels of biological signals and (3) user-modifiable control software. Advice received from: National Institutes of Health, March 19, 1997.

The National Institutes of Health advises in its memoranda that: (1) The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument. We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–11172 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Brooklyn College of the City University of New York, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated 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 p.m. in room 4211, US Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 97–004. *Applicant:* Brooklyn College of the City University

of New York, Brooklyn, NY 11210. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 62 FR 8928, February 27, 1997. *Order Date:* August 24, 1994.

Docket Number: 97–018. *Applicant:* Ohio University, Athens, OH 45701. *Instrument:* Electron Microscope, Model JEM–1010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 62 FR 13600, March 21, 1997. *Application accepted by Commissioner of Customs:* February 13, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each 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 either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–11170 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

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 an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is 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, DC 20230. The application may be examined between 8 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 96–109R. *Applicant:* University of Arkansas for Medical Sciences, 4301 W. Markham, Little Rock, AR 72205. *Instrument:* Rapid Kinetics Accessory, Model SFA–20. *Manufacturer:* Hi-Tech Ltd., United Kingdom. *Intended Use:* See the original notice of this resubmitted application which was published in the **Federal Register** of October 30, 1996.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–11169 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Application for Duty-Free Entry of Scientific Instruments: Corrections

In notice document 97–8394 beginning on page 15657 in the issue of Wednesday, April 2, 1997 make the following correction:

On page 15657, in the third column ''Docket Number: 97–922'' should read ''Docket Number: 97–022.''

In notice document 97–7249 appearing on page 13599 in the issue of March 21, 1997 make the following correction:

On page 13599, in the third column ''Docket 96–136. Applicant: University of California, Berkeley'' should read ''Docket Number 96–138. Applicant: University of California, Berkeley.''

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–11171 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Colorado, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated 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 p.m. in Room 4211, US Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–008. *Applicant:* University of Colorado, Boulder, CO 80309–0450. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Micromass, United Kingdom. Intended Use: See notice at 62 FR 8928, February 27, 1997. *Reasons:* The foreign instrument provides: (1) An abundance sensitivity of < 4 ppm for the % contribution of mass 44 to mass 45, (2) resolution of 100 (10% valley definition) and (3) fully automated sample analysis.

Docket Number: 97–009. *Applicant:* Georgia Institute of Technology, Atlanta, GA 30332–0340. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Micromass, United Kingdom. *Intended Use:* See notice at 62 FR 8928, February 27, 1997. *Reasons:* The foreign instrument provides: (1) A magnetic sector analyzer with three Faraday collectors, (2) sensitivity of 1100 molecules of CO_2 per mass 44 ion and (3) an internal precision of 0.02 per mil for 100 bar µl samples of CO_2.

The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–11173 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, Santa Barbara; 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 p.m. in Room 4211, US Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 97–012. *Applicant*: University of California, Santa Barbara, Santa Barbara, CA 91306. *Instrument*: UV Microprobe Laser Ablation System. *Manufacturer*: VG Elemental, United Kingdom. *Intended Use*: See notice at 62 FR 10543, March 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*: This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The National Institutes of Health advises in its memorandum dated March 19, 1997, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–11174 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of North Carolina Coastal Zone Management Programs and the Great Bay National Estuarine Research Reserve in New Hampshire.

The evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document or reserve management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The North Carolina Coastal Zone Management Program site visit will be from June 9–13, 1997. Two public meetings will be held during the week. These meetings are scheduled for 7 pm, June 10, 1997, at the DEHNR Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, NC, and 7 pm, Wednesday, June 11, 1997, at the North Carolina Maritime Museum, 315 Front Street, Beaufort, NC.

The Great Bay National Estuarine Research Reserve in New Hampshire site visit will be from June 2–6, 1997. A public meeting will be on Wednesday, June 4, 1997, from 7–9 pm, at the Sandy Point discovery Center, 89 Depot Road (off of Route 33), Stratham, New Hampshire.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division (PCD), Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, (301) 713–3090, ext. 126.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: April 24, 1997.

David L. Evans,

Acting Deputy Assistant, Administrator for Ocean Services and Coastal Zone.

[FR Doc. 97–11184 Filed 4–29–97; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042197G]

Marine Mammals

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Jim Darling, Box 384, Tofino, B.C., Canada V0R 2Z0, has requested an amendment to Permit No. 987.

DATES: Written comments must be received on or before May 30, 1997.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Permit No. 987 authorizes the permit holder to take (i.e., harass) up to 200 humpback whale (*Megaptera novaeangliae*) in the course of behavioral and photo-identification studies and biopsy sampling, in the waters around the main Hawaiian

Islands, primarily off of Maui, Hawaii, over a period of 2 years. The purpose of the research is to collect genetic information that will, among other things, determine the sex and behavior patterns of individual humpback whales involved in ''singing'' behavior. The permit holder is now requesting that the Permit be amended to authorize: the observation of up to 200 humpback whales annually by the use of remote cameras to (1) observe the activities of individual whales, and (2) to determine if images can be obtained that will allow the length measurement of specific whales; and the observation of up to 1000 humpback whales annually through fixed wing and helicopter flights to measure the length of whales through photogrammetry for the purpose of age estimation and to observe (video/film) behavior patterns.

Dated: April 23, 1997

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–11077 Filed 4–29–97;8:45am]

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 Associated Form: Vehicle Access Application, DD Form X076, OMB Number 0704–0329.

Type of Request: Reinstatement With Change.

Number of Respondents: 300.

Responses per Respondent: 1.

Annual Responses: 300.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 25.

Needs and Uses: The information collection is necessary to control entry into the Pentagon. Respondents are non-DoD personnel who request consideration to enter controlled Pentagon entrances. The information provided by the requester consists of name, social security number, date of birth, race, sex, citizenship, vehicle description and tag number, and justification for entrance. The information is entered into a database maintained by the Parking Management Office. Only the name and vehicle information are accessed by the Defense Protective Service Officers at controlled entry points. The Vehicle Access Application is filled out upon initial request and annually thereafter.

Affected public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

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: April 24, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–11126 Filed 4–29–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent #5,448,842 Entitled Enclosure Sign Device

AGENCY: U.S. Army Communications-Electronics Command.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and section 207 of title 35, United States Code announcement is made of the availability of the U.S. Patent No. 5,448,842 entitled, ''Enclosure Sign Device'' for licensing. The Department of the Army as represented by the Communications-Electronics Command wishes to license the technology described below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this U.S. Patent. This U.S. Patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

ADDRESSES: U.S. Army CECOM RDE Night Vision & Electronic Sensors Directorate, ATTN: AMSEL–RD–NV–OPS, 10221 Burbeck Road, STE 430, Fort Belvoir, VA 22060–5806.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Gordon, Technology Transfer Manager, 703–704–2279, FAX 703–704–1215.

SUPPLEMENTARY INFORMATION: The above mentioned patent describes and claims a safety measure at the entrance to a laboratory/room where access must be limited due to safety reasons. A box is placed around the doorknob at the entrance to the laboratory/room. A hatch door at the front of the box allows access to the doorknob. The hatch door can be left open when equipment is not operating, allowing normal access to the room. However, when a piece of equipment (i.e. laser) is operating, the hatch door (marked on the front with an unmistakable warning) is closed. A latch on the hatch door allows access to the doorknob, but only after unavoidable recognition of the warning. No one can open the door and enter the room without noticing this warning. The device is especially useful when standard procedures prohibit locking the door (i.e. when lasers are operating and only one person is within the room). In an improvement to the current patent, a buzzer sounds whenever the lid is opened while the ''danger'' sign above the door is illuminated.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–11114 Filed 4–29–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Public Meetings on Improving the Free Application for Federal Student Aid (FAFSA)

AGENCY: United States Department of Education.

ACTION: Notice of public meetings.

SUMMARY: The U.S. Department of Education will convene three public meetings to receive comments on its plan to make the Free Application for Federal Student Aid (FAFSA) easier to complete by reducing the overall number of questions on the form, reducing the number of questions that certain families must complete, and simplifying the way those questions are asked. The Department plans to use the revised FAFSA starting with the 1999–2000 award year. The FAFSA is completed by students and their families, and the information submitted

on the FAFSA is used to determine the students' eligibility and financial need for the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, (Title IV, HEA Programs).

FOR FURTHER INFORMATION CONTACT: Jerry Whitlock, by fax at (202) 708–7970 or electronically at jerry__ whitlock@ed.gov.

SUPPLEMENTARY INFORMATION:

Background

Under section 483 of the Higher Education Act of 1965, as amended (HEA), the Secretary is charged, ''in cooperation with agencies and organizations involved in providing student financial assistance,'' to ''produce, distribute and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student under'' the Title IV, HEA Programs. This form is the FAFSA. In addition, section 483 authorizes the Secretary to include on the FAFSA up to eight non-financial data items that would assist States in awarding State student financial assistance.

Over the past several years, the Secretary, in cooperation with the above described agencies and organizations, has added questions to the form. Those questions were added to accommodate the needs of States that administer State student aid programs, and of institutions of higher education that administer the Title IV, HEA Programs. They were also added to facilitate eliminating or reducing the number of State and institutional forms that a student and his or her family must complete in order to receive student financial assistance.

On the other hand, section 478 of the HEA recognized that it was not necessary for certain types of students to complete all the income and asset questions on the FAFSA to have their expected family contributions (EFC) calculated. Thus, under that section, students whose family income is $12,000 or less and were not required to file an IRS Tax Form 1040 are deemed to have a zero EFC. Consequently, these students should have to answer only a limited number of questions on the FAFSA. Moreover, under that section, students whose family income is less than $50,000 and were not required to file an IRS Tax Form 1040 do not have to report asset information.

In the context of re-engineering the FAFSA and looking at each FAFSA question anew, it appears that a great many of the questions now on the form are not needed to determine a student's need and eligibility for Title IV, HEA Program funds. For example, using the 1996–97 and 1997–98 FAFSAs as reference points, a student does not need to complete the following questions in order to have his or her eligibility and need for Title IV, HEA Program funds determined: 11–14, 18, 20–39, 50, 53–54, 65–66, and 92–105.

Moreover, it appears that many of these questions are of a marginal value, even for State and institutional purposes, and it further appears that the FAFSA does not fully accommodate those students who did not have to fully answer all the questions on the form. Finally, the Department has found that many individuals who complete the form find it difficult to understand and confusing and burdensome to complete.

To assist in reconciling potential conflicting purposes of forms reduction, form simplification, and burden reduction, the Department would appreciate receiving comments that address the following issues:

- To what extent should the FAFSA be viewed as the vehicle to collect information over and above the information needed to determine a student's eligibility and financial need for Title IV, HEA Program funds?
- To what extent should the FAFSA be used to accommodate the additional information needs of States and institutions of higher education?
- What guidelines should the Department use when adding or deleting data elements on the FAFSA? How should the need for data be balanced against the complexity and burden that may result from collecting additional information?
- How much of the current difficulty in completing the FAFSA results from the design/format of the FAFSA, the number of questions, the way the questions are asked, and the length or phrasing of the instructions?

The dates and locations of the three public meetings at which these issues will be discussed appear below. Each is scheduled from 10 a.m. to 1 p.m. Individuals who wish to make oral statements should be prepared to limit their remarks to five minutes if the number of speakers will not allow longer presentations. The Department encourages all participants to submit written statements.

Dates, Locations, and Contact Persons for the Public Meetings

Meeting One

Date: Friday, May 2, 1997.

Address: John Jay College of Criminal Justice, Room 200, 899—10th Avenue, New York, New York, 10019.

For Further Information Contact: George Chin or Phil Friedman at (212) 290–5700.

Meeting Two

Date: Monday, May 12, 1997.

Address: Manchester Conference Center, Room 206A, University of San Diego, 5998 Alcala Park, San Diego, California.

For Further Information Contact: Sister Dale Brown at (619) 260–2235.

Meeting Three

Date: Friday, June 6, 1997.

Address: J.C. Penney Building, Room 101, University for Missouri-St. Louis, 8001 Natural Bridge Road, St. Louis, Missouri.

For Further Information Contact: Jerry Joseph at (314) 516–6397.

Any person who is unable to attend any meeting but wishes to submit written comments on the FAFSA may do so by sending those comments to: Patrick Sherrill, Information Management Team, U.S. Department of Education, 600 Independence Ave. SW, Washington, D.C., 20202–4651. You may fax your written comments on the FAFSA to Mr. Sherrill at (202) 708–9346 or send them electronically to pat__ sherrill@ed.gov.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–11270 Filed 4–29–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Strategic Petroleum Reserve; Opportunity for Public Comment

AGENCY: Department of Energy, Fossil Energy, Office of Strategic Petroleum Reserve.

ACTION: Opportunity for Public Comment on Strategic Petroleum Reserve Policy.

SUMMARY: In preparation for the issuance of an Administration Statement of Policy concerning the capacity, size, use, and financing, among other issues, of the Strategic Petroleum Reserve, the Department of Energy, Office of Strategic Petroleum Reserve, extends this opportunity for interested persons to submit written comments. All submissions in response to this notice will be made available to the public.

DATES: Interested persons are invited to submit written comments at the address below by June 16, 1997.

ADDRESSES: Mr. Richard D. Furiga, Deputy Assistant Secretary, Strategic

Petroleum Reserve, FE–40, Room 3G–024 1000 Independence Ave. S.W., Washington, D.C. 20585.

Comments may also be submitted by use of the Internet by linking to the DOE Fossil Energy web site at: http://www.fe.doe.gov/spr.html

Requests for further information may be addressed to: Mr. John D. Shages, Strategic Petroleum Reserve, FE–432, Room 3G–052 1000 Independence Ave. S.W., Washington, D.C. 20585, Phone: (202) 586–1533, Fax: (202) 586–0835, Internet: john.shages@hq.doe.gov

Opportunity for Public Comment

As a result of changes in the overall energy environment that have occurred since initial authorization of the Strategic Petroleum Reserve (the Reserve) in 1975 and creation of the International Energy Agency (IEA) in 1974, and agreement by the Department's witness before the Senate Energy and Natural Resources Committee on May 15, 1996, that a Statement of Administration Policy on the Reserve would be prepared, the Department intends to prepare, on behalf of the Administration, a statement of policy addressing fundamental issues affecting the future of the Reserve. As an initial step in the development of the Reserve Policy Statement, the Department solicits the views of all interested persons on the issues listed below. After compilation of the public comments, the Administration will conduct an Interagency review of the issues, and develop positions on the major issues of the capacity and inventory of the Reserve, which will be a touchstone for decisions regarding the Reserve, including proposals to use the Reserve's inventory for purposes other than energy supply shortages, interruptions, and international obligations.

Background on U.S. Oil Emergency Response Policy

Creation of the International Energy Agency and the Strategic Petroleum Reserve

Following the 1973 Arab oil embargo, the United States determined that its vital foreign policy, national security, and economic interests were threatened by our dependence on imported oil and the possibility of recurring severe supply disruptions. As a result, in 1975 the Energy Policy and Conservation Act, Public Law 94–163 (the Act), was enacted, authorizing both American participation in the IEA and creation of the Reserve.

It was intended at the time that the Reserve would serve several functions. It would protect the national economy by providing the capability to supplement oil supplies in the event of disruptions due to political, military, or natural causes. It also would sustain U.S. foreign policy objectives, especially in the Middle East, by providing the President the freedom to take action free of concern for essential oil supplies. The Reserve would provide U.S. military forces with a secure source of oil supplies in a crisis. It would also be a deterrent to countries or parties that might seek political gain by intentionally disrupting world oil exports.

The Reserve also was intended to fulfill a U.S. international obligation. Under U.S. leadership, and drawn together by a common interest in maintaining secure oil supplies, 12 industrialized nations met in Washington in February 1974 to begin a process that would lead to the signing of an Agreement on an International Energy Program. This was the charter of the IEA, which today has 23 members. The member nations of the IEA agree to take common effective measures to develop emergency self-sufficiency in oil supplies and to cooperate in a crisis. Each member of the IEA commits to maintaining the equivalent of 90 days of net oil imports as an emergency reserve. Throughout its 22 year history, the United States has been the IEA's foremost advocate of building and maintaining strategic oil stocks. In establishing the Reserve, it was a U.S. goal to lead by example, setting a high standard for others to follow.

At its origin, the IEA adopted an emergency system based on allocation of available supplies among the oil importing countries. Since then the United States has gained experience with the difficulties and negative consequences of price and allocation regulations, and the Reserve has moved from being merely a plan, to becoming a viable petroleum stockpile. With time, the U.S. position has evolved to aggressively advocate use of free markets even in a disruption. The existence of the Reserve lends credibility to urging by the U.S. to the other member countries that the most efficient response to an emergency would be to allow markets to balance supply and demand.

In order to formalize this position, the United States enunciated a policy, in the event of an emergency or shortage, to rely on market forces to allocate supply, and to ordinarily supplement supply by the early drawdown of the Reserve in large volumes and in coordination with our allies and trading partners. This policy recognizes that the best way to dampen the price increase associated with an emergency, and mitigate the economic impact resulting from a significant disruption, is to inject additional supplies into the market in a timely manner. It is the U.S. position that the member countries of the IEA, acting in concert, can leverage the impact of their collective actions well beyond the mitigating impacts of independent action by each state acting alone.

The Strategic Petroleum Reserve Structure

The Act authorized a Reserve up to one billion barrels and provided for a range of policy options such as storage of refined products in regional reserves. The Act also required that the Executive Branch prepare a comprehensive plan for the Reserve that required approval of the Congress, and that substantial changes to the plan be formalized as amendments. The plan was submitted, approved, and implemented. The Reserve, as planned, consists of crude oil stored in salt caverns located on the Gulf Coast. That configuration allows the lowest construction, maintenance, and operations costs; the greatest logistical flexibility; and the lowest cost for procuring and storing petroleum.

Today the Reserve is composed of five oil storage sites with surface facilities consisting of pipes, pumps, motors, meters, and other equipment typical of oil storage facilities. Two of the sites are in Texas and three in Louisiana, with a Project Management Office located in New Orleans. The oil is stored below ground in caverns created within salt domes. The total capacity of the caverns is 750 million barrels, but is being reduced to 680 million barrels by the decommissioning of the Weeks Island, Louisiana, storage site due to structural instability. The peak oil inventory in the Reserve was 592 million barrels during the period July 1994–March 1996. Approximately 18 million barrels of oil were sold in fiscal year 1996, leaving the inventory of the Reserve at 574 million barrels of which one-third is low sulfur (sweet) and two-thirds high sulfur (sour). During fiscal year 1997, the Reserve sold another 10 million barrels of mostly sour oil, to raise $220 million in satisfaction of appropriation law requirements. The resulting current inventory is approximately 564 million barrels of oil.

Strategic Petroleum Reserve Drawdown

The Act provides the President wide latitude to anticipate and react to events that are of an emergency nature, cause petroleum prices to rise, adversely impact the national economy and safety,

or trigger United States international obligations. The authority of the President to drawdown the Reserve may not be delegated. Once the President makes a finding of an interruption, shortage, or determines that drawdown is necessary to meet United States obligations under the International Energy Program, the Secretary of Energy has discretion as to the volume and type of oil to draw down, and the administration of sales is preplanned, including periodic exercises. The Secretary also has discretion to draw down and sell up to 5 million barrels of oil to test the distribution systems for oil sales. In fiscal year 1986 Congress directed the Secretary to use the test sale authority to conduct a sale of one million barrels. The Secretary also used the test sale authority in 1990 after the invasion of Kuwait by Iraq. There has been only one Presidentially directed drawdown, in January 1991. The United States, simultaneously with commencement of the air war against Iraq, and following activation by the IEA of its coordinated emergency response contingency plan for the Desert Storm war, offered for sale 33 million barrels of oil, and after consideration of the bids, actually sold and delivered 17 million barrels of crude. Whenever Reserve oil is offered for sale, the volume, type, and location of the oil is announced in a Notice of Sale. Awards are made to qualified bidders solely on the basis of price and the availability of drawdown and distribution facilities.

Public versus Private Reserves:

The obligation of the United States to the IEA is to store the equivalent of 90 days of net imports by a combination of Government owned reserves and private reserves. While the Government's Strategic Petroleum Reserve at one time equated to 118 days of net imports, increasing imports, a hiatus in oil acquisition, and the non-emergency sales conducted during FY 1996 and 1997 reduced the days of net import equivalency to 67 by December 1996. Although the United States has urged other members to build government-owned stocks and to move away from the regulation of industry, the United States currently satisfies its obligation by virtue of private inventories even though those stocks are not controlled by the Government for strategic purposes.

Primary Issues

1. Should the United States Continue to Maintain the Strategic Petroleum Reserve?

The International Energy Agency (IEA) and the Reserve were created in response to the market power of the Arab Organization of Petroleum Exporting Countries, as demonstrated by the international embargo and price increase of 1973–74. Since then, the geographical location of the world's oil reserves, production, and exports have become more diverse. Regardless of their causes, recent price increases appear to be self correcting by attracting increased supply.

In addition, the existence of Government owned strategic reserves may dampen or eliminate incentives for private industry to carry inventories in excess of immediate operational needs. Within the context of this question the Department solicits views on private sector inventory behavior and the private sector's likely inventory response to decommissioning the Reserve.

The cost of the Reserve is approximately $200 million per year for operations, maintenance, construction, and management, exclusive of any costs of acquiring oil. The Reserve is currently in the fourth year of a seven year Life Extension Program to extend the useful operating life of all critical Reserve systems to the year 2025. After completion of the Life Extension (construction) projects, the annual budget for operations, maintenance, and management of the Reserve will be approximately $150 million per year. The United States is unique among oil stockpiling countries in assigning all of the cost of the Reserve to the general taxpayer. Most other stockpiling countries partially shift the cost burden to the oil industry by requiring that their oil companies maintain inventories in excess of working needs. The Energy Policy and Conservation Act (the Act) provides authority to the Secretary of Energy to require private companies to create an Industrial Petroleum Reserve. If it is desirable to maintain a Reserve, the Department solicits views on whether the Government should privatize the management and cost of strategic stockpiling. Alternatively, if the Government continues to manage the nation's oil stockpiles, the Department solicits views on whether the cost should be borne by oil importers, refiners, or consumers rather than the general public.

2. What Should be the Size and Composition of the Reserve Facilities and Oil Inventory?

The United States' international obligation (under the Agreement on an International Energy Program) is, as a Nation, to maintain petroleum stocks equal to 90 days of net imports. Based on calculations by the International Energy Agency in the Spring of 1996, the United States has 157 days of imports, approximately 74 of which are provided by the Reserve. The remainder are private inventories that are calculated by the International Energy Agency to be stocks available during an emergency. However, the Federal Government has no control over these private stocks.

As of November 1, 1996, the Reserve had an effective capacity of 680 million barrels, and an inventory of 571 million barrels of crude oil. After completion of the sales directed by the FY 1997 appropriations act, the Reserve will have an inventory of approximately 564 million barrels of oil. The Act authorizes a Reserve of up to 1 billion barrels, and had an initial target of 90 days of net imports.

The Strategic Petroleum Reserve Plan, which contains the configuration of the Reserve, provides only for crude oil storage. Although regional, refined product storage was authorized in the Act, the Strategic Petroleum Reserve Plan concluded that centralized crude oil storage was preferrable both in the interests of cost reduction and in the belief that crude oil is the most flexible form of petroleum for responding to emergencies. In addition to questions regarding size and inventory, the Department solicits views on (1) whether the philosophy of private inventory managers of refined products regarding stock maintenance has changed permanently within the last few years, (2) whether other circumstances that bear on the analysis of regional and refined product storage have changed with time, and (3) the option of storing refined products either centrally or regionally.

In 1990, the Reserve capacity reached 750 million barrels. However, due to geologic instability the Department is decommissioning the Weeks Island, Louisiana site and its 70 million barrels of capacity. In 1992, the Act was amended to require the Administration to prepare an amendment to the Strategic Petroleum Reserve Plan for an expansion of the Reserve to one billion barrels. The Administration has postponed submitting this amendment to reflect the reality that the inventory of the Reserve is not increasing, and in

1994 and 1995 proposed an amendment to the Act that would require the preparation of its expansion plan only when it becomes likely that funding sufficient to fill the existing Reserve facilities becomes available.

The Act also requires that inventory be added to the Reserve at the rate of 75,000 barrels of oil per day. This requirement has been waived for many years in annual appropriations acts, and the volume of crude oil acquired has been determined by the spending limits contained in that legislation.

If desired, additional crude oil storage capacity could be added to the existing Big Hill and Bayou Choctaw sites. By using the existing infrastructure, approximately 100 million barrels could be added at those sites at an incremental site development cost of approximately $2.00 per barrel. If expansion were desired above 750 million barrels, a new site(s) would be required and the cost would be approximately $5.00 per barrel. Creation of a new salt dome storage site, requiring a National Environmental Policy Act review process for site selection, land acquisition, construction, and leaching would require approximately nine years.

3. How Should Reserve Oil be Distributed?

The Department maintains the Reserve in a state of readiness that allows for delivering oil within 15 days of notice to the field office to proceed. The primary means of distributing oil is by competitive sale, i.e., oil is sold to the highest responsible bidders. The bids are made in response to an offer of specific types and volumes of oil available at each Reserve location. The basic terms and conditions of a competitive sale are available in a document titled, ''Standard Sales Provisions.'' The bidders must accept all terms and conditions of the offer, and bid only on price, volume, location, delivery mode, and delivery date. The current Reserve Drawdown and Distribution Plan provides the Secretary of Energy with the option to direct sales of up to 10 percent of the oil to be sold by means other than competitive bid, although the Strategic Petroleum Reserve Office has no plans to implement the allocation authority.

4. What Should be the Drawdown and Distribution Capability for the Reserve?

In the initial 1976 Strategic Petroleum Reserve Plan for a 500 million barrel Reserve, drawdown and distribution capability was designed to equal 60 percent of daily imports, implying a drawdown rate of 3.3 million barrels per day and complete drawdown of the Reserve in 150 days. When the planned size of the Reserve increased to 750 million barrels, the initial drawdown and distribution rate was increased to 4.5 million barrels per day, which in 1990 was equal to 63 percent of imports. If the Reserve were expanded to one billion barrels with a drawdown and distribution capability of 6.0 million barrels per day, that capability would be the equivalent of 60 percent of projected imports in the year 2000. Due to decommissioning the Weeks Island site, drawdown and distribution capability will be reduced to 3.9 million barrels per day, although the rate eventually will be restored to 4.5 million as part of the Reserve's Life Extension Program. The drawdown and distribution rate of 4.5 million barrels per day will decline as a percentage of net imports as imports rise. In the years 2000, 2005, and 2010, the percentage will be 45%, 39%, and 38% respectively, based upon projections by the Energy Information Administration.

5. What Is an Appropriate Policy for Revenue Raising Sales From the Reserve?

Under the Act, the oil in the Strategic Petroleum Reserve may only be drawn down in the event of a Presidential finding of a shortage, interruption, or international obligation, with the exception of limited test sales. Aside from test sales (after which the Reserve is required by the Act to replace the oil sold), the Department has advocated a non-emergency sale only once, in FY 1996, to fund the cost of decommissioning the Weeks Island site. However, beginning in 1992, Congress has applied outlay caps to the funds available for oil acquisition, thereby severely limiting oil purchases and making those funds subject to transfer for other purposes. In addition, the Administration agreed with Congress on a deficit reduction sale of $227 million worth of oil in FY 1996, and an additional sale of $220 million worth of oil in FY 1997. These proposals, which lower the level of oil inventory in the Reserve, are in conflict with the provisions of the Act, discussed above, which require plans for oil fill and facility expansion. The Department of Energy has also advised against any further sales of oil for revenue generation purposes.

6. Should the Reserve's Facilities Be Available for Alternative Uses?

Initially the Reserve facilities are exclusively dedicated to the storage and distribution of Government-owned oil. However, the surface pipelines and docking facilities which were built by the Government in conjunction with the storage sites could be used by the private sector. The Act provides authority for the Department to ''use, lease, maintain, sell or otherwise dispose of storage and related facilities.'' Beginning in 1994, the Department proposed a ''commercialization'' program to lease or sell its underutilized or idle distribution pipelines and marine terminaling facilities for commercial crude oil operations, while retaining priority use of these facilities to distribute Reserve crude oil in the event of a national emergency. In October 1996, the Reserve leased the St. James terminal and the Bayou Choctaw pipeline, and sold the Weeks Island pipeline. The Department expects the commercialization program to reduce the maintenance costs of the Reserve by transferring those costs to the lessees, generate revenue from unutilized facilities, and assist industry.

The Department's current policy regarding commercialization is to lease or sell the off-site facilities provided that their capabilities are maintained and available to the Reserve in the event of a drawdown. The Department would also be willing to lease certain on-site facilities that may, in the future, be attractive as lease candidates.

The Reserve also has almost 100 million barrels of underutilized storage capacity. Other member countries of the International Energy Agency and non-member countries need capacity to store their oil, and the United States could lease the underutilized space to those countries. In 1995, the Administration proposed a lease program to the other member countries of the International Energy Agency. The Administration's policy is to explore the possibility of leasing storage capacity to foreign countries in order to generate revenues, preserve Reserve capacity for future use, and to promote stockpiling by other nations.

7. Should the Reserve Attempt To Raise Funds Through Alternative Financing, Innovative Financial Instruments, or Buying and Selling Inventory?

Part C of the Act authorizes the acquisition of oil for the Reserve that would remain the property of another person provided the Government controls the drawdown of the oil. This authority was added to the Act in 1990, in hopes of reducing carrying costs of the oil in inventory. Since passage of the legislation the Department has not had any success at ''leasing'' or otherwise acquiring alternatively financed oil, and in recent years has abandoned the initiative due the overall budget

situation. Nevertheless, the Department is willing to store non-Government oil for long-term storage in the Reserve if oil acquisition is resumed. The Department solicits views on the use of alternative financing for oil acquisition.

The Department also solicits views on the use of financial options, futures and other financial instruments. The Department would have to become active in the oil markets if it wished to sell options for the purchase and sale of Reserve oil. The intent of this activity would be to generate funds for the Government and provide an automatic mechanism for the release of oil. Additionally, the oil industry could be provided a hedging instrument backed by oil. The Administration has not taken a position on whether Reserve oil should be offered for trade on public markets.

In addition, the Department seeks views on whether it should sell and repurchase Reserve inventories on a continuous basis to take financial advantage of market anomalies, such as high current prices and low future prices.

The operating, maintenance and management expenses of the Reserve are approximately $200 million per year currently, and are expected to decline to approximately $150 million per year over time. The Department seeks views on other alternatives for funding these expenses other than appropriations from general revenues.

Issued in Washington, D.C. on April 24, 1997.

Robert S. Kripowicz,

Principal Deputy Assistant Secretary, Fossil Energy.

[FR Doc. 97–11146 Filed 4–29–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1630–000]

Brennan Power Inc.; Notice of Issuance of Order

April 25, 1997.

Brennan Power Inc. (Brennan) submitted for filing a rate schedule under which Brennan will engage in wholesale electric power and energy transactions as a marketer. Brennan also requested waiver of various Commission regulations. In particular, Brennan requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Brennan.

On April 9, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Brennan should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Brennan is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security or another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Brennan's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 9, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11179 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1968–000]

Colonial Energy, Inc.; Notice of Issuance of Order

April 25, 1997.

Colonial Energy, Inc. (Colonial) submitted for filing a rate schedule under which Colonial will engage in wholesale electric power and energy transactions as a marketer. Colonial also requested waiver of various Commission regulations. In particular, Colonial requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Colonial.

On April 9, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Colonial 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 385.214).

Absent a request for hearing within this period, Colonial is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Colonial's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 9, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11180 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–279–001]

Gasdel Pipeline System, Inc.; Notice of Motion To Withdraw Tariff Sheet of Gasdel Pipeline System, Inc.

April 24, 1997.

Take notice that on April 21, 1997, Gasdel Pipeline System, Inc. (Gasdel) filed a motion to withdraw Origin Tariff Sheet No. 45, Index of Customers, from its FERC Gas Tariff, First Revised Volume No. 1–A, filed as part of Gasdel's Order No. 582 compliance filing in Docket No. RP97–279–000 on March 5, 1997.

In lieu of filing a revised Index of Customers pursuant to a March 31, 1997 letter order issued by the Acting Director of the Office of Pipeline Regulation, Gasdel seeks permission to withdraw Original Tariff Sheet No. 45, Index of Customers, because Gasdel has only interruptible transportation customers on its system, and Section 154.111(b) of the Commission's regulations only requires pipelines to include in their Index of Customers a list of pipelines' firm transportation customers.

Any person desiring to protest this motion should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11098 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–52–000]

GPU International Asia, Inc., Notice of Application for Commission Determination of Exempt Wholesale Generator Status

April 24, 1997.

On April 10, 1997, GPU International Asia, Inc. (GPUI Asia) of One Upper Pond Road, Parsippany, New Jersey, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

According to its application, GPUI Asia, a Delaware corporation, was formed to operate a 300 megawatt pulverized coal-fired power plant to be located south of Manila, the Philippines, which will be an eligible facility as defined in the Public Utility Holding Company Act of 1935. All of the electric energy produced by the Facility will be sold at wholesale to Manila Electric Company or to other utilities located in the Philippines.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with 18 CFR 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 5, 1997 and must be served on the applicant. 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. 97–11095 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–53–000]

GPU Power Philippines, Inc., Notice of Application for Commission Determination of Exempt Wholesale Generator Status

April 24, 1997.

On April 10, 1997, GPU Power Philippines, Inc. (GPU Power Philippines) of One Upper Pond Road, Parsippany, New Jersey, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it is a Delaware corporation which was formed to acquire not less than a 5% indirect ownership interest in a 300 megawatt pulverized coal-fired power plant to be located south of Manila, the Philippines, which will be an eligible facility as defined in the Public Utility Holding Company Act of 1935. Applicant further states that all of the electric energy produced by the facility will be sold at wholesale to Manila Electric Company or to other utilities located in the Philippines.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with 18 CFR 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 5, 1997 and must be served on the applicant. 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. 97–11096 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–51–000]

GPU Power, Inc.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

April 24, 1997.

On April 10, 1997, GPU Power, Inc. (GPU Power) of One Upper Pond Road, Parsippany, New Jersey, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant through its wholly-owned subsidiaries, GPU Power Philippines, Inc. and GPU International Asia, Inc., states that it intends to (i) acquire not less than a 5% voting equity interest in a 300 megawatt pulverized coal-fired power plant to be located south of Manila, Philippines (the Facility) and (ii) to operate the Facility. All electricity produced by the Facility will be sold at wholesale to Manila Electric Company or to other utilities located in the Philippines.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 5, 1997 and must be served on the applicant. 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. 97–11094 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–335–000]

Pacific Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 24, 1997.

Take notice that on April 21, 1997, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A: Second Revised Sheet No. 68. PGT requested the above-referenced tariff sheet become effective May 22, 1997.

PGT asserts that the purpose of this filing is to revise the open season bidding mechanism in Paragraph 18.1 of the General Terms and Conditions to make this mechanism more responsive to existing market conditions by providing biding periods of less than five business days for firm capacity that is available for less than one year. PGT states no change to the existing five-day bidding period for firm capacity that is available for one year or more is proposed. PGT further states the tariff sheet corrects a typographical error.

PGT further states that a copy of this filing has been served on PGT's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motion or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11099 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–29–001]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

April 24, 1997.

Take notice that on April 21, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective April 10, 1997:

Sub First Revised Sheet No. 273
Sub Original Sheet No. 273A

Panhandle asserts that the purpose of this filing is to comply with the Commission's Order Following Technical Conference issued on April 9, 1997 in Docket No. RP97–29–000 to reflect the required modifications to Section 13 of the General Terms and Conditions, Policy For Construction of New Receipt or Delivery Facilities.

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 97–11097 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–870–000]

Sunoco Power Marketing L.L.C.; Notice of Issuance of Order

April 25, 1997.

Sunoco Power Marketing L.L.C. (Sunoco Marketing) submitted for filing a rate schedule under which Sunoco Marketing will engage in wholesale electric power and energy transactions as a marketer. Sunoco Marketing also requested waiver of various Commission regulations. In particular, Sunoco Marketing requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Sunoco Marketing.

On April 11, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Sunoco Marketing 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 385.214).

Absent a request for hearing within this period, Sunoco Marketing is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Sunoco Marketing's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 12, 1997. Copies of the full text of the order are available from the Commission's

Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11178 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–336–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 24, 1997.

Take notice that on April 21, 1997, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective June 1, 1997.

Trailblazer states that the purpose of this filing is to implement a negotiated rate provision in its tariff consistent with the Federal Energy Regulatory Commission's (Commission) ''Statement of Policy and Request for Comments'' issued January 31, 1996 in Docket Nos. RM95–6 and RM96–7.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective June 1, 1997.

Trailblazer states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11100 Filed 4–29–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces proposed procedures for disbursement of $2,380,290 (plus accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Crude Oil Purchasing, Incorporated (Case No. LEF–0058), Jaguar Petroleum, Incorporated (Case No. LEF–0059), Westport Energy Corporation/Westport Petroleum Corporation (Case No. LEF–0113), and Gratex Corporation/Compton Corporation (Case No. VEF–0012). The OHA has tentatively determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Comments must be filed in duplicate within 30 days of the date of publication in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0107. All comments shall refer to the case number or numbers referred to above.

FOR FURTHER INFORMATION CONTACT: Bryan F. MacPherson, Assistant Director, Office of Hearings and Appeals, Washington, DC 20585–0107, (202) 426–1571.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision and Order sets forth procedures that the DOE has proposed to use to distribute a total of $2,380,290, plus accrued interest, remitted to the DOE by (1) Crude Oil Purchasing, Incorporated, (2) Jaguar Petroleum, Incorporated, (3) Westport Energy Corporation & Westport Petroleum Corporation, and (4) Gratex Corporation/Compton Corporation. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA proposes to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge moneys are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury. Because the June 30, 1995, deadline for the crude oil refund applications has passed, no new applications from purchasers of refined petroleum products will be accepted.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication of this notice in the **Federal Register** and should be sent to the address provided at the beginning of the notice. All comments received will be available for public inspection between the hours of 1 pm and 5 pm, Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585–0107.

Dated: April 22, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

April 22, 1997.

Implementation of Special Refund Procedures

Names of Firms: Crude Oil Purchasing, Incorporated; Jaguar Petroleum, Incorporated; Westport Energy Corporation & Westport Petroleum Corporation; Gratex Corporation/Compton Corporation.

Dates of Filings: July 20, 1993; July 20, 1993; September 9, 1993; March 23, 1995.

Case Numbers: LEF–0058; LEF–0059; LEF–0113; VEF–0012.

The Economic Regulatory Administration (ERA) of the Department of Energy filed four Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) to distribute funds remitted to the DOE pursuant to settlements between Crude Oil Purchasing, Incorporated (COP), Jaguar Petroleum, Incorporated (Jaguar), Westport Energy Corporation & Westport Petroleum Corporation (Westport), Gratex Corporation and its parent, Compton Corporation (Gratex/Compton). A total of $2,380,290, plus interest, is available for restitution. All of these funds are now being held in interest-bearing escrow accounts pending a

determination regarding their proper disposition.

In accordance with the procedural regulations codified at 10 CFR Part 205, Subpart V, the ERA requests in its Petitions that the OHA establish special refund procedures to remedy the effects of any regulatory violations which were resolved by these settlements. This Proposed Decision and Order sets forth the OHA's proposed plan to distribute these funds.[1]

I. Background

On September 21, 1982, DOE and COP entered into a Consent Order which resolved all pending or potential claims that DOE had or may have against COP relating to COP's compliance with the federal petroleum price and allocation regulations during the period from January 1, 1973 to January 27, 1981. There is a total of $93,750, plus interest, available from COP for restitution.

On May 31, 1983, DOE and Jaguar entered into a Consent Order which resolved all pending or potential claims that DOE had or may have against Jaguar relating to Jaguar's compliance with the federal petroleum price and allocation regulations during the period from November 14, 1979 to January 27, 1981. There is a total of $64,500, plus interest, available from Jaguar for restitution.

On May 11, 1983, the ERA issued a Proposed Remedial Order (PRO) to Westport alleging overcharges in the resale of crude oil during the period from June 1980 to November 1980. OHA dismissed this PRO after Westport was discharged in bankruptcy and DOE was entitled to receive payments under the bankruptcy reorganization plan. Under Westport's Second Amended Liquidating Plan of Reorganization, approved by the US Bankruptcy Court for the District of Colorado on July 30, 1986, Westport was required to make payments to DOE, and OHA was directed to distribute to the Westport escrow account 35% of any refunds that it granted to Westport in other refund proceedings. Thus far, DOE has collected a total of $126,172 from Westport. That amount, plus interest, is available for restitution.

ERA filed claims in the bankruptcy cases of Gratex and Compton alleging overcharges in the resale of crude oil during the period from December 1978 to December 1980. On April 27, 1984, ERA issued a PRO to Gratex and Compton based on these same facts. On October 18, 1988, the United States Bankruptcy Court for the Northern District of Texas approved a Compromise Agreement in the Gratex proceeding which obligated Gratex to pay DOE a lump sum plus a percentage of future distributions made to unsecured creditors. In 1992, the United States Bankruptcy Court for the Northern District of Texas approved a compromise agreement in the Compton proceeding. Thus far, Gratex and Compton have paid to the DOE the sum of $2,095,868. This amount, plus interest, is available for restitution.

[1] For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see* Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. §§ 4501–07, *Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

II. The Proposed Refund Procedure

As each of these petitions concern only violations of the regulations governing the sale of crude oil, we propose to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP has been used as the basis for the distribution of all crude oil funds in Subpart V proceedings. *See* Order Implementing the MSRP, 51 FR 29689 (August 20, 1986); Notice regarding the Order Implementing the MSRP, 52 FR 11737 (April 10, 1987).

The MSRP was issued as a result of a court-approved Settlement Agreement. *In re: The Department of Energy Stripper Well Exemption Litigation,* 653 F. Supp. 108 (D. Kan. 1986) (the Stripper Well Settlement Agreement). The MSRP establishes that 40 percent of the crude oil funds will be remitted to the federal government, another 40 percent to the states, and up to 20 percent may be initially reserved for payment of claims to injured parties. The MSRP also specifies that any monies remaining after all valid claims by injured purchasers are paid be disbursed to the federal government and the states in equal amounts.

We propose to distribute the funds remitted by COP, Jaguar, Westport, and Gratex/Compton in accordance with the MSRP. Accordingly, we propose to initially reserve 20 percent of these funds for direct refunds to claimants.[2] We propose that the remaining 80 percent of the funds collected from these firms shall be disbursed in equal shares to the states and the federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines ¶ 90,509 at 90,687. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement. If additional funds are subsequently collected from these firms after the issuance of this Decision and Order, such funds shall be distributed in the same manner.

It is therefore ordered that: The refund amounts remitted to the Department of Energy by (1) Crude Oil Purchasing, Incorporated, pursuant to the Consent Order which became effective on September 21, 1982, (2) Jaguar Petroleum, Incorporated, pursuant to the Consent Order which became effective on May 31, 1983, (3) Westport Petroleum Corporation & Westport Energy Corporation, pursuant to the Second Amended Plan of Reorganization confirmed on July 30, 1986, by the U.S. Bankruptcy Court for the District of Colorado, and (4) Gratex Corporation and its parent, Compton Corporation, pursuant to the compromise agreements in the Gratex and Compton bankruptcy

[2] It is no longer possible to file an Application for Refund from the crude oil funds as the final deadline for such Applications was June 30, 1995. *See* 60 FR 19914 (April 21, 1995). A party that submitted a timely claim in the crude oil refund proceeding need not file another claim in order to share in the funds at issue in this Decision. OHA is currently paying crude oil refund claims at the rate of $0.0016 per gallon. We will decide whether sufficient crude oil overcharge funds are available for additional refunds when we are better able to determine how much additional money will be collected from firms that have either outstanding obligations to the DOE or enforcement cases currently in litigation.

[FR Doc. 97–11145 Filed 4–29–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5819–2]

Agency Information Collection Activities up for Renewal; Collection of Economic and Regulatory Impact Support Data Under RCRA ICR No. 1641.01

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Collection of Economic and Regulatory Impact Support Data Under RCRA: Request for Generic Clearance 1641.01, OMB Control Number 2050–0136, expiration date 10/31/97. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia Washington at EPA, (703) 308–0497, and refer to EPA ICR No. 1641.01.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which are classified as hazardous waste generators, scientist, industry experts, and treatment storage and disposal facilities.

Title: Collection of Economic and Regulatory Support Data Under RCRA (OMB Control No. 2050–0136; EPA ICR No.1641.01) expiring 10/31/97 .

Abstract: EPA's Office of Solid Waste (OSW) is requesting approval for a generic clearance to collect economic and regulatory impact data through surveys, interviews, or focus group meetings with industry or other parties in support of the Resource Conservation

and Recovery Act (RCRA) rulemaking actions. RCRA, as amended by the Hazardous and Solid Waste Amendments, requires EPA to establish a national regulatory program to ensure that hazardous waste is managed in a manner protective of human health and the environment. EPA is authorized under section 2002 and 3007 of RCRA to collect information from industry and other parties when necessary to carry out its regulatory responsibilities. The information collected will be used to assess the costs and benefits of various potential regulatory and nonregulatory actions. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. Executive Order 12866 specifies that all administrative decisions shall be based on adequate information concerning the need for and consequences of prosed government action. To this end, Executive Order No. 12866 requires the preparation and evaluation of an assessment of costs and benefits for all proposed regulatory actions determined to be significant. This generic clearance simplifies the authorization process to develop and administer surveys, interviews and focus group meetings and provides OSW with the flexibility needed to conduct information collection in a rapid and efficient manner. An important element in preparing an Economic Impact Analysis (EIA) may include the administration of surveys, interview and focus group meetings to obtain data from the regulated community and other interested parties. OSW often needs to collect such information and perform analysis over a short time frame. It is for this reason that the Agency is currently requesting renewal of this Information Collection Request (ICR).

The EPA would like to solicit 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 estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) 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.

Burden Statement: The public reporting burden for this generic collection is estimated to average 13.5 hours per response. This estimate includes all aspects of the information collection including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Estimated Number of Respondents: 1000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 15,000 hours.

Frequency of Collection: On Occasion.

Dated: April 2, 1997.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 97–11160 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5819–7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request for Customer Satisfaction Surveys

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Information Collection Request for Customer Satisfaction Surveys. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 1, 1997. They may be sent via electronic mail to bonner.patricia@epamail.epa.gov.

ADDRESSES: USEPA, Office of Policy, Planning & Evaluation, OSPED/IO, 401 M Street SW, Washington, D.C. 20460. Copies of the ICR may be obtained by calling: 202–260–0599; requesting by fax to 202–260–0275, and may be accessed electronically via Internet [http://www.epa.gov/oppe on the World Wide Web].

FOR FURTHER INFORMATION CONTACT: Patricia Bonner, telephone: 202–260–0599; fax 202–260–0275.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which telephone, write to or electronically request information from the Agency; apply for permits, pesticide registration or grants; are or become partners with the Agency in pollution prevention; participate in an enforcement, compliance assistance or rulemaking activity; or receive other Agency services or training.

Title: Information Collection Request for Customer Satisfaction Surveys, OMB Control Number 2090–0019, EPA ICR Number 1711.01, expiring 10/31/97.

Abstract: Within the Environmental Protection Agency voluntary customer surveys will be used to determine the level of customer satisfaction with EPA services in terms of access, timeliness, courtesy, accuracy, value to the respondent, and other appropriate measures of quality within our various lines of service. Surveys will involve individuals who have experienced EPA services directly or could have obtained such services (e.g. people who are notified about an event or action, but choose not to participate/comment). Information obtained from these surveys will be used to assist in evaluating and improving service delivery processes. In the past three years, the Agency has performed nearly 35 surveys. Comment cards, focus groups and more complex surveys have provided managers with information enabling the Agency to streamline procedures, speed delivery of services, and improve the quality of service delivery for customers. The Agency may not conduct or sponsor,

and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The EPA would like to solicit 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 estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden: The average burden per response for these activities is estimated to range from less than 30 seconds to respond to an Internet feedback screen, to 2 hours for participation in a focus group. The Agency plans to use many different instruments of survey. These include: minimal question comment cards with narrow scope; longer comment sheets to evaluate training, events or publications; telephone follow-up surveys; in person surveys; Internet feedback systems; short and long written surveys; focus groups, and exit interviews. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. Labor costs were estimated based on the Labor Department's (Bureau of Labor Statistics) April 18, 1997 release of weekly earnings of wage and salary workers using the median earnings ($504/week).

In FY 1998, EPA expects that up to 53,395 respondents will reply to our various forms of customer surveys, and anticipates a total burden of 12,761.48 hours. There are no direct respondent costs except time, estimated overall at $160,794.64.

In FY 1999, EPA expects that up to 52,545 respondents will reply to our various forms of customer surveys, and anticipates a total burden of 12,608.18 hours. There are no direct respondent costs except time, estimated overall at $158,863.06.

In FY 2000, EPA expects that up to 53,345 respondents will reply to our various forms of customer surveys, and anticipates a total burden of 13108.18 hours. There are no direct respondent costs except time, estimated overall at $165,163.06.

Dated: April 21, 1997.

Patricia A. Bonner,

Director, Customer Service.

[FR Doc. 97–11163 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00465A; FRL–5712–5]

Department of Defense Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Approval of Certification Plan.

SUMMARY: On February 12, 1997, EPA announced its intention to approve the revised Department of Defense (DOD) Certification Plan for restricted use pesticide applicators. The revised plan reflects changes in their administrative procedures and adoption of several new subcategories of certification. The February 12, 1997 Notice solicited comments on the revised DOD Plan. One comment was received which supported the addition of categories within the DOD Plan and asked if DOD certified applicators are required to obtain state licenses. DOD certified applicators are not required to obtain additional state certification or licenses while engaged in the performance of their official duties on DOD land or property. No further comments were received and EPA therefore approves the DOD Certification Plan.

FOR FURTHER INFORMATION CONTACT: Robert V. Bielarski, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Highway, Rm. 1121, Arlington, VA, Telephone: (703) 305-6708, e-mail: bielarski.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the revised DOD pesticide applicator certification plan are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

In the **Federal Register** of February 12, 1997 (62 FR 6520) (FRL–5581–3), notice was published of the intent of the EPA Assistant Administrator for Prevention, Pesticides and Toxic Substances, to approve the revised DOD plan for the certification of its employees to apply or supervise the application of restricted use pesticides in the performance of their official duties. The revised DOD plan updated administrative procedures and added the following new pest control subcategories: (1) Subcategory 3a., soil fumigation, under the existing ornamental and turf category, (2) subcategory 6a., grassland and non-crop agricultural land, under the existing right-of-way category, and (3) subcategory 7a., stored product fumigation, under the existing industrial, institutional, structural and health-related category. The revised DOD plan will retain the aerial application category. The remaining categories are similar to established EPA categories. The DOD competency standards for each category meet the requirements contained in the corresponding EPA standards at 40 CFR 171.4(c).

The comment period for the proposed plan ended March 14, 1997. One comment was received from a State Department of Agriculture which supported the DOD decision to add new subcategories within the DOD plan and asked if DOD applicators were required to obtain other state licenses. The DOD Plan only applies to DOD employees applying any pesticides on DOD land or property under the jurisdiction of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). DOD employees who are certified in accordance with the Plan may, without obtaining any additional state certification, use and supervise the use of restricted use pesticides while engaged in the performance of their official duties. In infrequent instances when DOD employees will be required to apply pesticides on other than DOD property, they will work under the supervision of appropriately certified state or federal personnel. The DOD

plan also includes adequate provisions for DOD cooperation with state agencies on issues of mutual concern.

Employees of commercial firms, contracting to apply pesticides for DOD components, will not be DOD certified but must be certified by the appropriate regulatory authority under the provisions of EPA-approved plans.

The DOD certification program will continue to be administered by the Armed Forces Pest Management Board within the Office of the Secretary of Defense. Certification and recertification will require the taking and passing of a written examination. Recertification will be required every 3 years.

This notice announces EPA's approval of the revised DOD Pesticide Applicator Certification Plan.

Copies of the approved DOD plan are available for review at the following locations during normal business hours:

1. U.S. Environmental Protection Agency, Office of Pesticide Programs, Crystal Mall #2, 1921 Jefferson Davis Highway, Room 1121, Arlington, VA 22202. Contact: Robert V. Bielarski, (703) 305–6708.

2. U.S. Department of Defense, Armed Forces Pest Management Board, Forest Glen Section, Walter Reed Army Medical Center, Washington, DC 30307–5001. Contact: Major Charles E. Cannon, (301) 295–7476/77.

3. Select U.S. Department of Defense installations. Contact Major Cannon at the aforementioned location for a list of locations.

List of Subjects

Environmental protection, Certified pesticide applicators.

Dated: April 18, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–11153 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50829; FRL–5714–8]

Receipt of Notifications to Conduct Small-Scale Field Testing of Genetically Engineered Microbial Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of three notifications of intent to conduct small-scale field testing involving microorganisms which have been genetically engineered to express pesticidal toxins. Two, from Dupont and American Cyanimid, respectively, involve baculoviruses expressing synthetic genes which encode for insect-specific toxins from the scorpion *Leiurus quinquestriatus hebraeus*, and the other, from the University of Wisconsin, involves various strains of nitrogen-fixing bacteria of the genera, *Rhizobium* and *Sinorhizobium*, containing a plasmid which has been engineered to express trifolitoxin, an antibiotic derived from *Rhizobium* species, in order to inhibit the growth of competing soil bacteria. The Agency has determined that these notifications may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on these notifications.

DATES: Written comments must be submitted to EPA by May 30, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–50829] and the appropriate file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under the SUPPLEMENTARY INFORMATION unit of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: William R. Schneider, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 5th Floor, CS #1, 2805 Jefferson Davis Highway, Arlington, VA, (703) 308–8683; e-mail: schneider.william@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received three notifications of proposed small-scale field testing as follows. Notice of receipt of these notifications does not imply a decision by the Agency on these notifications.

1. A Notification (352-NMP-004) was received from DuPont Agricultural Products of Delaware. The proposed small-scale field trial involves the introduction of two baculoviruses, *Autographa californica* Multiple-embedded Nuclear Polyhedrosis Virus (AcMNPV), and *Helicoverpa zea* Single-embedded Nuclear Polyhedrosis Virus (HzSNPV), which have been genetically engineered to express a synthetic gene which encodes for an insect-specific toxin from the venom of the scorpion *Leiurus quinquestriatus hebraeus*.

The purpose of the proposed testing will be to assess and compare the efficacy of these baculoviruses alone and in combination with each other against the tobacco budworm (*Heliothis virescens*), cotton bollworm (*Helicoverpa zea*), and beet armyworm (*Spodoptera exigua*), on cotton. The proposed program will be conducted in 1997, and the total acreage for all sites will not exceed 6 acres. The number of acres and site per state are: Alabama (0.24 acre), Georgia (0.24 acre), Louisiana (2 sites, 1.48 acres), Maryland (1.0 acre), Mississippi (3 sites, 0.18 acre), North Carolina (0.24 acre), South Carolina (0.36 acre), and Texas (3 sites, 1.l6 acres). The total amount of baculovirus for all of the testing will not exceed 6E13 occlusion bodies. Extensive monitoring to gather persistence data will be conducted on the Louisiana site and effects on non-target beneficial arthropods will be studied at the Texas site. On completion of the test, the crops will remain standing for at least 1 week prior to destruction, except for the monitoring site. At the completion of the study, all plots will be oversprayed with wild-type virus.

2. A Notification (241-NMP-U) was received from American Cyanimid Company. The proposed small-scale field trial involves the introduction of a baculovirus, *Autographa californica* Multiple-embedded Nuclear Polyhedrosis Virus (AcMNPV), which has been genetically engineered to express a synthetic gene which encodes for an insect-specific toxin from the venom of the scorpion *Leiurus quinquestriatus hebraeus*. This is the same construct that was previously field tested in 1995 and 1996.

The purpose of the proposed testing will be to evaluate the efficacy of the baculovirus against the tobacco budworm (*Heliothis virescens*) and cabbage looper (*Trichoplusia ni*) on cotton, tobacco, and leafy vegetables. The proposed program will be conducted in 1997, and the total acreage for all sites will not exceed 9.9 acres. Individual tests will be conducted in: Alabama, Arkansas, California, Florida, Georgia, Illinois, Louisiana, Mississippi, New Jersey, North Carolina, Texas, and Virginia. The total amount of AcMNPV for all of the testing will not exceed 250 grams of active ingredient. On completion of the test, the crops will be destroyed. Ground spray equipment will be used and will be disinfected with

0.1% sodium hypochlorite following use.

3. A Notification (70721-NMP-R) was received from Eric Triplett of the University of Wisconsin-Madison. The proposed small-scale field trial involves the introduction of a recombinant plasmid into various strains of the nitrogen-fixing bacteria *Rhizobium* and *Sinorhizobium*. The plasmid, pH2TFXPAR, has been genetically engineered to express a gene for trifolitoxin that has pesticidal properties, i.e. it serves to inhibit the growth of competing soil bacteria. The trifolitoxin gene is found naturally in various strains of *Rhizobium*. The plasmid was constructed to eliminate plasmid mobilization genes in order to reduce its ability to transfer into other strains of soil bacteria. The plasmid also contains a non-pesticidal gene, a hydrogenase which serves to enhance the nitrogen-fixing process.

The purpose of the proposed testing will be to evaluate the efficacy of the bacteria for yield enhancement, nodulation competitiveness, and plasmid stability by inoculating alfalfa, clover, and bean seeds. The proposed program will begin in 1997, and be followed for at least 2 years. The total acreage for all sites will not exceed 10 acres. All tests will be conducted in Wisconsin and all crops will be destroyed or used for analysis following the field tests.

Following review of these notifications and any comments received in response to this notice, EPA may approve the tests, ask for additional data, require additional modifications to the test protocols, or require EUP applications to be submitted. In accordance with 40 CFR 172.50, under no circumstances shall the proposed tests proceed until the submitters have received notice from EPA of its approval of such tests.

The official record for this notice, as well as the public version, has been established for this notice under docket control number ''OPP–50829'' (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 official rulemaking record is located at the address in ''ADDRESSES'' at the beginning of this document.

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. Comment 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–50829 and the appropriate file symbol. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection and Genetically engineered microbial pesticides.

Dated: April 21, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–11021 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66238; FRL–5598–1]

Voluntary Cancellation of Certain Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), announces EPA's receipt of requests from certain registrants to voluntarily cancel registrations of certain pesticide products containing methyl parathion (O,O-dimethyl-O-(p-nitrophenyl)phosphorothioate). These requests for voluntary cancellation are the result of an agreement between the Agency and the registrants to restrict the terms and conditions for the sale and use of certain methyl parathion products in the United States in order to curb illegal use. EPA is granting the requests for voluntary cancellation effective on publication of this notice. After publication of this notice, sale, distribution, and use of canceled methyl parathion products will only be permitted if such sale, distribution, or use is consistent with the terms of the Cancellation Order contained herein.

DATES: The cancellations shall become effective on April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Wilhite, 7508W, Special Review and Reregistration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20046. Office location, telephone number, and e-mail address: Rm. 3WH2, Crystal Station, 2805 Jefferson Davis Highway, Arlington, VA, Telephone: 703–308–8586, e-mail: wilhite.mark@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice is divided into two units. Unit I. includes: (1) Requests for voluntary cancellations resulting from an agreement to cancel certain methyl parathion products because of the risks associated with the widespread misuse and illegal diversion of these products; and, (2) the Cancellation Order granting the requests for cancellation and establishing requirements relating to distribution, sale, and use of existing stocks of canceled methyl parathion products. Unit II. contains the agreement in its entirety.

I. Voluntary Cancellations

A. Requests for Voluntary Cancellation

By an agreement dated December 30, 1996 (the ''Agreement'') , EPA and certain registrants of products containing methyl parathion agreed to change the packaging, formulation, and labeling of their products to prevent illegal diversion to indoor use. The Agreement is printed in its entirety in Unit II. of this notice. Methyl parathion is an acutely toxic organophosphate pesticide registered for outdoor agricultural uses only. Recently, EPA learned of a number of incidents in which methyl parathion products were illegally used in residences, day care centers, and churches posing potentially significant health risks and resulting in significant relocation and cleanup costs. In order to make the illegal diversion of methyl parathion to indoor use more difficult and unlikely, the registrant(s) agreed to recall unopened containers of certain methyl parathion end-use products; package certain methyl parathion products in returnable, refillable containers with a tamper-resistant mechanism; place a unique identification number that will remain on the label at all times to facilitate tracking in the distribution chain; and, add a stenching agent to these products. The registrants have also agreed to educate and remind distributors, sellers, agricultural users, and occupants of indoor areas of the risks of illegal indoor use and of the importance of using methyl parathion products only for their lawfully labeled uses.

As part of the Agreement, registrants agreed to submit applications for replacement registrations containing conditions requiring recall of canceled product; packaging product in closed-

system, trackable containers; and addition of a stenching agent to the product; and to submit requests for voluntary cancellation of certain existing registrations (in order to facilitate the recall of material currently in the marketplace not complying with the new conditions of registration). EPA agreed to expedite consideration of the applications for replacement products, and to not cancel existing registrations until applications for replacement products are granted.

Products for which cancellation was requested fall into two categories - those containing methyl parathion as the sole active ingredient in an emulsifiable concentrate formulation, and those containing multiple active ingredients. Products in the first category are listed in Table 1 below; products in the second category are listed in Table 2.

Subsequent to the December 30, 1996 agreement, some registrants withdrew their requests to cancel their registrations for mixture products listed in Appendix D of the agreement after EPA had determined that it would accept an amendment in lieu of a voluntary cancellation for those products if the registrants agreed to certain conditions. These conditions include a requirement that these products are packaged in returnable/refillable, closed system containers with tamper resistant mechanisms.

Table 1

Company	Registration No.	Product	SLNs
Wilbur Ellis	2935-142 2935-363 2935-421	Methyl Parathion 4 Methyl Parathion 5 Methyl Parathion 7.5	TX910009 ID870012 ID920007 MT920004 OR920012 WA920016 NV780004
Cheminova	4787-4 4787-11 4787-18 4787-22	MP Technical Methyl Parathion 4 EC Methyl Parathion 7.5 Prentox MP Technical	TX 960013
Helena	5905-55 5905-414	4 LB Methyl 7.5 Methyl	ID920006 TX950012 WA920014 TX910006
Riverside Terra	9779-34 9779-218	Methyl 4 Methyl 7.2	ID920014 WA930015 TX940013
UAP (Platte)	34704-10 34704-72 34704-94 34704-433	Methyl 4E Methyl 7.5 Metaspray 5E Methyl 5E	ID920009 MS820047 MT920003 ND790009 OR920018 TX830025 WA920017
Micro Flo	51036-18 51036-42 51036-88 51036-278	Methyl 4 Methyl Liquid 4 Prod. #909 Methyl 6 EC Technical MP	ID940005 TX940007 WA940028

Table 2

Company	Reg. No.	Product
Riverside Terra	9779-153 9779-207 9779-323	Mal-Methyl 44E Mal-Methyl 63 ULV Dithon 63

Under section 6(f)(1)(A) of FIFRA, registrants may request at any time that EPA cancel any of their pesticide registrations. Under section 6(f)(1)(C) of FIFRA, EPA must provide a 180–day opportunity for comment on a request for voluntary cancellation before granting the request, unless the registrant requests that the comment period be waived or EPA determines that waiver is necessary in order to prevent unreasonable adverse effects on the environment. The registrants have requested that the Agency waive the comment period before taking action on their requests to cancel the registrations of the products identified in Tables 1 and 2. In light of this request, and in order to expedite the risk mitigation measures set forth in the Agreement, EPA is granting the request to waive the comment period and is canceling the registrations today as part of this Notice. As part of the Agreement negotiated with the registrants, EPA agreed to allow continued sale and distribution of existing stocks of canceled products to facilitate recall, continued use of product in containers opened before the date of the Agreement, and use of recalled products for purposes of reformulation into products conforming to the terms of the Agreement. The full terms of the existing stocks provisions are set forth in the Cancellation Order in section B of this Unit.

B. Cancellation Order

The Agency hereby cancels, pursuant to FIFRA section 6(f), the pesticide product registrations listed in Tables 1 and 2. Any distribution, sale or use of existing stocks of these canceled products that is not consistent with the provisions of this Order will be considered a violation of FIFRA section 12(a)(2)(K) and/or section 12(a)(1)(A). For purposes of this Order, existing stocks are defined as those stocks of a methyl parathion product canceled pursuant to this Order which were in the United States and were packaged, labeled, and released for shipment prior to the cancellation of the product's registration.

1. *Distribution or sale of existing stocks.* No person may distribute or sell existing stocks of canceled methyl parathion products identified in Table

1, except to facilitate: (1) Recall of product for reformulation purposes; (2) lawful disposal of the product; or (3) export of the product consistent with the provisions of FIFRA. The Agency is allowing distribution or sale of existing stocks of canceled products identified in Table 2 until such stocks are exhausted.

2. *Use of existing stocks.* No person may use existing stocks of canceled methyl parathion products identified in Table 1 unless the existing stocks are in containers opened prior to publication of this Notice. Any use of such existing stocks in open containers must be in accordance with the previously-approved labeling accompanying the product. Existing stocks may also be used for reformulation purposes, provided that the reformulated product is formulated, packaged and labeled in accordance with a replacement registration under the terms of the December 30, 1996 Agreement between EPA and certain registrants of methyl parathion products (or in accordance with a similar registration granted or amended by EPA after publication of this Order) or the reformulated product is produced, labeled, and distributed or sold for export purposes in accordance with all relevant requirements of section 17 of FIFRA. Persons may use existing stocks of canceled products identified in Table 2 until such stocks are exhausted, provided that such use is in accordance with the previously-approved labeling accompanying the product.

3. *Transportation.* The transportation of products containing canceled methyl parathion is subject to the requirements of the Department of Transportation's regulations concerning the transportation of hazardous materials.

4. *Disposal.* Any disposal of existing stocks must be in accordance with all applicable Federal, State, and local law.

II. Memorandum of Agreement Between the Environmental Protection Agency and Signatory Registrants Regarding the Registration of Pesticide Products Containing Methyl Parathion

This Memorandum sets forth the terms of an Agreement (''Agreement'') between the United States Environmental Protection Agency (''EPA'') and the undersigned registrants (''Registrants'') regarding the registrations held by the Registrants under the Federal Insecticide, Fungicide and Rodenticide Act (''FIFRA'') of certain pesticide products containing methyl parathion (O,O-dimethyl-O-(p-nitrophenyl) phosphorothioate) as the active ingredient.

Methyl parathion emulsifiable concentrate (''EC'') products are registered for outdoor use on a number of crops, but are not registered for any indoor uses. However, during the past few years, a number of separate incidents have occurred in which methyl parathion EC products have been illegally used indoors as an insecticide in homes and other locations, posing potentially significant health risks to persons who live in or frequent these indoor areas, and resulting in significant relocation and cleanup costs. EPA and the Registrants that have entered this Agreement are concerned about the illegal indoor use of methyl parathion EC products, and expect that the steps set forth in this Agreement will make the illegal diversion of methyl parathion EC products to indoor uses much more difficult and unlikely. While many of these steps could have been accomplished through amendments to the existing registrations, EPA requested, and the Registrants that have entered this Agreement consented to, the issuance of replacement registrations and the cancellation of existing registrations in order to allow the Agency to ensure participation in the recall and exchange program set forth in this Agreement (by allowing the Agency to prohibit the sale and use of product that does not conform to the terms of this Agreement). This Agreement and these cancellations are neither designed nor intended to affect the availability of methyl parathion EC products for existing outdoor uses, provided those products are properly packaged and formulated in order to discourage illegal diversion to indoor uses. In addition to packaging and formulation changes, this Agreement includes provisions for the recall of existing stocks of products that do not conform to the terms of this Agreement and the replacement of such stocks with conforming products, as well as provisions designed to educate and remind distributors, sellers, agricultural users, and occupants of indoor areas of the risks of illegal indoor use and of the importance of using methyl parathion EC products only for their lawfully labeled uses.

The specific terms of this Agreement are as follows:

1. Within 2 weeks of the effective date of this Agreement, any party to this Agreement that desires to continue to hold a registration for any pesticide product containing methyl parathion as the sole active ingredient in a technical (manufacturing use) product or in an emulsifiable concentrate, non micro-encapsulated, end-use product shall submit to EPA an application for registration pursuant to § 3(c)(7)(A) of FIFRA. Such an application will be consistent with the appropriate provisions of paragraphs 7 through 10 of this Agreement, and conform with the provisions of Appendix A to this Agreement. Such an application shall be deemed to be complete if it contains all the information specified in Appendix A to this Agreement. An application must be for a product that is identical to a currently-registered product in composition and labeling, except insofar as differences are dictated by the terms of this Agreement. An applicant may include in its application alternative formulations, provided that each such formulation is identical to the composition of a currently registered end-use product except insofar as differences are dictated by the terms of this Agreement. No application submitted pursuant to this Paragraph may cover any formulation which contains more than 5 pounds of methyl parathion per gallon of end-use product.

2. Within 2 weeks of the effective date of this Agreement, each Registrant that is a party to this Agreement shall submit to EPA, pursuant to § 6(f) of FIFRA, a request for voluntary cancellation of each registration held by such Registrant identified in Appendix B and Appendix D to this Agreement. Any such request for voluntary cancellation may be expressly conditioned upon EPA's grant of any application(s) for registration made by such Registrant pursuant to Paragraph 1 of this Agreement, and its issuance of an existing stocks order(s) conforming to paragraphs [5] and [6], as appropriate.

3. EPA will, as expeditiously as possible, review any applications for registration submitted pursuant to Paragraph 1 of this Agreement, and will grant any such applications that comply with the terms of this Agreement. EPA will make a good faith effort to act on any such application within seven working days of receipt of the application.

4. EPA will, as expeditiously as possible, grant requests for voluntary cancellation submitted pursuant to Paragraph 2 of this Agreement. If a request for voluntary cancellation is conditioned upon the grant of an application(s) for registration submitted pursuant to Paragraph 1 of this Agreement, EPA will not grant such request prior to approving the application for registration. EPA will publish a cancellation order in the **Federal Register** announcing the effective date of such cancellations and establishing conditions concerning the sale, distribution and use of existing stocks of the canceled products.

5. EPA does not intend to allow any sale, distribution, or use of existing stocks of any EC product containing methyl parathion as the sole active ingredient canceled pursuant to the terms of this Agreement, except that the Agency does intend to permit sale or distribution for the purposes of facilitating the recall of canceled product pursuant to Paragraph 10, continued use of product in containers opened prior to the date of this Agreement, and use of recalled product for purposes of reformulation into products conforming with the terms of this Agreement. EPA intends to allow the continued sale, distribution, or use of the end-use products listed in Appendix D and canceled pursuant to this Agreement until such stocks are exhausted.

6. EPA does not intend to allow the use of existing stocks of any technical (manufacturing use) product canceled pursuant to this Agreement, except that the Agency does intend to permit the use of such existing stocks of technical (manufacturing use) product to formulate end-use products registered pursuant to Paragraph 3 of this Agreement and in compliance with all the terms of this Agreement or to formulate end-use products bearing EPA registration numbers 279-2149; 279-2609; 4581-292; 4787-19; 34704-183; 34704-478; 34704-715; or an end-use product that has been specifically approved by EPA or by a State under FIFRA Section 24 after the date of this Agreement, for sale, distribution and use in any or all of the United States.

7. Applications for registration of technical (manufacturing use) pesticide products submitted pursuant to Paragraph 1 must include in the Directions for Use section of the label the following statements:

''This product may not be reformulated into end-use pesticide products that contain methyl parathion as the sole active ingredient in an emulsifiable concentrate (EC), non micro-encapsulated, formulation unless the end-use products: (1) are packaged in returnable, refillable containers that contain a tamper-resistant mechanism (such as the MICRO MATIC valve system) that does not permit removal of material without specialized equipment (unless the end-use product is labeled in accordance with Paragraph 9 of the December 1996 Agreement between EPA and Registrants of Products containing Methyl Parathion); (2) contain in its formula a stenching agent approved by EPA for the purpose of discouraging indoor use; (3) are packaged in labeled containers bearing a unique identification number that will remain on the label or container at all times; and (4) do not contain more than 5 pounds of methyl parathion per gallon of end-use product. This product may only be reformulated into an end-use product that does not contain methyl parathion as the sole active ingredient in an emulsifiable concentrate, non micro-encapsulated, formulation if the end-use product either bears EPA registration numbers 279-2149; 279-2609; 4581-292; 4787-19; or 34704-183; 34704-478; 34704-715; or has been specifically approved by EPA or by a State under FIFRA Section 24(c), after the date of this Agreement, for sale, distribution and use in any or all of the United States.''

8. Applications for end-use pesticide products submitted pursuant to Paragraph 1 of this Agreement must contain the following statements on the label:

(A) ''SPECIAL INSTRUCTIONS FOR RESTRICTED USE PESTICIDE RETAILERS: In addition to any other required records, restricted use pesticide retailers must record at the time of sale the unique container identification number on this label or container and the identity of the purchaser of the container.''

(B) [In the storage and disposal section of the label] ''Returnable/Refillable Sealed Container: Do not break seals or add any material to the container. Do not rinse container or empty any residue from container. This container must be returned intact after use to the point of purchase.''

(C) [Appropriate language that identifies the equipment necessary for the removal of product from the container, and how that equipment must be used in order to remove product from the container.]

9. An application for an end-use pesticide product registration with directions for use on winter wheat submitted pursuant to Paragraph 1 may include, if the Registrant desires, an alternate label which must include the following language:

''This product may be distributed, sold or used only for application to winter wheat in Kansas, Oklahoma and Texas. All distribution or sale of this product after March 31, 1997, is prohibited unless such distribution or sale is for the sole purpose of recalling material and returning it to the Registrant, or for the purpose of proper disposal. Use of this product after March 31, 1997, is prohibited unless the product is opened and first used prior to March 31, 1997. Containers unopened on or after March 31, 1997, must be returned to the point of purchase for replacement, credit, or refund.''

10. Applications for registration submitted pursuant to Paragraph 1 must include a specific request that the following conditions be accepted by EPA as conditions of registration:

(A) The applicant agrees that, as a condition of registration, the following steps will be taken to assure that existing stocks of pesticide products sold under any registrations for EC products listed in Appendix B held by such Registrant and canceled pursuant to Paragraph 4 of this Agreement are recalled:

(1) Letters to Distributors: Letters must be sent, by certified mail, return receipt requested, on or before January 31, 1997, to all persons (other than another signatory Registrant) who sell or distribute to retailers and who purchased any stocks of a registered EC product listed in Appendix B directly from the Registrant between January 1, 1994, and the date of this Agreement, informing the distributor that the registration of such product has been or will be canceled pursuant to this Agreement; that after the registration is canceled, sale or distribution of existing stocks of such product (except for purposes of facilitating a recall) will not be lawful under FIFRA; and that the Registrant is recalling all unopened containers of methyl parathion EC products down to the user level. The letter shall further state that the distributor will either receive replacement product of equal value or full credit for any material returned, and that Cheminova or the Registrant (whichever party is bearing the cost) will bear the cost of transportation of product from the distributor level to a site where such material will be collected by Cheminova or the Registrant (whichever party is collecting recalled material).

(2) Letters to Retailers: Letters must be sent by certified mail, return receipt requested, by January 31, 1997, to all other persons (other than signatory Registrants) who sold any stocks of a registered EC product listed in Appendix B between January 1, 1994, and the date of this Agreement, informing such person that the registration of such product has been or will be canceled pursuant to this Agreement; that after the registration is canceled, sale or distribution of existing stocks of such product (except for purposes of facilitating a recall) will not be lawful under FIFRA; and that the Registrant is directing a recall of all unopened containers of such products down to the user level. The letter shall request that each retailer notify every customer that purchased such product from the recipient after January 1, 1995, of this recall effort, and encourage the customer to return unopened containers to the recipient for either replacement product of equal value or full credit. The letter shall also notify the retailer that the recipient will get either replacement product of equal value or full credit for all material returned by the recipient, and shall provide the recipient with information on how to return product to the Registrant or to some other person collecting recalled product for the Registrant.

(3) The Registrant fulfills its obligations as set forth in each of the letters described in subparagraphs (A)(1) and (A)(2) of this Paragraph.

(4) The Registrant will notify EPA within forty-five days after the effective date of this Agreement of:

(a) the location of collection sites for recalled material;

(b) the name and address of each person who was sent a letter pursuant to subparagraphs (A)(1) and (A)(2) of this paragraph, and, for each addressee, whether the letter was delivered, whether the addressee responded, whether the addressee participated or has indicated that he/she plans to participate in the recall, and the total amount returned by each addressee; and

(c) the location of the registered establishments that will carry out the reformulation.

For purposes of complying with these conditions of registration, a conforming letter will be deemed to have been sent if: (1) the letter was sent prior to the effective date of this Agreement and the letter informed the recipient of the recall effort and that returned material will be credited; and (2) the Registrant contacts on or before February 21, 1997, either by telephone or by certified mail, return receipt requested, all addressees who have neither returned any product nor communicated with the Registrant concerning the recall effort. If such contact is by telephone, the Registrant shall make a written record that shall include the date and time of call; the identity of the addressee; the name and title of the person spoken with; whether the addressee was aware of the recall effort; and whether the addressee has any material to be recalled. If the addressee was not aware of the recall effort, the Registrant shall also provide the addressee with all the information that would have been provided had a letter been sent pursuant to subparagraph (A)(1) or (A)(2), whichever letter would have been appropriate for the particular addressee. Such telephone records shall be provided to EPA on or before March 31, 1997. If a certified letter is sent, the letter shall contain all the information that must be included in any letter sent pursuant to subparagraph (A)(1) or (A)(2), whichever letter is appropriate for the particular addressee, and the Registrant shall provide to EPA on or before March 31, 1997, the information required by subparagraph (A)(4)(b).

Also for purposes of complying with this condition of registration, a Registrant may rely on any other signatory Registrant to perform any of the obligations called for in this Paragraph, provided that each Registrant understands that failure to send letters to purchasers of a particular Registrant's canceled product will be considered a violation of the condition of registration of such Registrant's replacement product granted pursuant to Paragraph 3 of this Agreement.

(B) All end-use products produced under registrations granted pursuant to Paragraph 3 of this Agreement shall contain either valeric acid or another stenching agent specifically approved by the Agency in writing for inclusion in EC products containing methyl parathion as the sole active ingredient. Neither the presence, identity, nor certified limits of such stenching agent may be changed without the prior, written approval of EPA.

(C) All end-use products produced under registrations granted pursuant to Paragraph 13 of this Agreement shall be packaged in returnable, refillable containers that bear a tamper-resistant mechanism (such as the MICRO MATIC valve system) that is designed to not permit removal of material without specialized equipment and that contain a unique identification number that appears either on the label or on the container itself, except that prior to March 31, 1997, end-use products may be packaged in fifty-five gallon drums containing a unique identification number if the product label conforms with Paragraph 9 of this Agreement.

(D) No language identified in Paragraphs 7 through 9 of this Agreement may be changed by a Registrant without first obtaining prior, written approval from EPA.

(E) The Registrant must establish a system to track all sales of all individual end-use product sold under registrations granted pursuant to Paragraph 3 of this Agreement through all levels of the distribution chain. The registrant must, upon request by EPA or an appropriate State authority, provide information from such a system regarding the particular identity of the purchaser or seller of any particular container and the date of sale.

(F) In the case of registrations held by Cheminova Agro A/S and/or Cheminova, Inc.

(''Cheminova''), Cheminova will conduct an education campaign that meets the specifications set forth in Appendix C to this Agreement.

(G) The Registrant agrees that failure to comply with any of the conditions of registration set forth in this Paragraph shall be grounds for cancellation of the affected registration(s) under FIFRA section 6(e).

11. All the signatories to this Agreement agree that they will not challenge any of the provisions of this Agreement in any forum.

12. This Agreement constitutes the complete agreement reached by EPA and the Registrants.

13. EPA does not intend to require persons other than nonsignatory registrants to make any report pursuant to FIFRA section 6(g) for products canceled pursuant to this Agreement before March 15, 1997.

14. EPA does not intend at this time to grant any application for registration, or amendment to any existing registration, of any technical (manufacturing use) product containing methyl parathion as the sole active ingredient, or of any end-use product containing methyl parathion as the sole active ingredient in an EC, non micro-encapsulated formulation, unless the registration either conforms to the applicable terms of this Agreement or includes terms and conditions that provide equivalent controls designed to minimize the possibility of unlawful indoor use. If EPA does grant any registrations similar to the ones granted pursuant to Paragraph 3 of this Agreement with terms and conditions different than those set forth in this Agreement, the signatory Registrants may request (through appropriate applications for new registrations or amendments to existing registrations) registrations with similar conditions pursuant to FIFRA section 3(c)(7)(A).

15. This Agreement shall take effect if Cheminova and EPA sign the Agreement. The effective date shall be the date that the last party signs the Agreement or January 15, 1997, whichever occurs earlier.

Dated this 30th day of December 1996

Environmental Protection Agency
Signed 12/30/96

Cheminova Agro A/S
Signed 12/30/96

Helena Chemical Company
Signed 1/6/97

Riverside/Terra Corporation
Signed 1/15/97

Platte Chemical Company, Inc.
Signed 1/15/97

Micro Flo Company
Signed 1/7/97

Wilbur Ellis Company
Signed 1/15/97

Appendix A

An application for the registration of a product containing methyl parathion submitted pursuant to this Agreement shall include the following:

* A Cover Letter
* An Application for Pesticide Registration (8570)
* A Confidential Statement of Formula (CSF) (8570-4)
* A Formulator's Exemption Form (in the case of an application for an end-use product)
* Five Copies of draft labeling which may consist of a hand edited label from an existing, similar product.

The cover letter shall state that the application is for registration of a product under the Agreement, and that the applicant relies upon data submitted to support the registration of the product(s) that the applicant voluntarily seeks to cancel. It shall also state that the labeling of the product complies with the terms of the Agreement, that maintenance of the registration is conditioned upon compliance with Paragraph 10 of the Agreement, and that failure to comply with those conditions may result in cancellation of the registration under FIFRA Section 6(e). The letter must include the EPA registration number of the product to be canceled to which this application is substantially similar, and must state that the application qualifies for expedited review under the terms of the Agreement.

Appendix B

TABLE 1

Company	Reg. No.	Product	SLNs
Wilbur Ellis	2935-142 2935-363 2935-421	Methyl Parathion 4 Methyl Parathion 5 Methyl Parathion 7.5	TX910009 ID870012 ID920007 MT920004 OR920012 WA920016 NV780004
Cheminova	4787-4 4787-11 4787-18 4787-22	MP Technical Methyl Parathion 4 EC Methyl Parathion 7.5 Prentox MP Technical	 TX 960013
Helena	5905-55 5905-414	4 LB Methyl 7.5 Methyl	ID920006 TX950012 WA920014 TX910006
Riverside Terra	9779-34 9779-218	Methyl 4 Methyl	ID920014 WA930015 TX940013

Appendix B—Continued

TABLE 1

Company	Reg. No.	Product	SLNs
UAP (Platte)	34704-10	Methyl 4E	ID920009 MS820047 MT920003 ND790009 OR920018 TX830025 WA920017
	34704-72	Methyl 7.5	
	34704-94	Metaspray 5E	
	34704-433	Methyl 5E	
Micro Flo	51036-18	Methyl 4	ID940005 TX940007 WA940028
	51036-42	Methyl Liquid 4 Prod. #909	
	51036-88	Methyl 6 EC	
	51036-278	Technical MP	

Appendix C

Education Campaign to be Conducted by Cheminova

Cheminova shall conduct an education campaign that will include the following elements:

1. Cheminova will include in its product stewardship program a campaign to educate formulators, distributors, retailers, dealers, applicators and growers about the addition of the stenching agent and the reasons for doing so. The campaign will be designed to inform the target audience that prevention of misuse of methyl parathion EC products is a priority and the target audience has an obligation to ensure that the product is not diverted for illegal uses.

The campaign will include, at a minimum,

(a) Mailings to be completed by March 31, 1997, to all United States retailers of methyl parathion EC products and to all United States national organizations representing growers of crops for which methyl parathion has a registered use;

(b) Issuance of a press statement or release; and

(c) Placement of ''advertorials'' which will be initiated by March 31, 1997, and will be sent to print media, including at a minimum, Pest Control Technology, Pest Management, Farm Chemicals, and The Cotton Grower.

By February 15, 1997, Cheminova will provide EPA with drafts of the materials to be used in this campaign, for review and comment. EPA will provide comments to Cheminova within fifteen calendar days of receipt of the materials. If Cheminova disagrees with any comments submitted by EPA, Cheminova and EPA shall negotiate in good faith to resolve such disagreement(s). If the parties are unable to reach agreement on any matter after such negotiations, either party may request that the Director of the Office of Pesticide Programs at EPA (''Director'') resolve the matter. Upon Cheminova's request, the Director shall meet with Cheminova before reaching a decision on the matter. Cheminova shall accept the Director's decision as final, and materials used in the campaign shall be consistent with the Director's decision.

2. Cheminova will develop and distribute both a video public service announcement (PSA) and an audio PSA which provide information to the public concerning avoiding indoor use of agricultural pesticides in general, and about methyl parathion in particular.

(a) By the end of February 1997, Cheminova will select a public relations firm to manage this effort.

(b) By March 15, 1997, Cheminova will submit the proposed PSA scripts to EPA for comment. EPA will provide comments to Cheminova within fifteen calendar days of receipt of the materials. If Cheminova disagrees with any comments submitted by EPA, Cheminova and EPA shall negotiate in good faith to resolve such disagreement(s). If the parties are unable to reach agreement on any matter after such negotiations, either party may request that the Director of the Office of Pesticide Programs at EPA (''Director'') resolve the matter. Upon Cheminova's request, the Director shall meet with Cheminova before reaching a decision on the matter. Cheminova shall accept the Director's decision as final, and the PSAs shall be consistent with the Director's decision. Cheminova will complete production of the PSAs within 75 calendar days of receiving EPA comments (or, if there are any disagreements, of final resolution of such disagreements) or by June 15, 1997 (whichever is later).

(c) Cheminova will work with EPA and with staff at the U.S. Department of Agriculture's Food and Nutrition Network (to the extent that the Food and Nutrition Network judges the PSAs appropriate for its program) to identify the list of recipients of the PSAs. At a minimum, this list will include (1) major radio and television stations throughout U.S. cotton growing states as well as the states of Michigan, Ohio, and Illinois, and (2) state agencies and local or national organizations which are appropriate for disseminating the PSAs.

(d) Cheminova will produce sufficient copies of the PSAs for those recipients identified pursuant to subparagraph (c), and will distribute copies to these groups by July 15, 1997, or by the date 30 days after completing production of the PSAs, whichever is later.

3. Cheminova will assume the responsibility for developing the newly added component on deterrence of misuse for the Best Management Practices Task Force's educational and training program. The Task Force has agreed that the training will be conducted by the sales forces of the eight agrochemical companies which are members of the Task Force.

(a) The education program will target formulators/distributors, dealers/retailers, certified applicators (e.g., custom applicators), and growers.

(b) The materials to be used in the program will include brochures, point-of-purchase displays for dealerships, advertisements in dealer magazines, or other written material. The main forum for the misuse component discussed in subparagraph (c) will be meetings with distributors, retailers, applicators, and growers.

(c) The misuse component will focus on the importance of keeping restricted use materials out of the hands of uncertified applicators and will specifically mention the prevention of illegal diversion of agricultural pesticides for household use, as well as specific responsibilities and actions these target groups can take in helping to prevent such diversions. The program will include a discussion of the potential civil and criminal penalties that are implicated by sale to uncertified applicators, the risks to human health and the environment, and the stake which distributors, retailers, and farmers have in ensuring that the availability of valuable crop protection tools are not jeopardized by misuse.

(d) Cheminova will include key grower organizations (e.g., National Cotton Council, Delta Council) in the development of the materials for the deterrence component through review and comments on drafts.

Appendix D

Company	Reg. No.	Product
Wilbur Ellis	2935-482	Ethyl-Methyl Parathion 6-3
Helena	5905-198 5905-515	Malathion-Methyl Parathion Parathion-Methyl P 6-3
Riverside Terra	9779-153 9779-207 9779-323	Mal-Methyl 44E Mal-Methyl 63 ULV Dithon 63

List of Subjects

Environmental protection, Pesticides, Voluntary cancellations.

Dated: April 15, 1997.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 97–11019 Filed 4–29–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–728; FRL–5600–8]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

DATES: Comments, identified by the docket control number PF–728, must be received on or before May 30, 1997.

ADDRESSES: By mail submit written comments to: Public Response and Program Resources Branch, Field Operations Divison (7505C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail, George LaRocca, Product Manager, (PM 13), Registration Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460. Office location, telephone number and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various raw agricultural commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports grantinig of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–728 (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 official record is located at the address in ''ADDRESSES'' at the beginning of this document.

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. Comment 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 (PF–728) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

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

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 10, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Below summaries of the pesticide petitions are printed. The summaries of the petitions were prepared by the petitioners. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Gowan Company

PP 6F4738

EPA has received a pesticide petition (PP 6F4738) from Gowan Company, P. O. Box 5569, Yuma, AZ 85366-5569. The petition proposes, pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish tolerances for the acaricide hexythiazox (The chemical name of hexythiazox is trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide.) and its metabolites (Metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety are included in the tolerance expression.) in or on the raw agricultural commodities stone fruits (except plums) at 1 part per million (ppm), almonds at 0.2 ppm and almond hulls at 10 ppm, and also in milk, cattle meat and cattle fat at 0.05 ppm and cattle meat byproducts at 0.1 ppm. The proposed analytical method is high performance liquid chromatography with an ultraviolet detector (HPLC with UV detection).

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of hexythiazox in apples, pears, grapes and citrus has been studied. The major portion of the residue is parent compound. The metabolites are hydroxycyclohexyl and ketocyclohexyl analogs of hexythiazox and the amide formed by loss of the cyclohexyl ring.

2. *Animal metabolism*. The metabolism of hexythiazox in goats, hens and rats has been studied. Metabolic pathways in animals are similar to those in plants.

3. *Analytical method*. An adequate analytical method (HPLC with UV detection) is available for enforcement purposes. Parent compound and all of its metabolites are converted to a common moiety before analysis.

4. *Magnitude of residues.* Twenty-four stone fruit residue trials were conducted over three years. The geographic distribution of the trials agrees with the recommendation given in the ''EPA Residue Chemistry Guidance'' (1994). In these trials, the maximum combined residues of hexythiazox and its metabolites were 0.52 ppm. Seven almond residue trials were conducted over three years. In these trials, the maximum combined residues of hexythiazox and its metabolites were 0.17 ppm in almond nutmeat and 7.5 ppm in the raw agricultural commodity almond hulls.

B. Toxicological Profile

1. *Acute toxicity.* The acute oral and dermal LD_{50} of technical hexythiazox is greater than 5,000 mg/kg, and the 4-hour acute inhalation LC_{50} is greater than 2 mg/L. It is not a dermal irritant or sensitizer and is a mild eye irritant.

2. *Genotoxicity.* The following genotoxicity tests were all negative: Ames gene mutation, Chinese hamster ovary (CHO) gene mutation, CHO chromosome aberration, mouse micronucleus and rat hepatocyte unscheduled DNA synthesis.

3. *Reproductive and developmental toxicity.* Hexythiazox has not been observed to induce developmental or reproductive effects. The lowest reproductive or developmental NOEL (No Observed Effect Level) observed was 200 mg/kg/day, the highest dose tested, in a 2-generation rat reproduction study.

4. *Chronic toxicity.* The Office of Pesticide Programs has established the Reference Dose (RfD) for hexythiazox at 0.025 mg/kg/day. The RfD for hexythiazox is based on a 1-year dog feeding study with a NOEL of 2.5 mg/kg/day and an uncertainty factor of 100. The endpoint effect of concern was hypertrophy of the adrenal cortex in both sexes, decreased red blood cell counts, hemoglobin content and hematocrit in males.

5. *Carcinogenicity.* The Agency has classified hexythiazox as a category C (possible human) carcinogen based on an increased incidence of hepatocellular carcinomas ($p = 0.028$) and combined adenomas/carcinomas ($p = 0.024$) in female mice at the highest dose tested (1,500 ppm) when compared to the controls as well as a significantly increased ($p < 0.001$) incidence of pre-neoplastic hepatic nodules in both males and females at the highest dose tested. The decision supporting a category C classification was based primarily on the fact that only one species was affected and mutagenicity studies were negative. In classifying hexythiazox as a category C carcinogen, the Agency concluded that a quantitative estimate of the carcinogenic potential for humans should be calculated because of the increased incidence of liver tumors in the female mouse. A Q1* of 0.039 (mg/kg/day)-1 in human equivalents was calculated.

C. Aggregate Exposure

Tolerances have been established (40 CFR 180.448) for combined residues of hexythiazox [trans-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide] and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety in or on apples at 0.02 ppm and pears at 0.3 ppm. The nature and metabolism of hexythiazox in plants and animals is adequately understood.

Hexythiazox is also registered for use on outdoor ornamental plants by commercial applicators only. It is believed that non-occupational exposure from this use is very low. Hexythiazox is not registered for greenhouse, lawn, garden, or residential use. The environmental fate of hexythiazox has been evaluated, and the compound is not expected to contaminate groundwater or surface water to any measurable extent.

1. *Chronic Exposure.* The Agency has estimated in the **Federal Register** of February 21, 1996, [61 FR 6552–6554] (FRL–5350–6), that current uses on apples and pears would result in an exposure of 0.000051 mg/kg/day for the U.S. population, assuming that all residues are at tolerance levels and 100 percent of the crops are treated. Non-nursing infants, the subgroup having the highest exposure, would have an exposure of 0.000600 mg/kg/day. Using the same conservative assumptions, it is calculated that the current and proposed uses together would result in an exposure of 0.001920 mg/kg for the U.S. population and 0.006598 mg/kg/day for non-nursing infants, which remains the most highly exposed subgroup.

Actual exposure will be much lower, however. Only a small fraction of these crops will be treated with hexythiazox, and average residues are far below the tolerance levels. For example, residues in apples treated at 10 times the currently approved application rate remained below the limit of quantitation, 0.01 ppm. Also, residues in apple juice are expected to be less than 50 percent of the residue level in the whole fruit. Average residues in stone fruits except cherries are expected to be 7 percent of the proposed tolerance level, average residues in cherries are expected to be 11 percent of the tolerance level and average residues in almond nutmeat are expected to be below 20 percent of the proposed tolerance level. Furthermore, only a very small percentage of crops (less than 1 percent up to 5 percent, depending on the crop) are expected to be treated with hexythiazox. When actual residues rather than tolerance levels and the percentage of treated crop are taken into account, then the actual exposure is estimated to be 0.0000013 mg/kg/day for the U.S. population.

Gowan has not conducted a detailed analysis of potential exposure to hexythiazox via drinking water or outdoor ornamental plants. However, it is believed that chronic exposure from these sources is very small.

2. *Acute exposure.* No developmental, reproductive or mutagenic effects have been observed with hexythiazox. Therefore, an analysis of acute exposure has not been conducted.

3. *Cumulative effects note.* At this time Gowan has not reviewed available information concerning the potentially cumulative effects of hexythiazox and other substances that may have a common mechanism of toxicity. For purposes of this petition only, Gowan is considering only the potential risks of hexythiazox in its aggregate exposure.

D. Determination of Safety for U.S. Population

1. *Chronic Risk.* The Agency has calculated in the **Federal Register** of February 21, 1996, [61 FR 6552–6554], (FRL–5350–6), assuming that residues are at tolerance levels and 100 percent of crops are treated, that the current use on apples and pears utilizes 0.2 percent of the RfD for the U.S. population and 2.4 percent of the RfD for non-nursing infants. Using these same assumptions, it is calculated that all current and proposed uses would result in TMRCs equivalent to 7.7 percent of the RfD for the U.S. population and 26.4 percent of the RfD for non-nursing infants. However, when actual residues rather than tolerance levels and the percent of crop treated are taken into account, actual chronic risk for the U.S. population is expected to be only 0.005 percent of the RfD.

The actual dietary carcinogenic risk to the U.S. population is calculated to be $5 \times 10–8$, which is well below the Agency's criterion of $1 \times 10–6$.

2. *Acute Risk.* An estimate of acute risk with this compound has not been conducted since no acute reproductive or developmental effects have been observed.

E. Determination of Safety for Infants and Children

In assessing the potential for additional sensitivity of infants and children to residues of hexythiazox, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

No developmental or reproductive effects have been observed in any study with hexythiazox. The lowest acute NOEL was 2,400 ppm in the diet (200 mg/kg/day), the highest dose tested, in the 2-generation rat reproduction study. In the rat developmental study, the maternal and fetotoxic NOEL was 240 mg/kg/day and the developmental NOEL was 2,160 mg/kg/day, the highest dose tested. In the rabbit developmental study, the maternal and developmental NOEL was 1,080 mg/kg/day, the highest dose tested.

Taking into account current toxicological data requirements, the database for hexythiazox relative to prenatal and postnatal effects is complete. In the rat developmental study, the NOELs for maternal toxicity and fetotoxicity were the same, which suggests that there is no special prenatal sensitivity in the absence of maternal toxicity. Furthermore, the lowest developmental or reproductive NOEL is two orders of magnitude higher than the chronic NOEL on which the RfD is based. It is concluded that there is a reasonable certainty of no harm to infants and children from aggregate exposure to hexythiazox residues.

F. International Tolerances

Codex maximum residue levels (MRLs) of 1 mg/kg (1 ppm) have been established for residues of hexythiazox in cherries and peaches. The U.S. tolerance proposal for stone fruits is in harmony with these MRLs. There are no Codex MRLs for the other commodities in this petition.

2. AgroEvo Environmental Health

PP 7F4820

EPA has received a pesticide petition from AgroEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645. The petition proposes, pursuant to section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish tolerances for deltamethrin in or on food and feed items as a result of use in food and feed handling establishments at 0.05 part per million (ppm). This petition was assigned Pesticide Petition Number 7F4820 (formerly 4H5710) and was initially announced in the **Federal Register** of February 8, 1995 [60 FR 7539–7541], (FRL–4926–4). A tolerance of 0.02 ppm was proposed for residues of deltamethrin in or on food and feed items, and published for comment in the **Federal Register** dated November 30, 1995 [60 FR 61504–61506], (FRL–4983–5). In an effort to harmonize with a similar tolerance established in Germany, the proposed tolerance was increased to 0.05 ppm per comments received from the German Ministry of Health. The proposed analytical method is high performance liquid chromatography with an ultraviolet detector.

A. Residue chemistry

1. *Analytical Method.* A practical analytical method using gas - liquid chromatography is available for detecting and measuring levels of deltamethrin in food and feed items. This method is used for the determination of cis-deltamethrin, trans-deltamethrin, and alpha-R-deltamethrin. The limit of quantitation (LOQ) is 0.02 mg/kg (ppm). The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual Volume II (PAM II).

2. *Nature and Magnitude of the Residue in Food and Feed Items.* The nature of the residues of deltamethrin in plants and animals relevant to the establishment of food and feed additive tolerances is adequately understood. The residue of concern is deltamethrin. In studies conducted to support this use, residue levels of deltamethrin in food and/or feed items after applications to food- and feed-handling establishments were below the LOQ, i.e., below 0.02 ppm. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry from the proposed use as delineated in 40 CFR 180.6(a)(3).

B. Toxicological Profile

1. *Acute Toxicity.* The acute rat oral LD_{50} of deltamethrin technical was 66.7 mg/kg (males) and 86 mg/kg (females) when administered in sesame oil and greater than 5,000 mg/kg in both sexes when administered in 1 percent aqueous methylcellulose. The acute dermal LD_{50} was greater than 2,000 mg/kg when administered to rabbits in either polyethylene glycol or 1 percent aqueous methylcellulose, and greater than 2,940 mg/kg when administered to rats in 1 percent aqueous methylcellulose. The 4-hour rat inhalation LC_{50} was 2.2 mg/l. Deltamethrin was slightly irritating to rabbit eyes, non-irritating to rabbit skin, and did not induce skin sensitization in guinea pigs.

2. *Subchronic Toxicity.* In a 90–day study, deltamethrin was mixed with polyethylene glycol 200 (PEG 200) and administered by gavage to rats at dose levels of 0, 0.1, 1, 2.5 and 10 mg/kg/day. The only treatment-related effects observed were reduced body weight gain in rats at 2.5 and 10 mg/kg/day and slight hypersensitivity in rats at 10 mg/kg/day at week 6, but not at week 13. The NOEL in this study was 1.0 mg/kg/day. In a more recent 90–day study (not yet submitted to the Agency), deltamethrin was administered via the diet to rats at dietary concentrations of 30, 300, 1,000, 3,000 and 6,000 ppm. All animals in the 3,000 and 6,000 ppm groups and several animals from the 1,000 ppm group died or were killed in extremis during the first few weeks of the study. Decreased food and water consumption, decreased weight gain and a variety of neurological signs of toxicity (including uncoordinated movement, unsteady gait, tremors, increased sensitivity to sound, ''wet dog shakes'' and spasmodic convulsions) were noted in these three dose groups. A slight but statistically significant decrease in weight gain was noted in females at 30 and 300 ppm but was considered to be of equivocal significance because of the lack of a clear, consistent dose-response relationship. There were no changes in clinical pathology parameters, organ weights or gross or microscopic pathology at any dose level. Thus, the NOEL for this study was considered to be 300 ppm (23.9 mg/kg/day in males and 30.5 mg/kg/day in females).

A 12-week feeding study of deltamethrin was conducted in mice at dietary concentrations of 0, 30, 300, 3,000 and 6,000 ppm. Effects noted at 3,000 and 6,000 ppm consisted of clinical signs of toxicity (clonic contractions, convulsions and poor condition), decreased weight gain and mortality. A very slight decrease in weight gain was noted in males at 30 and 300 ppm but was considered to be of equivocal significance. There were no effects on hematology, blood chemistry, or organ weights.

The only histopathological lesions noted were thymic involution and lipid depletion in the adrenal glands of animals at 3,000 and 6,000 ppm, which

were considered likely to be secondary effects of the stress induced by the poor physical condition of the animals. Consequently, 300 ppm (61.5 mg/kg/day in males and 77.0 mg/kg/day in females) was considered to be the NOEL.

In a 13-week study, deltamethrin was administered to beagle dogs by capsule at dose levels of 0, 0.1, 2, 2.5 and 10 mg/kg/day, using PEG 200 as a vehicle. There was no mortality but animals at the top two dose levels exhibited various clinical signs of toxicity (e.g., tremors, unsteadiness, jerking movements, excessive salivation, vomiting, liquid feces, and/or dilatation of the pupils) and modified EEG patterns. No histopathological findings were observed. The NOEL for this study was considered to be 1.0 mg/kg/day.

In a more recent study, deltamethrin was administered dry (without vehicle) via capsule to beagle dogs for 13 weeks at dose levels of 0, 2, 10 and 50 mg/kg/day. No mortality occurred during the study but animals at 50 mg/kg/day exhibited decreased food consumption and weight gain and a variety of clinical signs including unsteady gait, tremors, shaking of the head, vomiting and salivation. There were no effects on clinical pathology, ophthalmoscopy, organ weights or pathology. The NOEL for this study was 10 mg/kg/day. The difference in toxicity between the two dog studies is attributed to the enhanced absorption resulting from the use of PEG 200 as a vehicle in the first study.

In a 21–day dermal toxicity study, deltamethrin was admixed with polyethylene glycol and applied dermally to rats for 6 hours per day for 21 successive days at dose levels of 0, 100, 300 and 1,000 mg/kg/day. Signs of local dermal irritation were noted at all dose levels. No conclusive evidence of systemic toxicity was noted at any dose level. However, because of slight, non-statistically significant decreases in weight gain and food consumption in males at 300 and 1,000 mg/kg/day, the EPA concluded that the NOEL for this study was 100 mg/kg/day.

In a subchronic inhalation study, rats were exposed to aerosolized deltamethrin at concentrations of 0, 3, 9.6 and 56.3 g/l for 6 hours per day, 5 days per week, for a total of 14 days over 3 weeks. Signs of local irritation (agitated grooming and scratching) and excessive salivation were noted in all treated groups. Peripheral vasodilation was noted at 9.6 and 56.3 g/l. Ataxia and walking with arched back were noted at 56.3 g/l. Based on slightly decreased body weights and neurological effects at higher dose levels, AgroEvo Environmental Health concluded that 3 g/l was the NOEL for systemic effects in this study.

3. *Chronic Toxicity/Oncogenicity.* In a 2-year feeding study, deltamethrin was administered to beagle dogs at dietary concentrations of 0, 1, 10 and 40 ppm. No treatment-related effects were noted in any animal. Thus, 40 ppm (1.1 mg/kg/day) was considered to be the NOEL. In a more recent study, deltamethrin was administered dry, via capsule, to beagle dogs for 1 year at dose levels of 0, 1, 10 and 50 mg/kg/day. Effects observed at 10 and 50 mg/kg/day included clinical signs of toxicity (e.g., unsteadiness, abnormal gait, tremors, chewing/scratching of extremities and liquid feces), decreased food consumption (high dose only) and changes in several hematology and blood chemistry parameters. There were no treatment related gross or histopathological findings. The NOEL in this study was also considered to be 1 mg/kg/day.

No evidence of oncogenicity was noted in either of two chronic rat feeding studies. In the first study, deltamethrin was administered to rats for 2 years at dietary concentrations of 0, 2, 20 and 50 ppm. The NOEL was considered to be 20 ppm (1 mg/kg/day) based on slightly decreased weight gain at 50 ppm. In a more recent study, deltamethrin was administered to rats for 2 years at dietary concentrations of 0, 25, 125, 500 and 800 ppm. Neurological effects (uncoordinated movement of limbs, abnormal gait and unsteady gait) were noted at 500 and 800 ppm during the first week of the study but subsided and were no longer apparent by Week 8. Minor effects on weight gain were also noted at these two dose levels. Microscopic evidence of slight hepatotoxicity (increased incidence and severity of eosinophilic hepatocytes and/or ballooned cells) was noted in males at 125 mg/kg/day and above. The NOEL for this study was considered to be 25 ppm (1.1 and 1.5 mg/kg/day for males and females, respectively).

No evidence of oncogenicity was noted in two mouse oncogenicity studies. In the first study, deltamethrin was administered to mice for 2 years at dietary concentrations of 0, 1, 5, 25 and 100 ppm. No adverse effects were noted at any dose level. Thus, the NOEL was considered to be 100 ppm (12 and 15 mg/kg/day in males and females, respectively). In a more recent study, deltamethrin was administered to mice for 97 weeks at dietary concentrations of 0, 10, 100, 1,000 and 2,000 ppm. Effects noted at 2,000 ppm consisted of a slightly higher incidence of mice in poor physical condition and a slight, transient reduction in weight gain. Increased incidences of macroscopic and microscopic skin lesions, which were attributed to excessive scratching, were noted in animals at 1,000 and 2,000 ppm. The NOEL was considered to be 100 ppm (15.7 and 19.6 mg/kg/day for males and females, respectively).

4. *Genotoxicity.* No evidence of genotoxicity was noted in a battery of *in vitro* and *in vivo* studies, including Salmonella and E. coli reverse bacterial mutation assays, an *in vitro* chromosomal aberration assay in Chinese hamster ovary (CHO) cells, an unscheduled DNA synthesis assay in rat hepatocytes, and a dominant lethal assay in mice.

5. *Reproductive and Developmental Toxicity.* In a rat developmental toxicity study, deltamethrin was mixed with corn oil and administered by gavage during gestation days 6 through 15 at dose levels of 0, 1, 3.3, 7 and 11 mg/kg/day. Maternal toxicity, as evidenced by clinical observations, decreased weight gain and mortality was noted at 7 and 11 mg/kg/day. No evidence of developmental toxicity was noted at any dose level. Thus, the No Observable Effect Level (NOEL) was considered to be 3.3 mg/kg/day for maternal toxicity and 11 mg/kg/day (highest dose tested) for developmental toxicity.

In a rabbit developmental toxicity study, deltamethrin was administered by gavage in a vehicle of 0.5 percent aqueous carboxymethyl cellulose at dose levels of 0, 10, 25 and 100 mg/kg/day during gestation days 7 through 19. The maternal NOEL was considered to be 10 mg/kg/day based on decreased defecation at 25 and 100 mg/kg/day and mortality at 100 mg/kg/day. The developmental NOEL was considered to be 25 mg/kg/day based on retarded ossification of the pubic and tail bones at 100 mg/kg/day.

In a 3-generation reproduction study, deltamethrin was suspended in corn oil and administered to rats at dietary concentrations of 0, 2, 20 and 50 ppm. No treatment related effects were noted in either parents or offspring at any dose level. In a more recent 2-generation study (not yet submitted to the Agency), deltamethrin was administered to rats at dietary concentrations of 0, 5, 20, 80 and 320 ppm. The NOEL for both the parents and offspring was 80 ppm (equivalent to approximately 4 to 12 mg/kg/day in adults and 18 to 44 mg/kg/day in the offspring), based on clinical signs of toxicity, reduced weight gain, and mortality in both parents and offspring at 320 ppm. However, there were no effects on mating, fertility or developmental behavior at any dose level.

6. *Endocrine Effects.* No special studies have been conducted to investigate the potential of deltamethrin to induce estrogenic or other endocrine effects. However, the standard battery of required toxicity studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects, yet no such effects were detected. Thus, the potential for deltamethrin to produce any significant endocrine effects is considered to be minimal.

7. *Metabolism.* The absorption of deltamethrin appears to be highly dependent upon the route and vehicle of administration. Once absorbed, deltamethrin is rapidly and extensively metabolized and excreted, primarily within the first 48 hours.

C. Aggregate Exposure

Deltamethrin is a broad spectrum insecticide used to control pests of crops, ornamental plants and turf, and domestic indoor and outdoor (including dog collars), commercial, and industrial food use areas. Thus, aggregate non-occupational exposure would include exposures resulting from non-food uses in addition to consumption of potential residues in food and water. Exposure via drinking water is expected to be negligible since deltamethrin binds tightly to soil and rapidly degrades in water. Because of the variety and nature of the non-food uses of deltamethrin, and the unavailability of reliable exposure data, we cannot fully evaluate potential exposure from these non-food uses. However, deltamethrin binds tightly to organic matter, is not easily dislodged from indoor surfaces, has very low vapor pressure, and is poorly absorbed through the skin. Furthermore, the formulations to which the general public would be exposed are relatively dilute and non-toxic. Thus, non-food exposures are not expected to pose a significant risk to the general public, or to infants and children.

Potential dietary exposures from food commodities under the proposed tolerances for deltamethrin, plus the established tolerances for deltamethrin (40 CFR 180.435 and 185.1580) on cotton and tomato commodities, plus the pending temporary tolerances (under an Experimental Use Permit) on soybean commodities for deltamethrin were estimated using the Exposure 1 software system (TAS, Inc.) and the 1977–78 USDA consumption data. Two scenarios were evaluated. In the first, worst case scenario, it was assumed that 100 percent of the crops for which a tolerance for deltamethrin is established or pending are treated with deltamethrin, all food and feed handling establishments are treated with deltamethrin, and that all residues resulting from these treatments are at tolerance level. In a second, slightly more realistic-case scenario, anticipated residues and percent crop treated adjustments were used, but again the unrealistic assumption was made that 100 percent of all food and feed handling establishments were treated with deltamethrin.

D. Safety Determinations

1. *US Population in General.* AgrEvo Environmental Health considers the toxicity and residue data base for deltamethrin to be valid, reliable and essentially complete according to existing regulatory requirements. No evidence of oncogenicity has been observed. A Reference Dose (RfD) of 0.01 mg/kg bodyweight/day has been established for deltamethrin based on the NOEL from the two-year rat feeding study and a 100-fold safety factor to account for interspecies extrapolation and intraspecies variation.

Using the dietary exposure assumptions described above in section D, chronic dietary exposures utilize 17 percent of the deltamethrin Reference Dose in the worst-case scenario, and only 2.6 percent of the Reference Dose in the slightly more realistic-case scenario for the general population. Thus, even utilizing a number of unrealistic assumptions, the total of the RfD utilized for deltamethrin did not exceed 17 percent. There is generally no concern for exposures below 100 percent of the RfD since it represents the level at or below which no appreciable risks to human health is posed. Therefore, there is reasonable certainty that no harm will result to the U.S. population in general from aggregate exposure to deltamethrin.

2. *Infants and Children.* Data from developmental toxicity studies in rats and rabbits, and multigeneration reproduction studies in rats are generally used to assess the potential for increased sensitivity of infants and children. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from prenatal and postnatal exposure to the pesticide.

No developmental effects were noted in a rat developmental toxicity study with deltamethrin, even at dose levels that produced clinical signs of toxicity, reduced body weight, and death in the dams. The maternal and developmental NOEL's in this study were 3.3 mg/kg/day and 11 mg/kg/day (highest dose tested), respectively. The only developmental effect noted in the rabbit developmental toxicity study was possibly retarded ossification at 100 mg/kg/day, a dose level which also produced maternal mortality. The maternal and developmental NOEL's in this study were 10 mg/kg/day and 25 mg/kg/day, respectively. No effects were noted in either parents or offspring at the high dose level (50 ppm) in a 3-generation rat reproduction study. In a more recent 2-generation rat reproduction study (not yet submitted to the Agency), the NOEL for both the parents and offspring was 80 ppm (equivalent to approximately 4 to 12 mg/kg/day in adults and 18 to 44 mg/kg/day in the offspring), based on a variety of toxic effects (clinical signs of toxicity, reduced weight gain, and mortality) in both parents and offspring at 320 ppm. However, there were no effects on mating, fertility, or developmental behavior at any dose level. Thus, these data do not provide any evidence of increased susceptibility to infants or children.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects in children is complete. Although no indication of increased susceptibility to younger animals was noted in any of the above studies, or in the majority of studies with other pyrethroids, several recent publications have reported that deltamethrin is more toxic to neonate and weanling animals than to adults. However, a joint industry group currently investigating this issue was unable to reproduce these findings. Furthermore, the RfD (0.01 mg/kg/day) that has been established for deltamethrin is already more than 1,000-fold lower than the lowest NOEL from the developmental and reproduction studies. Therefore, the RfD of 0.01 mg/kg/day is appropriate for assessing aggregate risk to infants and children and an additional uncertainty factor is not warranted.

Using the dietary exposure assumption described above in section D, chronic dietary exposures utilize 54 percent of the deltamethrin RfD in the

worst-case scenario, and only 10.2 percent of the RfD in the slightly more realistic-case scenario for the population subgroup described as non-nursing infants, less than 1 year old. Thus, even utilizing a number of unrealistic assumptions, the total of the RfD utilized for deltamethrin did not exceed 54 percent . There is generally no concern for exposures below 100 percent of the RfD since it represents the level at or below which no appreciable risks to human health is posed. Therefore, there is reasonable certainty that no harm will result to the most sensitive population subgroup described as non-nursing infants, less than one year old, from aggregate exposure to deltamethrin.

E. Cumulative Effects

At the present time, there are insufficient data available to allow AgrEvo to properly evaluate the potential for cumulative effects from the various pyrethroids now being used, or from any other chemicals that may have similar mechanisms of toxicity. Furthermore, because of the need to utilize data from multiple registrants, such an analysis cannot be conducted by a single registrant. AgrEvo is currently participating in a joint industry effort to evaluate the potential aggregate risks from exposure to all pyrethroids but the results from this evaluation are not yet available. As an interim measure, AgrEvo has performed an initial evaluation of the potential combined effectsfrom exposure to two pyrethroids, deltamethrin and tralomethrin, that are currently registered by AgrEvo Environmental Health and AgrEvo USA Companies. A combined assessment of these two active ingredients is considered appropriate because tralomethrin is rapidly debrominated into deltamethrin and because the two molecules have essentially identical toxicology profiles.

For the same reasons previously discussed for deltamethrin, non-dietary exposures to tralomethrin are not expected to pose a significant risk to human health and, therefore, have not been evaluated. Potential dietary exposures to tralomethrin are, however, considered here. The RfD established for tralomethrin is 0.0075 mg/kg bodyweight/day based on a two-year rat feeding study and a 100 fold safety factor to account for interspecies extrapolation and intraspecies variation. Using the dietary exposure assumptions described above in section D, chronic dietary exposures utilize 16.9 percent of the tralomethrin RfD in the worst-case scenario, and only 3.9 percent of the tralomethrin RfD in the slightly more realistic-case scenario for the general population. For the population subgroup described as non-nursing infants, less than one year old, 32 percent of the RfD for tralomethrin is utilized in the worst-case scenario, and only 11 percent of the RfD for tralomethrin in the slightly more realistic-case scenario. (The crops/uses considered for tralomethrin are those for which tolerances have been established for experimental use permits and those listed in 40 CFR 180.422, 185.5450, and 186.5450.)

A simple cumulative risk assessment can be made by adding the percent RfD utilized for deltamethrin and tralomethrin. However, this is a gross overestimate because, based on efficacy, economics, and/or label restrictions, crops and food/feed handling establishments would not be concurrently treated with both products. This is especially important in considering food/feed handling uses because all foods are considered to contain residues of both deltamethrin and tralomethrin. Nonetheless, looking at this simple summation, it is shown that in the worst-case scenario described in section D, chronic dietary exposures utilize 33.9 percent of the RfDs for tralomethrin/deltamethrin, while in the slightly more realistic-case scenario only 6.5 percent of the RfDs for tralomethrin/deltamethrin are utilized. For the population subgroup described as non-nursing infants, less than one-year old, 86 percent of the RfDs for tralomethrin/deltamethrin are utilized in the worst-case scenario, while only 21.2 percent of the RfDs for tralomethrin/deltamethrin are utilized in the slightly more realistic-case scenario. Thus, even utilizing a number of unrealistic assumptions, and using a simple summation of percent RfD utilized for each active ingredient, the total of percent RfD utilized for deltamethrin/tralomethrin did not exceed 86 percent, and is actually less than 21.2 percent, for the population subgroup non-nursing infants, less than one year old. Therefore, there is reasonable certainty that no harm will result from cumulative aggregate exposures to deltamethrin and tralomethrin for the general population and/or infants and children.

G. International Tolerances

Deltamethrin is a broad spectrum insecticide used throughout the world to control pests of livestock, crops, ornamental plants and turf, and household, commercial, and industrial food use areas. A reevaluation of the maximum residue limits (MRL s) was conducted in 1994, in accordance with the EC Directive (91/414/EEC) Registration Requirements for Plant Protection Products. A comparison of the proposed CODEX MRLs and proposed tolerances for deltamethrin is presented below:

Commodity	Proposed/Current MRL (CODEX)	Proposed/Established Tolerance (USEPA)
Food/Feed Handling Uses	0.05 ppm	0.05 ppm

[FR Doc. 97–10893 Filed 4–29–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181044; FRL 5713–4]

Carbofuran; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Mississippi Department of Agriculture and Commerce, and from the Louisiana Department of Agriculture and Forestry (hereafter referred to as the ''Applicants'') to use the pesticide flowable Carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No.

279–2876) to treat up to 1 million acres of cotton in Mississippi and to treat up to 1 million acres of cotton in Louisiana, to control cotton aphids. The Applicants propose the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs. The granular formulation of carbofuran was the subject of a Special Review between the years of 1986 – 1991, which resulted in a negotiated settlement whereby most of the registered uses of granular carbofuran were phased out. While the flowable formulation of carbofuran is not the subject of a Special Review, EPA believes that the proposed use of flowable carbofuran on cotton could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 15, 1997.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181044,'' should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION'' of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted in any comment concerning this notice 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 provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8327; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of carbofuran on cotton to control aphids. Information in accordance with 40 CFR part 166 was submitted as part of these requests. As part of these requests, the Applicants assert that the states of Mississippi and Louisiana are likely to experience nonroutine infestations of aphids during the 1996 cotton growing season. The Applicants further claim that, without specific exemptions of FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in much of these states will suffer significant economic losses. The Applicants also detail use programs designed to minimize risks to pesticide handlers and applicators, nontarget organisms (both Federally-listed endangered species, and nonlisted species), and to reduce the possibility of drift and runoff.

The Applicants propose to make no more than two applications at the rate of 0.25 lbs. active ingredient [(a.i.)] (8 fluid oz.) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 1997 growing season (Mississippi proposes a use season from the date of EPA issuance until September 15, 1997; Louisiana proposes a use season beginning June 1, 1997 until September 30, 1997) would be 0.5 lbs. a.i., (16 fluid oz.) per acre. The Applicants propose that the maximum acreage which could be treated under the requested exemptions would be 1 million acres in each state. If all acres were treated at the maximum proposed rates, then 500,000 lbs. a.i. would be used in each state.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar to the risk assessed by EPA under the previous Special Review. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–181044] (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 official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

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. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181044]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Mississippi Department of Agriculture and Commerce, and by the Louisiana Department of Agriculture and Forestry.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: April 18, 1997.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–11020 Filed 4-29-97; 8:45 am]

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Public Information Collections Approved by Office of Management and Budget

April 24, 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.: 3060–0759.

Expiration Date: 04/30/2000.

Title: Implementation of Section 273 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

Form No.: N/A.

Estimated Annual Burden: 100 respondents; 63 hours per response (avg.); 6300 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $231,000.

Description: OMB approved the collections of information contained in the Notice of Proposed Rulemaking (NPRM) issued in CC Docket No. 96–254. The Commission issued the NPRM to initiate a proceeding to permit the Bell Operating Companies (BOCs) to manufacture telecommunications and customer premises equipment (CPE) on a competitive basis, pursuant to Section 273 of the Communications Act of 1934, as amended. In general, under Section 273, a BOC may provide telecommunications equipment and may manufacture both telecommunications equipment and CPE through a separate affiliate once the Commission authorizes the BOC to provide in-region, interLATA services pursuant section 271. In CC Docket 96–254, the Commission sought comment on procedures governing collaboration, research and royalty agreements, reporting of protocols and technical information, and disclosure of other information on network planning and design.

OMB Control No.: 3060–0478.

Expiration Date:04/30/2000.

Title: Informational Tariffs.

Form No.: N/A.

Estimated Annual Burden: 300 respondents; 50 hours per response (avg.); 16,500 total annual burden hours.

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. 226(h)(1)(A), to file informational tariffs with the Commission and to update these tariffs regularly. Congress directed that operator service providers (OSPs) file informational tariffs not later than 90 days following enactment of Section 226(h)(1)(A) of the Communications Act and further directed OSPs to file any changes to these tariffs not later than the first day in which they are effective. 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 OSPs with the requirements of the Communications Act.

OMB Control No.: 3060–0149.

Expiration Date: 06/30/98.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, Sections 63.01–63.601.

Form No.: N/A.

Estimated Annual Burden: 255 respondents; 10 hours per response (avg.); 2550 total annual burden.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communication, or (2) discontinue, reduce, or impair service over a line of communication. 47 CFR Part 63 implements Section 214. OMB approved the information collections contained in the Notice of Proposed Rulemaking (NPRM) issued in CC Docket No. 97–11. In the NPRM, Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996 (Section 214—Extensions of Lines), issued January 13, 1997, the Commission proposes to modify 47 CFR Part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submission requirements for other categories. The Commission proposes entirely eliminating the requirement for carriers to file applications for line ''extensions'' because Congress has exempted line ''extensions'' for the requirements of 47 U.S.C. 214, under Section 402(b(2)(A) of the Telecommunications Act of 1996. The Commission also proposes eliminating the requirement for reports submitted by carriers identified by the Commission as domestic non-dominant carriers, small carriers, and carriers proposing small projects. For carriers identified by the Commission as domestic dominant rate-of-return carriers, the Commission proposes reducing (but not entirely eliminating) the information submission requirements in applications for ''new'' lines, because the information is collected elsewhere, is unnecessary, is confusing in light of the provisions of section 402(b)(2)(A), or is no longer of decisional significance to the Commission. The information received in applications from dominant carriers (now proposed to be reduced) has been used by the Commission to determine if the facilities are needed. The information contained in reports from non-dominant carriers (now proposed to be eliminated) has been used to monitor the growth of the networks and the availability of common carrier services in this segment of the telecommunications market, to relieve these carriers and the Commission of a before-the-fact review of each subsequent facility addition. These collections of information were deemed necessary to enable the Commission to comply with its mandate. Because Congress has changed the Commission's mandate in the Telecommunications Act of 1996, the information proposed to be reduced or eliminated may no longer be warranted.

OMB Control No.: 3060–0760.

Expiration Date: 04/30/2000.

Title: Access Charge Reform—CC Docket No. 96–262.

Form No.: N/A.

Estimated Annual Burden: 3497 respondents; 541 hours per response (avg.); 1,892,800 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: OMB approved the proposed collections contained in Notice of Proposed Rulemaking (NPRM) issued CC Docket No. 96–262. In the NPRM, Access Charge Reform, the Commission proposed, in reforming its system of interstate access charges, to make its system compatible with the pro-competitive deregulatory framework established by the Telecommunications Act of 1996, in order that marketplace forces can eliminate the need for price regulation. The Commission proposed collections of information under one of two regulatory frameworks, or some combination thereof. The NPRM also contains a number of proposals that may require the filing of tariffs with the Commission. The proposed information

collections would be submitted to the FCC by incumbent local exchange carriers for use in determining: (a) whether the incumbent LECs should receive the regulatory relief proposed in the NPRM; (b) whether the incumbent LECs have complied with any prescriptive approach the FCC may adopt; or (c) some combination of (a) or (b).

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. 97–11147 Filed 4–29–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 737]

National Institute for Occupational Safety and Health; National Center for the Prevention of Childhood Agricultural Injury; Availability of Funds for Fiscal Year 1997

Introduction

The Centers for Disease Control and Prevention (CDC), the nation's prevention agency, announces the availability of funds for fiscal year (FY) 1997 for a cooperative agreement program to support a national center to serve as a leader to facilitate activities and efforts toward childhood agricultural injury prevention.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized under the Public Health Service Act, as amended, Section 301(a) (42 USC 241(a)); the Occupational Safety and Health Act of 1970, Sections 20(a)and 22 (29 USC 669(a) and 671.) The applicable program regulation is 42 CFR Part 52.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or woman-owned businesses are eligible to apply.

Note: Public Law 104–65, dated December 19, 1995, prohibits an organization described in section 501(c)(4) of the IRS Code of 1986, that engages in lobbying activities to influence the Federal Government, from receiving Federal funds.

Availability of Funds

Approximately $600,000 is available in FY 1997 to fund one award to support a national center for the prevention of childhood agricultural injury.

The amount of funding available may vary and is subject to change. This award is expected to begin on or about August 1, 1997. The award will be made for a 12-month budget period within a project period not to exceed 5 years. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 USC 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 HHS Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. This new law, Section 503 of Public Law 104–208, provides as follows:

> Sec. 503(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.
>
> (b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Public Law 104–208 (September 30, 1996).

Background

Agriculture has been consistently ranked among the most hazardous industries in the United States. It is one of the few occupational settings where children may actively participate in work typically performed by adults, or be present at the work site while their parents are working. In 1991, there were 923,000 children under the age of 15 years and 346,000 children 15–19 years of age residing on United States farms and ranches. Another 800,000 children lived in households of hired farm workers and may work on farms with their parents. In addition, many children, whose parents are not farmers or farm workers, will visit and work on farms.

It is estimated that 100,000 children each year will suffer a preventable injury associated with production agriculture. This figure includes children who are residents, visitors to a farm, and who work on a farm. For the years 1992–1995, the Bureau of Labor Statistics identified work-related injury deaths of children less than 18 years of age in agriculture as being 8 times greater than their representation in the workforce (40 percent of the work-

related deaths of children during this period occurred in agriculture compared to only 5 percent of working children less than 18 years of age who worked in agriculture in 1990). These figures do not include deaths of children who were not working at the time of injury, but were killed by agricultural work hazards in their living environment. A recent study indicates 104 fatalities per year were attributable to childhood injuries which occur on farms. An emergency department-based nonfatal occupational injury study indicated injuries incurred by children attributable to the agricultural industry comprised about 7 percent of the total occupational injuries reported. Fractures and dislocations were more than 3 times greater for the agricultural industry, which could indicate that agricultural injuries for children are more severe than for other industries.

In April 1996, the National Committee for Childhood Agricultural Injury Prevention (NCCAIP) published a National Action Plan to maximize the safety and health of all children and adolescents who may be exposed to agricultural hazards. The National Action Plan includes 13 objectives and 43 recommended action steps that call for funding of research and safety programs by the Federal government, foundations, agribusiness, and other public and private sector groups and nonprofit community-based organizations. The National Action Plan specifically calls for developing linkages among researchers, public sector agencies, and private sector foundations, corporations, associations, nonprofit community-based organizations and other groups who can enact change; conducting efforts to ensure the public is aware of childhood agricultural safety and health issues; using consensus-building processes which involve interdisciplinary experts and stakeholders to arrive at guidelines and recommended standards for research and practices; and using state-of-the-art information and materials which are essential for achieving the objectives set forth in the plan. Congress allocated FY 1997 funds to the National Institute for Occupational Safety and Health (NIOSH) to facilitate implementation of the National Action Plan.

Purpose

The purpose of this cooperative agreement is:

A. To establish a national center which would serve as a leader to facilitate childhood agricultural injury prevention efforts and activities.

B. To provide or enhance efforts to prevent injuries and illnesses occurring to children who visit, live or work on farms, or are associated with other agricultural activities that pose a risk to children.

C. To establish linkages and partnerships with the agricultural community to facilitate the implementation of the National Action Plan.

D. Identify and facilitate the use of state-of-the-art information and programs to prevent childhood agricultural injuries.

The goal of the national center will be to influence the knowledge, attitudes, and practices of individuals and groups to protect children and adolescents from agricultural injuries and illnesses.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

A. Recipient Activities

1. Establish a national center for research findings, programs, and information which have been shown to be effective in preventing childhood agricultural injuries.

2. Establish and maintain contacts with organizations, groups and individuals which supply childhood agricultural injury prevention information and data.

3. Facilitate awareness and utilization of the center through appropriate activities, including but not limited to involving minority-serving groups, organizations, etc.

4. Coordinate and collaborate with established and ongoing health communication efforts, such as the National Safety Council's ''Farm Safety and Health Week,'' ''Farm Safety 4 Just Kids,'' etc.

5. Organize and manage multi-perspective work groups which use consensus-building processes to arrive at recommended standards/guidelines for agricultural youth work and the protection of bystander children; and standards for data collection and program evaluation.

6. Collaborate and facilitate the involvement of the private sector into childhood agricultural injury prevention activities.

7. Collaborate with researchers and public and private sector agencies, organizations, and other groups who can enact change through prevention efforts and activities.

B. CDC/NIOSH Activities

1. Provide technical assistance with program development, implementation, maintenance, priority setting, evaluation efforts, and information and dissemination activities.

2. Facilitate linkages with researchers and public and private sector agencies and organizations to plan, implement, and evaluate childhood agricultural injury prevention efforts.

3. Collaborate with the recipient in joint safety and health communication and dissemination efforts of prevention information.

Technical Reporting Requirements

An original and two copies of semi-annual progress reports are required. Timelines for the semi-annual reports will be established at the time of award. Final financial status and performance reports are required no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Semi-annual progress report should include:

A. A brief program description.

B. A listing of program goals and objectives accompanied by a comparison of the actual accomplishments related to the goals and objectives established for the period.

C. If established goals and objectives to be accomplished were delayed, describe both the reason for the deviation and anticipated corrective action or deletion of the activity from the project.

D. Other pertinent information, including the status of completeness, timeliness and quality of data.

Application Content

The entire application, including appendices, should not exceed 60 pages and the Proposal Narrative section contained therein should not exceed 25 pages. Pages should be clearly numbered and a complete index to the application and any appendices included. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced type (font size 12 point or greater) on 8½″ by 11″ paper, with at least 1″ margins, headers, and footers, and printed on one side only. Do not include any spiral or bound materials or pamphlets.

The applicant should provide a detailed description of first-year activities and briefly describe future-year objective and activities.

A. Title Page

The heading should include the title of grant program, project title, organization, name and address, project director, and telephone number.

B. Abstract

A one page, singled-spaced, typed abstract must be submitted with the application. The heading should include the title of grant program, project title, organization, the project director's name, address and telephone number. This abstract should include a detailed work plan identifying specific activities to be developed, specific activities to be completed, and a time-line for completion of these activities.

C. Proposal Narrative

The narrative of each application must:

1. Briefly state the applicant's understanding of the need or problem to be addressed, the purpose, and goals over the five year period of the cooperative agreement.

2. Describe in detail the objectives and the methods to be used to achieve the objectives of the project. The objectives should be specific, time-phased, measurable, and achievable during each budget period. The objectives should directly relate to the program goals. Identify the steps to be taken in planning and implementing the objectives and the responsibilities of the applicant for carrying out the steps.

3. Provide the name, qualifications, and proposed time allocation of the Project Director who will be responsible for administering the project. Describe staff, experience, facilities, equipment available for performance of this project, and other resources that define the applicant's capacity or potential to accomplish the requirements stated above. List the names (if known), qualifications, and time allocations of the existing professional staff to be assigned to (or recruited for) this project, the support staff available for performance of this project, and the available facilities including space.

4. Document the applicant's expertise and extent of involvement in the area of childhood agricultural injury prevention.

5. Provide letters of support or other documentation demonstrating collaboration of the applicant's ability to work with diverse groups, establish linkages, and facilitate awareness information.

6. Human Subjects: State whether or not Humans are subjects in this proposal. (See *Human Subjects* in the Evaluation Criteria and Other Requirements sections.)

7. Inclusion of women, ethnic, and racial groups:

Describe how the CDC policy requirements will be met regarding the inclusion of women, ethnic, and racial groups in the proposed research.

D. Budget

Provide a detailed budget which indicates anticipated costs for personnel, equipment, travel, communications, supplies, postage, and the sources of funds to meet these needs. The applicant should be precise about the program purpose of each budget item. For contracts described within the application budget, applicants should name the contractor, if known; describe the services to be performed; and provide an itemized breakdown and justification for the estimated costs of the contract; the kinds of organizations or parties to be selected; the period of performance; and the method of selection. Place the budget narrative pages showing, in detail, how funds in each object class will be spent, directly behind form 424A. Do not put these pages in the body of the application. CDC may not approve or fund all proposed activities.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

A. Background and Need (10%)

Understanding of the problem and need for activities in the proposal.

B. Experience (25%)

The extent to which the applicant's prior work and experience in childhood agricultural injury issues is documented, including length of time committed to childhood agricultural injury prevention; linkages developed; collaboration with other individuals or groups; strength of leadership.

C. Goals, Objectives and Methods (15%)

1. The extent to which the proposed goals and objectives are clearly stated, time-phased, and measurable. The extent to which the methods are sufficiently detailed to allow assessment of whether the objectives can be achieved for the budget period. The extent to which a qualified plan is proposed that will help achieve the goals stated in the proposal.

2. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed project. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; and (d) A statement as to whether the plan for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

D. Facilities and Resources (15%)

The adequacy of the applicant's facilities, equipment, and other resources available for performance of this project.

E. Project Management and Staffing Plan (15%)

The extent to which the management staff and their working partners are clearly described, appropriately assigned, and have pertinent skills and experiences. The extent to which the applicant proposes to involve appropriate personnel who have the needed qualifications to implement the proposed plan. The extent to which the applicant has the capacity to design, implement, and evaluate the proposed intervention program.

F. Evaluation (15%)

The extent to which goals and objectives encompass both process and outcome evaluation for the activities listed. The extent to which an evaluation plan describes the method and design for evaluating the program's effectiveness. Evaluation should include progress in meeting the objectives and conducting activities during the project and budget periods, and the impact of the activities implemented on childhood injury.

G. Collaboration (5%)

The extent to which all partners are clearly described and their qualifications and intentions to participate explicitly stated. The extent to which the applicant provides proof of support (e.g., letters of support and/or memoranda of understanding) for proposed activities. Evidence or a statement should be provided that these funds do not duplicate already funded components of ongoing projects.

H. Human Subjects (Not scored)

Whether or not exempt from the Department of Health and Human Services (DHHS) regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate, and

there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and the Objective Review Group has concerns related to human subjects or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

I. Budget Justification (Not scored)

The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

Executive Order 12372 Review

Applications are not subject to the review requirements of Executive Order 12372.

Public Health System Reporting Requirements

The applicant is not subject to review under the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the DHHS Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Application Submission and Deadlines

A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to Victoria F. Sepe, Grants Management Specialist, Grants Management Branch, CDC at the address listed in this section. It should be postmarked no later than *June 1, 1997.* The letter should identify program announcement number 737, and name of the principal investigator. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently and will ensure that each applicant receives timely and relevant information prior to application submission.

B. Application

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE, Room 321, Atlanta, GA 30305, on or before *June 30, 1997.*

1. *Deadline:* Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (The applicants must request a legibly dated U.S. Postal Service postmark or obtain a receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Late Applicants:* Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicants.

Where To Obtain Additional Information

To receive additional written information call 1–888 GRANTS4. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 737. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail. *Please refer to Announcement Number 737 when requesting information and submitting an application.*

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, Room 321, 255 East Paces Ferry Road, NE., Atlanta, GA 30305, telephone (404) 842–6804, Internet: vxw1@cdc.gov.

Programmatic technical assistance may be obtained from David L. Hard, Ph.D., Division of Safety Research, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1095 Willowdale Road, Morgantown, WV 26505, telephone (304) 285–6068, or Internet address: dlh6@.cdc.gov.

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC homepage is: http://www.cdc.gov.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Useful References

The following documents may also provide useful information: National Committee for Childhood Agricultural Injury Prevention. Children and Agriculture: Opportunities for Safety and Health. Marshfield, WI: Marshfield Clinic, 1996. For access to the document, the WEB address to that

section is: ''http://www.marshmed.org/nfmc/actionplan/title.htm''.

Dated: April 24, 1997.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–11195 Filed 4–29–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: 45 CFR Parts 1301, 1303, 1304, 1305, 1306, and 1308. Head Start Program Performance Standards' Recordkeeping Requirements.

OMB No.: New Request.

Description: The Head Start Program Performance Standards provide a standard and definition of quality services and provide a regulatory structure for the monitoring and enforcement of quality standards for Head Start grantees and delegate agencies. The Head Start Bureau published these standards as a Notice of Proposed Rule Making (NPRM) on April 22, 1996.

Following consideration of the public comments addressing the NPRM and after publication of the Final Rule, the Bureau plans to issue a Program Instruction to Head Start grantees and delegate agencies. The Program Instruction will outline the record-keeping requirements expected of the 2,112 Head Start grantees and delegate agencies which serve 751,000 children and their families as they implement the Program Performance Standards in their local programs. Please refer to the full text of the proposed program instruction below.

The records that must be maintained by grantees and delegate agencies include: (1) Child and family records such as emergency contact information; (2) child records such as attendance records; (3) family records such as family conference documentation; and (4) program records such as staff personnel files. These records must be kept in order to administer quality programs in an organized manner, provide evidence of compliance with Head Start Program Performance Standards, and meet State and local law requirements.

Respondents: Head Start grantees and delegate agencies.

ANNUAL BURDEN ESTIMATES

Records	Number of recordkeepers hours	Average burden hours per response	Total burden hours
Child & Family Records	2,112	110	232,038
Child Records	2,112	667	1,408,075
Family Records	2,112	436	920,295
Program Records	2,112	171	361,094
Estimated Total Annual Burden Hours: 2,921,502			

In compliance with the requirements of Section 3506(c) (2) (A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the information collection aspects of the record-keeping requirements for the Head Start Program Performance Standards. Copies of the proposed Program Instruction will be mailed to all grantees and delegate agencies at the time of publication of this Notice. Anyone else can obtain copies and forward comments on the Program Instruction by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title of this information collection.

In addition, requests for copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending message to lguerrero@acf.dhhs.gov. Internet messages must be submitted as an ASCII file without special characters or encryption.

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: April 24, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–11115 Filed 4–29–97; 8:45 am]

BILLING CODE 4110–60–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97C–0171]

Toyo-Morton, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Toyo-Morton, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyester-epoxy-urethane adhesive for use as a nonfood contact layer of laminated articles intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by May 30, 1997.

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

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food

Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3084.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)(21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4538) has been filed by Toyo-Morton, Ltd., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 177.1390 *Laminate structures for use at temperatures of 250°* F *and above* (21 CFR 177.1390) to provide for the safe use of polyester-epoxy-urethane adhesive for use as a nonfood contact layer of laminated articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before May 30, 1997 submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 17, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–11078 Filed 4-29-97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism on June 5, 1997.

The meeting will be open to the public, as noted below, to discuss Institute programs and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ida Nestorio at 301–443–4376.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C. and section 10(d) of Pub. L. 92–463 for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and programs, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and the roster of committee members may be obtained from: Ms. Ida Nestorio, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, Willco Building, Suite 409, 6000 Executive Blvd., Rockville, MD 20892–7003, Telephone: 301–443–4376. Other information pertaining to the meeting may be obtained from the contact person indicated.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Executive Secretary: James F. Vaughan, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–4375.

Date of Meeting: June 5, 1997.

Place of Meeting: Conference Room E1 & E2, Building 45 (Natcher), NIH Campus, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: June 5, 1997—8 am to 10 am.

Agenda: To review and evaluate grant applications.

Open: June 5, 1997—10 am to 4 pm.

Agenda: Discussion of Institute extramural research programs, and other program and peer review issues relevant to Council activities.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: April 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11134 Filed 4–29–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Board of Scientific Counselors' Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on May 14, 1997.

The meeting will be open to the public from 8:45 a.m. to adjournment with attendance limited only by space available. The primary agenda topic is concerned with presentations and discussions of endocrine disruptor initiatives at NIEHS and other Federal health agencies. The Board will review a concept proposal for contract support for inlife mechanistic studies on toxicity and carcinogenicity.

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, NIEHS, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FAX (919) 541–0295, will have available a firm agenda with times and a roster of Board members prior to the meeting and summary minutes subsequent to the meeting.

Dated: April 18, 1997.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 97–11137 Filed 4–29–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Call for Public Comments; Chemicals Proposed for the Eighth Biennial Report on Carcinogens

Background

The National Toxicology Program (NTP) announces its intent to list additional substances in the Eighth Biennial Report on Carcinogens (BRC). This Report is a Congressionally-mandated listing of known human carcinogens and reasonably anticipated human carcinogens and its preparation is delegated to the National Toxicology Program by the Secretary, Department of Health and Human Services (HHS). Section 301(b)(4) of the Public Health Service Act, as amended, provides that the Secretary, (HHS), shall publish a report which contains a list of all substances (1) Which either are known to be human carcinogens or may reasonably be anticipated to be human carcinogens; and (2) to which a significant number of persons residing in the United States (US) are exposed. The law also states that the reports should provide available information on the nature of exposures, the estimated number of persons exposed and the extent to which the implementation of Federal regulations decreases the risk to public health from exposure to these chemicals.

The new entries for the Eighth BRC have undergone a multiphased peer review process involving two Federal scientific review groups and one non-government, scientific peer review body (a subcommittee of the NTP Board of Scientific Counselors) which met in an open, public meeting that included a public comment session. All data relevant to the criteria for inclusion of candidate agents, substances or mixtures in the BRC have been evaluated by the three scientific review committees.

In the Eighth BRC, the NTP is adding 14 agents, substances or mixtures to the existing list, one of which is listed as a known human carcinogen. The 13 remaining agents, substances or mixtures are being added as reasonably anticipated to be human carcinogens. In addition, thiotepa, which is currently listed in previous Reports on Carcinogens as reasonably anticipated to be a human carcinogen is moved to the known human carcinogen list. These agents, substances or mixtures are provided in the following table with their Chemical Abstracts Services (CAS) Registry numbers and listing. The Eighth BRC also contains an appendix which is a reference to certain ''Manufacturing Processes, Occupations and Exposure Circumstances'' that have not yet been formally reviewed by the NTP for BRC listing but have been classified by IARC as sources which are known to be carcinogenic to humans because of the associated increased incidences of cancer in workers in these settings. While not formally listed in the 8th BRC, in the interest of public health and for completeness, these occupational exposures have been referenced in an appendix to the Report with the corresponding IARC citation given.

Comments concerning the addition of these substances in the Eighth BRC will be accepted for a period of 30 days from the date of the publication of this announcement in the **Federal Register**. Comments or questions should be directed to Dr. C.W. Jameson, National Toxicology Program, Biennial Report on Carcinogens, MD WC–05, P.O. Box 12233, Research Triangle Park, NC 27709, fax number: (919)–541–2242, email: Jameson@niehs.nih.gov.

Attachment.

Dated: April 18, 1997.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

SUMMARY FOR AGENTS, SUBSTANCES OR MIXTURES TO BE LISTED IN THE EIGHTH BIENNIAL REPORT ON CARCINOGENS

Chemical/CAS number	Primary uses	To be listed as
AZACITIDINE/320–67–2	Used as a cytostatic agent in the treatment of acute leukemia	Reasonably Anticipated to be a Human Carcinogen.
p-CHLORO-o-TOLUIDINE and its HCl salt/95–69–2.	Used to produce azo dyes for cotton, silk acetate and nylon and as intermediate in production of Pigment Red 7 and Pigment Yellow 49. Also an impurity in and a metabolite of the pesticide chlordimeform	Reasonably Anticipated to be a Human Carcinogen.
CHLOROZOTOCIN/54749–90–5	Used as a cytostatic agent in the treatment of cancers of the stomach, large intestine pancreas and lung; melanoma; and multiple myeloma	Reasonably Anticipated to be a Human Carcinogen.
CYCLOSPORIN/59865–13–3	Used as an immunosuppressive agent in the prevention and treatment of graft-vs-host reactions in bone marrow transplantation and for the prevention of rejection of kidney, heart, and liver transplants	Known to be a Human Carcinogen.
DANTHRON/(1,8-Dihydroxyanthraquinone) 117–10–2.	Used as a laxative and as an intermediate in the manufacture of dyes	Reasonably Anticipated to be a Human Carcinogen.
1,6-DINITROPYRENE/42397–64–8	Not used commercially, detected in ambient atmospheric samples and as a constituent of diesel exhaust	Reasonably Anticipated to be a Human Carcinogen.
1,8-DINITROPYRENE/42397–65–9	Not used commercially, detected in ambient atmospheric samples and as a constituent of diesel exhaust	Reasonably Anticipated to be a Human Carcinogen.
DISPERSE BLUE 1/(1,4,5,8-Tetraaminoanthraquinone) 2475–45–8.	Used as an anthraquinone based dyestuff in hair color formulations and in coloring fabrics and plastics	Reasonably Anticipated to be a Human Carcinogen.
FURAN/100–00–9	Used as an intermediate in the synthesis and production of other organic compounds	Reasonably Anticipated to be a Human Carcinogen.
o-NITROANISOLE/91–23–6	Used as a precursor in the synthesis of o-anisidine which is used in the manufacture of over 100 azo dyes	Reasonably Anticipated to be a Human Carcinogen.
6-NITROCHRYSENE/7495–02–8	Not used commercially, detected in ambient atmospheric samples	Reasonably Anticipated to be a Human Carcinogen.
1-NITROPYRENE/5522–43–0	Not used commercially, detected in ambient atmospheric samples and as a constituent of diesel and gasoline engine exhaust	Reasonably Anticipated to be a Human Carcinogen.
4-NITROPYRENE/57835–92–4	Not used commercially, detected in ambient atmospheric samples	Reasonably Anticipated to be a Human Carcinogen.

SUMMARY FOR AGENTS, SUBSTANCES OR MIXTURES TO BE LISTED IN THE EIGHTH BIENNIAL REPORT ON CARCINOGENS—Continued

Chemical/CAS number	Primary uses	To be listed as
THIOTEPA/52–24–4	Used as a cytostatic agent in the treatment of lymphomas and a variety of solid tumors, such as breast and ovary. It has also been used at high doses in combination chemotherapy with cyclophosphamide in patients with refractory malignancies treated with autologous bone transplantation	Known to be a Human Carcinogen.
1,2,3-TRICHLOROPROPANE/96–18–4.	Used as a polymer crosslinking agent, paint and varnish remover, solvent and degreasing agent.. It has been found as an impurity in certain nematicides and soil fumigants and has been detected in drinking and ground water in various parts of the United States	Reasonably Anticipated to be a Human Carcinogen.

[FR Doc. 97–11136 Filed 4–29–97; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS. (Formerly: National Institute on Drug Abuse, ADAMHA, HHS)

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787/800–242–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

CompuChem Laboratories, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–549–8263/800–833–3984, (formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P. O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 941–418–1700/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180 / 206–386–2672, (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300, (formerly: Harrison & Associates Forensic Laboratories)

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927/800–

728–4064, (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)
Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400, (formerly: Sierra Nevada Laboratories, Inc.)
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986, (formerly: Roche Biomedical Laboratories, Inc.)
Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961
Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734
MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–526–6339
Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–381–5213
Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466
Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587
Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199
MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808(x4512)
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400/800–541–7891
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294, (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627
Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272
Premier Analytical Laboratories, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784/800–888–4063, (formerly: Drug Labs of Texas)
Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–526–0947/972–916–3376, (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–574–2474/412–920–7733, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120, (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
Quest Diagnostics Incorporated, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293/314–991–1311, (formerly: Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–727–8800/800–999–LABS
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379, (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–0289/610–631–4600, (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301, (formerly: SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373/800–966–2211, (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)
UNILAB 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–996–7300, (formerly: MetWest-BPL Toxicology Laboratory)
UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

The Standards Council of Canada (SCC) Laboratory Accreditation Program for Substances of Abuse (LAPSA) has been given deemed status by the Department of Transportation. The SCC has accredited the following Canadian laboratory for the conduct of forensic urine drug testing required by Department of Transportation regulations: NOVAMANN (Ontario) Inc., 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–11168 Filed 4–29–97; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in May.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301)443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. This discussion could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. This discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Dates: May 8, 1997.

Place: Chevy Chase Holiday Inn, Terrace B, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: May 8, 1997, 9 a.m.–1 p.m.

Contact: Dorothy E. West, M.S.W., 17–89, Parklawn Building, Telephone: (301) 443–0878 and FAX: (301) 443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: April 24, 1997.

Jeri Lipov,

Committee Management Officer SAMHSA.

[FR Doc. 97–11118 Filed 4–29–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–56]

Notice of Proposed Information Collection for Public Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 30, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports, Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 USC Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Community Renaissance Fellows Program (CRFP): Budget, Payment Voucher and Semi-Annual Report.

OMB Control Number: 2577–0219.

Description of the need for the information and proposed use: HUD will require approximately 20 Community Renaissance Fellows to complete and submit forms to provide details on the funds that participants are requesting; to drawdown funds using the Line of Credit Control System/Voice Response System (LOCCS/VRS); and to provide information on expenditure of Federal funds, work activities, goals, and progress in implementing CRFP. This information is required to obtain benefits under the U.S. Housing Act of 1937, as amended.

Members of affected public: Individuals.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 20 respondents, annual/quarterly for payment voucher, three hours average per response, 66 total reporting burden hours.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 USC chapter 35, as amended.

Dated: April 23, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Community Renaissance Fellows Program (CRFP) Budget

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577 -0219 (exp. 7/31/1997)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0219), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Do not send this form to the above address.

The information is needed to provide details on the funds that participants are requesting. The information provides the amount reqiested, broken down by budget line item, with each use explained on Part II. The requested information will be reviewed by HUD to determine the amount requested, to determine whether the amount requested is reasonable, and whether the required percentages of capital and supportive services funds are met. Responses are required by Public Law 103-327, dated September 28, 1994. The information requested does not lend itself to confidentiality.

HA Name	CRFP Grant Number	FFY of Grant Approval
	☐ Original CRFP Budge ☐ Revised CRFP Budget	Revision Number

Line No.	Summary by Budget Line Item	Total Funds Requested	HUD Approved Funds
1	1250 Salary		
2	1260 Benefits		
3	1270 Administration		
4	Amount of CRFP Grant (sum of lines1 - 3)		

Signature of Executive Director	Date	Signature of Authorized Official	Date
X		X	

form **HUD-52810** (2/97)

Community Renaissance Fellows Program
Semi-Annual Report

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577 -0219 (exp. 7/31/1997)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0219), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Do not send this form to the above address.

The information is needed to monitor the expenditure of Federal Funds, work activities, goals, and progress in implementing the CRFP. Participants will report semi-annually on the CRFP. HUD will use the information to ensure that grant funds are spent efficiently to protect the Federal Government. Responses are required to obtain a benefit under the U.S. Housing Act of I937, as amended. The information requested does not lend itself to confidentiality.

1. Grantee Name & Address: (Include street, suite/room/apt. no., city, state, zip)	2. Date of Report:	3. Reporting Period:
	4. Grant Number:	
	5. Phone ( ) Ext.	6. Fax ( )

BLI	Program Highlights	Previously Reported	This Period	Cumulative Totals
1250	Salary			
1260	Benefits			
1270	Administration			
Total				

Provide a Narrative that addresses each of the following:

1. How Federal funds, specifically BLI#1270 (Administration), have been used to date.

2. Monthly work activities of Fellows.

3. Goals Accomplished and Progress in Implementing the CRF Program.

4. Other CRF Program activities.

(Continue on back)

Issues:
Comments:

LOCCS / VRS Community Renaissance Fellows Program **Payment Voucher**

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0219 (exp. 7/31/1997)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0219), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Do not send this form to the above address.

HUD implemented the Line of Credit Control System/Voice Response System (LOCCS/VRS) to process requests for payments to grantees. Grant recipients fill out a voucher form for the applicable HUD program with all the necessary information prior to making a telephone call using a touch tone telephone to initiate the drawdwon process. The grantee will be prompted for entering the information and for confirming information that is spoken back by the VRS simulated voice. This information is required to obtain benefits under the U.S. Housing Act of l937, as amended. The information requested does not lend itself to confidentiality.

1. Voucher/Certification Number	2. LOCCS Pgrm. Area	3. Period Covered by this Request (mm/yy)	4. 1 = Partial Disbursement 2 = Final Disbursement
077	CRFP	from: to:	
5. Voice Response No. (5 digits, hyphen, 5 more)	6. Grantee Organization's Name	7. Payee Organization's Name	
8. Grant No	6a. Grantee Organization's TIN No.	7a. Payee Organization's TIN	

9. Line Item No.	Type of Funds Requested	Amount (dollars) * (cents)
1250	Salary	*
1260	Benefits	*
1270	Administration	*
	10. Voucher/Certification Total:	$ *

I certify the data reported and funds requested on this voucher are correct and the amount requested is not in excess of immediate disbursement needs for this program. In the event the funds provided become more than necessary, such excess will be promptly returned, as directed by HUD.

11. Name & Phone Number (including area code) of the Person who called:	12. Name & Title of Authorized Signatory (type or print clearly) :	
	13. Signature : X	14. Date of Request :

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Privacy Statement: Public Law 97-255, Financial Integrity Act, 31 U.S.C. 3512, authorizes the Department of Housing and Urban Development (HUD) to collect all the information (except the Social Security Number (SSN)) which will be used by HUD to protect disbursement data from fraudulent actions. The purpose of the data is to safeguard the Line of Credit Control System (LOCCS) from unauthorized access. The data are used to ensure that individuals who no longer require access to LOCCS have their access capability promptly deleted. Failure to provide the information requested on the form may delay the processing of your approval for access to LOCCS. While the provision of the SSN is voluntary, HUD uses it as a unique identifier for safeguarding the LOCCS from unauthorized access. This information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

form **HUD-50080-CRFP** (2/97)

[FR Doc. 97–11107 Filed 4–29–97; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4230–N–02]

Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission: Meeting Notice

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting.

SUMMARY: This notice announces the upcoming meetings of the Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission. Notice of these meetings is required under the Federal Advisory Committee Act (Pub.L. 92–463).

MEETING DATE AND TIME: May 5 and May 6, 1997; 8:30 am–5:30 pm.

ADDRESS: The Federal Interagency Resource Coordination Conference, University of South Florida, Bayboro Campus, St. Petersburg, FL 33705, (813) 893–3324.

PURPOSE: The purpose of this event is to allow government representatives and community leaders to discuss ways to maximize Federal, State and local resources targeted to St. Petersburg in response to the civil unrest in November and December of 1996. The meeting format will encourage dialogue among agencies for vertical and horizontal integration of resources.

MEETING DATE AND TIME: May 13, 1997, 4:00 pm–6:00 pm.

ADDRESS: The St. Petersburg Citizens Advisory Commission, City Council Chambers, St. Petersburg City Hall, 175 5th Street N, St. Petersburg, FL, (813) 893–7201.

PURPOSE: This is the regulatory scheduled monthly meeting of the Citizens' Advisory Commission. The meetings are held the second (2nd) Tuesday of each month on the same location. The purpose of the meeting is to discuss the progress of the Federal Interagency Task Force activities and to provide recommendations on project implementation.

SUPPLEMENTARY INFORMATION:

Background

The Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission was established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App., as amended, and the implementing regulations of the General Services Administration (GSA), 41 CFR Part 101–6 to advise the Federal Department and agencies participating as members on the St. Petersburg Federal Task Force. Fifteen days advanced notice of this meeting could not be provided because of the desire of the Advisory Commission to expeditiously proceed with its business.

Open Meetings

The meetings will be open to the public. Any member of the public may file a written statement concerning agenda items with the Commission. The statement should be addressed to the Federal Interagency Task Force on St. Petersburg Citizen's Advisory Commission, 25A Martin Luther King Street South, St. Petersburg, FL 33705.

FOR FURTHER INFORMATION CONTACT: Stephanie A. Owens, Federal Coordinator, Federal Interagency Task Force on St. Petersburg, 25A Martin Luther King Street South, St. Petersburg, FL 33705, (813) 893–3324.

Dated: April 24, 1997.

Stephanie A. Owens,

Coordinator.

[FR Doc. 97–11144 Filed 4–29–97; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4225–D–01]

Amendment to Field Reorganization; and Revocation, in Part, of Prior Amendment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Amendment to field reorganization; and revocation, in part, of prior amendment.

SUMMARY: This notice amends the field reorganization Revocation and Redelegation of Authority, published in the **Federal Register** on December 6, 1994, at 59 FR 62739, and revokes, in part, a prior amendment, published in the **Federal Register** on June 26, 1996, at 61 FR 33130.

This document revokes from the Housing Director in the Fort Worth, TX field office, authority over single family housing matters in the geographic area of the Dallas, TX field office, and redelegates this authority to the Supervisory Single Family Housing Specialist in the Dallas, TX field office.

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Robert G. Hunt, Director, Management Services Division, or Charles E. Patterson, Chief, Program Analyst Branch, Management Services Division, Department of Housing and Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410–4000; Telephone (202) 708–0826 (This is not a toll-free number). Hearing or speech-impaired individuals may call 1–800–877–8399 (Federal Information Relay Service TTY).

SUPPLEMENTARY INFORMATION: In November of 1993, the Secretary announced the reorganization of HUD's field structure to improve performance and provide HUD's customers—members of the public and program beneficiaries—more efficient service and less bureaucracy by empowering HUD's employees to more effectively serve these customers. As part of that ongoing process, on December 6, 1994 at 59 FR 62739, the Department published a field reorganization Revocation and Redelegation of Authority pertaining to Office of Housing programs. On June 26, 1996, at 61 FR 33130, and on February 3, 1997, at 62 FR 5030, the Department published amendments to the field reorganization Revocation and Redelegation of Authority. In the present document, authority over the single family housing program functions listed within the redelegation at 59 FR 62739, for the geographic area of the Dallas, TX field office, is revoked from the Housing Director in the Fort Worth, TX field office, and redelegated to the Supervisory Single Family Housing Specialist in the Dallas, TX field office.

As the Department strives to provide increasingly efficient service, the ability to do more with less is of critical importance. Through this document, the Department seeks to shift certain powers and authorities in order to best utilize its finite resources to the benefit of the customer.

Accordingly, the Assistant Secretary for Housing-Federal Housing Commissioner amends the field reorganization Revocation and Redelegation of Authority at 59 FR 62739, and revokes, in part, a prior amendment to the field reorganization at 61 FR 33130, as follows:

Section A. Authority Revoked

1. Section B., 2., of 61 FR 33130. which amended Section B., I., c., (1.), of 59 FR 62739, is hereby revoked.

2. Section B., 3., of 61 FR 33130, which amended Section B., I., a., (1.), of 59 FR 62739, is hereby revoked.

Section B. Authority Redelegated

1. At Section B., I., a., (1.), of 59 FR 62739, within the list of Category AA (Double A) Field Offices, the notation within parentheses with regard to the Fort Worth, TX field office only is amended to read as follows:

''Fort Worth, TX (includes all Multifamily Asset Management and

Asset Disposition functions of C+ offices Albuquerque, NM and Dallas, TX; and includes all Multifamily Asset Disposition functions for A offices Little Rock, AR and San Antonio, TX, and all Multifamily Asset Management functions for C+ office Shreveport, LA)''

2. Section B., I., c, of 59 FR 62739, which identifies to whom in Category C+ and C field offices authority is redelegated, is revoked in full and replaced with the following:

''c. The Assistant Secretary for Housing-Federal Housing Commissioner redelegates to the Deputy Assistant Secretary for Single Family Housing, who retains and further redelegates the power and authority to carry out those program functions listed in Part III of this redelegation for the Office of Housing-FHA single family housing programs, to the Directors of the Single Family Housing Divisions in the following cited offices, except the Dallas, TX field office, in which the authority is further redelegated to the Supervisory Single Family Housing Specialist in the Dallas, TX field office. The legal citations for these programs are listed below in Part II of this Section B.

No authority for Multifamily housing functions is redelegated to HUD officials in either the C+ or the C Field Offices. In the case of the C+ offices, the offices have multifamily housing staff, outstationed from another field office, as noted below in parentheses.

(1.) Category C+

Albuquerque, NM (Fort Worth, TX, Housing Director) Dallas, TX (Authority over the single family housing program functions in the Dallas, TX geographic area, listed within section B., III., b., of this redelegation, are redelegated to the Supervisory Single Family Housing Specialist in the Dallas, TX office. Single family housing officials in the Dallas, TX office report to the Supervisory Single Family Housing Specialist in the Dallas, TX office; Multifamily Housing officials in the Dallas, TX office report to the Fort Worth, TX, Housing Director)

Shreveport, LA (All authority for Asset Disposition functions is delegated to the Houston, TX, Multifamily Housing Director. All authority for Multifamily Asset Management functions is delegated to Fort Worth, TX, Housing Director)

Tulsa, OK (Oklahoma City, OK, Multifamily Division Director)

Las Vegas, NV (San Francisco, CA, Housing Director)

San Diego, CA (San Francisco, CA, Housing Director)

(2.) Category C Field Offices

Albany, NY
Camden, NJ
Coral Gables, FL
Memphis, TN
Orlando, FL
Tampa, FL
Flint, MI
Lubbock, TX
Helena, MT
Salt Lake City, UT
Fresno, CA
Reno, NV
Santa Ana, CA
Tucson, AZ
Boise, ID
Spokane, WA''

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 14, 1997.

Nicholas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–11106 Filed 4–29–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–828159

Applicant: George A. Sprague, Hudson Falls, NY.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–827777

Applicant: Claudius Dickson, Shreveport, LA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–825851

Applicant: Chuck Knapp, John G. Shedd Aquarium, Chicago, IL.

The applicant requests a permit to import blood samples from Exuma Island iguanas (*Cyclura cyclura figginsi*) collected in the wild in the Bahamas, incidental to other research activities, for scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

The following applicants have each requested a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Northwest Territories, Canada for personal use.

Applicant/Address	Population	PRT-
George P. Mann, Opelika, AL	Parry Channel	828293
Gerald Davis, Vancouver, WA	Northern Beaufort	828439
Robert Zingula, Central City, IA	.....do.....	828355
Thomas Vanevery, Troy, MI	McClintock Channel	828440
Peter Studwell, Port Chester, NY	Southern Beaufort	828356

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on any one of these applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be

received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: April 25, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–11192 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability, Restoration Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior and the State of New Hampshire, announces the release for public review of the draft Restoration Plan and Environmental Assessment (RP/EA) for the Coakley Landfill Superfund Site. The RP/EA describes the trustees' proposal to restore natural resources injured as a result of the release of hazardous substances from the Coakley Landfill.

DATES: Written comments must be submitted on or before May 30, 1997.

ADDRESSES: Requests for copies of the RP/EA may be made to: U.S. Fish and Wildlife Service, New England Field Office, 22 Bridge Street, Unit #1, Concord, New Hampshire 03301.

Written comments or materials regarding the RP/EA should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Molly B. Sperduto or Kenneth C. Carr, Environmental Contaminants Program, U.S. Fish and Wildlife Service, 22 Bridge Street, Unit #1, Concord, New Hampshire 03301.

Interested parties may also call (603) 225–1411 for further information.

SUPPLEMENTARY INFORMATION: The Coakley Landfill Superfund Site, located in Greenland and North Hampton, New Hampshire, was an active landfill from 1972 until 1985. Contaminants associated with municipal and industrial wastes disposed of at the Site include volatile organic compounds, lead, mercury, zinc, aluminum, and nickel. As a result of contaminant releases from the Site, approximately 40 acres of adjacent wetland habitat were damaged. These wetlands were impaired due to food web contamination or the reduction and/or loss of their biological diversity and productivity. In turn, injury to wetland-dependent wildlife, primarily migratory birds, occurred.

In 1995, the United States of America and the State of New Hampshire settled claims for natural resource damages associated with the Coakley Landfill Superfund Site under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980. The settlement proceeds will be used to compensate for injury, destruction, or loss of natural resources under trusteeship of the Department of the Interior and the State of New Hampshire. The RP/EA is being released in accordance with the Natural Resource Damage Assessment Regulations found at 15 CFR, part 990. It is intended to describe the trustees' proposals to restore natural resources injured as a result of releases of contaminants from the Site.

The RP/EA describes a number of habitat restoration and protection alternatives and discusses the environmental consequences of each. Restoration efforts which have the greatest potential to restore wetlands and the services those wetlands provide to wetland-dependant wildlife are preferred. Opportunities to restore degraded salt marsh habitats are proposed. The trustees believe that the proposed actions will not have significant impacts on the quality of the physical, biological, and cultural environment.

Interested members of the public are invited to review and comment on the RP/EA. Copies of the RP/EA are available for review at the U.S. Fish and Wildlife Service's New England Field Office in Concord, New Hampshire (22 Bridge Street, Unit #1, Concord, New Hampshire). Additionally, the RP/EA will be available for review at the North Hampton Public Library. Written comments will be considered and addressed in the final RP/EA at the conclusion of the restoration planning process.

Author: The primary author of this notice is Ms. Molly B. Sperduto, New England Field Office, U.S. Fish and Wildlife Service, 22 Bridge Street, Unit #1, Concord, New Hampshire 03301.

Authority: The authority for this action is the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C.

Dated: April 17, 1997.

Cathy Short,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.

[FR Doc. 97–11151 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Termination of the Pelly Amendment Certification of Taiwan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior has determined that the reasons for the certification of Taiwan, under the Pelly Amendment to the Fisherman's Protective Act, for actions undermining the effectiveness of an international program for endangered or threatened species, no longer prevail. Therefore, the certification of Taiwan has been terminated.

DATES: This notice is effective on April 30, 1997, and will be effective until further notice.

ADDRESSES: U.S. Fish and Wildlife Service, Office of Management Authority, 1849 C Street, N.W. (MS 430 ARLSQ), Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Lieberman, U.S. Fish and Wildlife Service, Office of Management Authority, 703–358–2095.

SUPPLEMENTARY INFORMATION: Under the Pelly Amendment to the Fisherman's Protective Act of 1978, the Secretary of Interior is responsible for determining if nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species. If the Secretary so determines, the Secretary shall certify such fact to the President. On September 7, 1993, Secretary Bruce Babbitt certified to President Clinton that nationals of Taiwan were diminishing the effectiveness of the Convention on International Trade in Endangered Species (CITES) by trading in rhinoceros and tiger parts and products. He based his determination on the following: (1) The failure of Taiwan to end its participation in rhinoceros horn trade despite a June 1992 resolution of the

CITES Standing Committee calling upon Taiwan to end such trade or face the possibility of CITES calls for trade sanctions; (2) evidence contained in a 1992 petition from both the World Wildlife Fund and National Wildlife Federation asking Secretary Babbitt to certify Taiwan for its involvement in rhinoceros horn trade; (3) public comment received as a result of a **Federal Register** notice and public meeting in December 1992 and January 1993, respectively, providing evidence to support including trade in tiger bone in the contemplated Pelly certification; (4) a decision in March 1993 by the 29th Meeting of the CITES Standing Committee to censure the continued involvement of Taiwan and three consuming countries in the rhinoceros horn and tiger bone trades, and encouragement by the Standing Committee for CITES party countries to use appropriate stricter domestic measures against Taiwan and the three consuming countries; and finally (5) the failure of Taiwan to demonstrate to Secretary Babbitt at his request in June 1993 that Pelly certification was not warranted. After careful consideration of the facts, on April 11, 1994, President Clinton decided to impose trade sanctions generally prohibiting all wildlife imports from Taiwan. On August 2, 1994, President Clinton directed the Secretary of the Treasury, in consultation with the Secretary of the Interior, to prohibit the importation of fish or wildlife, as defined in 16 U.S.C. 3371 and 50 CFR 10.12, and their parts and products of Taiwan, to which the import declaration requirements in 50 CFR 14.61 would apply. On June 29, 1995, after the authorities on Taiwan had demonstrated sufficient improvement, the President revoked those sanctions.

After making a Pelly certification to the President, the Secretary is required to conduct periodic reviews to determine whether the reasons for the certification still prevail, and if they no longer prevail, the Secretary is required to terminate the certification. During the period since trade sanctions were revoked in June 1995, the authorities on Taiwan have: (1) passed amendments and regulations to the Taiwan Wildlife Conservation Law establishing more severe penalties for illegal trade in endangered species; (2) significantly improved wildlife smuggling interdiction efforts through enhanced law enforcement training, infrastructure, and forensic capabilities; and (3) decreased market availability on Taiwan of products containing rhinoceros and tiger parts. Given that the reasons for certification of Taiwan no longer prevail, the Secretary has terminated the certification of Taiwan under the Pelly Amendment to the Fisherman's Protective Act of 1967 (22 U.S.C. 1978).

Dated: December 23, 1996.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–11092 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1990–24 1A; OMB Approval Number 1004–0025]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). On March 18, 1996, BLM published a notice in the **Federal Register** (61 FR 11059) requesting comments on this proposed collection. The comment period ended on May 17, 1996. BLM received one comment from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM Clearance Officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. Your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0025), Office of Information and Regulatory Affairs, Washington, D.C., 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Mineral Surveys, Mineral Patent Applications, Adverse Claims, Protests, and Contests (43 CFR 3860 and 3870).

OMB approval number: 11004–0025.

Abstract: The Bureau of Land Management is proposing to renew the approval of an information collection for existing rules at 43 CFR 3860 and 3870. These rules provide for the application process to request a mineral patent for mining claims and mill sites under the General Mining Law of 1872, *as amended*; provides for the land surveys of the requested mining claims or sites required prior to applying for a mineral patent; provides procedures set in statute for the resolution of adverse claims against the application by rival owners of mining claims and for protests of the public against irregular applications; and sets forth the final administrative framework for concluding the process.

Bureau Form Number: Form numbers 3860–2 and 3860–5.

Frequency: Once.

Description of Respondents: Respondents are individuals, partnerships, or corporations that own unpatented mining claims or mill sites located upon the public lands of the United States and who have determined that they are qualified under the rigorous terms and conditions of the General Mining Law of 1872, as amended, to obtain a mineral patent to the lands encompassed by their mining claims and/or mill sites.

Estimated completion time:

Mineral patent application—80 hours.

Request for a mineral survey—One hour.

Adverse claim—Two hours.

Protest—Two hours.

Contest—Two hours.

Annual Responses: 255.

Annual Burden Hours: 12,185.

Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: April 14, 1997.

Carole Smith,

Information Collection Clearance Officer.

[FR Doc. 97–11142 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–960–1060–02–24 1A; OMB Approval Number 1004–0042]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501). On March 26, 1996, BLM published a notice in the **Federal Register** (61 FR 13208) requesting comments on this proposed collection. The comment period ended on May 28, 1996. BLM received no comments on that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

OMB is required to respond within 60 days but may respond after 30 days. For maximum consideration your comments and suggestion on the requirement should be made directly within 30 days to the Office of Management and Budget, Interior Department Desk Officer (1004–0042), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;
2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of technology.

Title: Application for Adoption of Wild Horse(s) or Burro(s) (43 CFR 4700).

OMB Approval Number: 1004–0042.

Abstruact: BLM proposes to renew the approval of an information collection for an existing rule at 43 CFR 4750.3 and the adoption form covered by that rule. BLM uses the rule and form to determine whether individuals are qualified to provide humane care and treatment to wild horses and burros.

Bureau Form Number: 4710–10.

Frequency: Once.

Description of Respondents: Respondents are individuals who wish to adopt one or more wild horses or burros. Successful respondents demonstrate that they are qualified to provide humane care and proper treatment, including proper transportation, feeding and handling. Estimated completion time: 10 minutes, including the time to get the form, read the instructions, collect and gather the information, fill out the form, and send it to BLM.

Annual Responses: 30,000.

Annual Burden Hours: 5,000.

Collection Clearance Officer: Carole Smith, (202) 452-0367.

Dated: April 9, 1997.

Carole Smith,

Information Collection Officer.

[FR Doc. 97–11143 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–00; GP7–0167]

Notice of Meeting of the standards for rangeland health and livestock grazing guidelines subgroup of the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Meeting of the standards for rangeland health and livestock grazing guidelines subgroup of the Eastern Washington Resource Advisory Council; May 8, 1997, in Spokane, Washington.

SUMMARY: A meeting of Standards for Rangeland Health and Livestock Grazing Guidelines Subgroup of the Eastern Washington Resource Advisory Councily will be held on May 8, 1997. The meeting will convene at 7:00 p.m., at the Shorline ''A'' Room, Cavanaugh's River Inn, 700 North Division Street, Spokane, Washington, 99202. The meeting will adjourn at no later than 9:00 p.m. or upon completion of public testimony. The purpose of the meeting is to receive public comments on the Draft Standards for Rangeland Health and Livestock Grazing Guidelines. If necessary to accomodate all wishing to make public comments, a time limit may be placed upon each speaker.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212–1275; or call 509–536–1200.

Dated April 24, 1997.

Joseph K. Buesing,

District Manager.

[FR Doc. 97–11111 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Lyndon B. Johnson National Historical Park; Intent To Prepare Environmental Impact Statement and Public Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement on a general management plan for Lyndon B. Johnson National Historical Park and notice of public meetings.

SUMMARY:

1. Background and Description of the Proposed Action

The National Park Service is initiating a planning effort that will result in the preparation of a General Management Plan/Environmental Impact Statement for Lyndon B. Johnson National Historical Park, Blanco and Gillespie counties, Texas. This plan will provide the guidance for development and management of the park for the next 15 to 20 years.

Lyndon B. Johnson National Historical Park was authorized by Public Law 91–134 of December 2, 1969. The park consists of two units: (1) The ranch unit which was the home of the President and which served as the ''Texas White House'' during the Johnson administration and (2), the Johnson City unit which includes the park headquarters, visitor center, Johnson settlement, Boyhood Home and associated structures. The ranch unit consists of 594 acres. The Johnson City unit consists of 79 acres. A total of 1570 acres is within the legislated boundaries of the Park. Various life estate provisions at the Ranch district have been included in donations of property to the United States by President and Mrs. Johnson and other entities. Access to the Texas White House and its immediate environs is currently secured by the U.S. Secret Service. Public access to the Ranch district is by authorized National Park Service tour buses and/or accompanied by approved National Park Service staff.

In accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, codified as amended at 42 U.S.C. § 4332(2)(C), the National Park Service will prepare an environmental impact statement (EIS) in conjunction with the general management plan. The EIS will describe the affected environment, propose alternative proposals, assess impacts of the alternatives, and propose mitigation measures for the impacts. After considering public comments, the National Park Service will memorialize its final decision in a formal record of decision.

2. Scoping Process

An initial public meeting concerning the proposed action will be held at the following date, time and location: Wednesday, May 14, 1997 7 p.m. to 9 p.m., Pedernales Electric Cooperative (PEC) Headquarters Auditorium, 200 Avenue F, Johnson City, Texas 78636.

FOR FURTHER INFORMATION CONTACT: To obtain information or provide comments other than at the meetings, please contact Leslie Starr Hart, Superintendent, Lyndon B. Johnson National Historical Park, P.O. Box 329, Johnson City, Texas 78636. The responsible official for this EIS is John E. Cook, Regional Director, Intermountain Region, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver Colorado 80225–0287.

SUPPLEMENTARY INFORMATION: Representatives from the planning team will be present to receive comments and answer planning questions at the public meeting. The public is encouraged to attend and submit verbal and/or written comments on the proposed general management plan/EIS. Comments may also be mailed to the Regional Director at the address above.

The draft and final general management plan/environmental impact statement will be distributed to all known interested parties and appropriate agencies. Full public participation by Federal, State, and local agencies as well as other concerned organizations and private citizens is invited during this scoping process and throughout the preparation of the document.

Dated: April 24, 1997.

Leslie Starr Hart,

Superintendent.

[FR Doc. 97–11193 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Sequoia and Kings Canyon National Parks; Notice of Intent to Prepare Environmental Impact Statement for a Wilderness Management Plan

SUMMARY: In accordance with § 102(2)(C) of the National Environmental Policy Act of 1969 (PL91–190), Sequoia and Kings Canyon National Parks (Parks) are initiating an environmental impact analysis process to identify and assess potential impacts of alternative strategies for future management of the Sequoia-Kings Canyon Wilderness within these parks. Through this process the Parks will identify and analyze a range of alternatives in order to evaluate options for achieving wilderness stewardship objectives while accommodating visitors and authorized users, protecting cultural and natural resources, and providing for legally mandated management requirements.

Background

The Parks desire to revise and consolidate current wilderness-related plans such as the 1986 Backcountry Management Plan and the 1986 Stock Use and Meadow Management Plan, incorporating management direction provided in the California Wilderness Act of 1984 which designated 736,980 acres as the Sequoia-Kings Canyon Wilderness. Toward that end, seven public scoping sessions have been held prior to publication of this Notice. These sessions were held in California, during 1996 on May 28 (Visalia), June 13 (Clovis), June 18 (Three Rivers), July 9 (San Francisco), July 16 (Los Angeles), July 25 (Bishop), and October 5 (Sacramento). All suggestions and comments received during these sessions (and written information received by mail during this time) have aided the Parks in preliminary identification of issues and concerns to be addressed in preparing a draft environmental impact statement and wilderness management plan (DEIS/WMP). These comments will be retained in the administrative record throughout this planning process.

Comments

Notice is hereby given that the National Park Service will prepare a DEIS/WMP document. At this time, all interested individuals, organizations, and agencies wishing to provide additional comments or suggestions should address them to the Superintendent, Sequoia and Kings Canyon National Parks, Three Rivers, CA 93271. All such new information should be postmarked no later than sixty (60) days from the date of publication of this Notice. All respondents will be included in timely project updates.

Decision Process

The subsequent availability of the DEIS/WMP will be announced by formal Notice and via local and regional news media. The DEIS/WMP is anticipated to be completed and available for public review during fall, 1998. In addition, it is anticipated that several public hearings will be held; details will be included in the Notice of Availability and also will be publicized via local and regional news media. The final environmental impact statement and wilderness management plan document (FEIS/WMP) is anticipated to be completed approximately one year later. Notice of the Record of Decision will be published in the **Federal Register** not sooner than thirty (30) days after distribution of the FEIS/WMP documents. The responsible official is the Regional Director, Pacific West Region, National Park Service.

FURTHER INFORMATION: Questions or new requests to be placed on the DEIS/WMP mailing list compiled for distributing timely project updates may be directed to the attention of the Sequoia-Kings Canyon Wilderness Coordinator at the above address or via telephone at (209) 565–3137.

Dated: April 15, 1997.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region, National Park Service.

[FR Doc. 97–11117 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 19, 1997. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington,

D.C. 20013–7127. Written comments should be submitted by May 15, 1997.

Carol D. Shull,

Keeper of the National Register.

ALASKA

Valdez-Cordova Borough-Census Area Kanski's,
Skookum Rd., mi. 42, approximately 2 mi. N of the Nabesna Mine, Slana vicinity, 97000432

AMERICAN SAMOA

Tutuila Island, Western District
Site AS–31–72, Address Restricted, Faleniu vicinity, 97000431

FLORIDA

Charlotte County
Mott Willis Store, 22960 Bayshore Rd., Charlotte Harbor, 97000434
Lake County
Norton, Gould Hyde, House, 1390 E. Lakeview Dr., Eustis, 97000433

ILLINOIS

Cook County
Silversmith Building, 10 S. Wabash Ave., Chicago, 97000435

KANSAS

Cowley County
Yount, George W., Barn, 1 mi. E of US 77, approximately 2.5 mi. N of Winfield, Winfield vicinity, 97000436

LOUISIANA

Caddo Parish
Shreveport Commercial Historic District (Boundary Increase), Roughly bounded by Commerce, Travis, Common, and Lake Sts., Shreveport, 97000437

MASSACHUSETTS

Plymouth County
Grand Army of the Republic Hall, 34 School St., Rockland, 97000438
Worcester County
Fruitlands Museums Historic District, 102 Prospect Hill Rd., Harvard, 97000439

MINNESOTA

Hennepin County
Handicraft Guild Building, 89 S. 10th St., Minneapolis, 97000440
Ramsey County
Dairy Building, North Oaks Farm, Red Barn Rd., jct. with Hill Farm Cir., North Oaks, 97000441

MISSOURI

Taney County
Bonniebrook Homestead, US 65, Walnut Shade vicinity, 84002720

NEW YORK

Jefferson County
Church of Saint Lawrence (Historic Churches of the Episcopal Diocese of Central New York), Fuller St., jct. with Sisson St., Alexandria Bay, 97000442

OKLAHOMA

Oklahoma County
Douglas DC–3 Airplane, N–34, 6500 S. MacArthur Blvd., Hangar 10, Oklahoma City, 97000443

SOUTH CAROLINA

Dorchester County
Old White Meeting House Ruins and Cemetery, SC 642, approximately .5 mi. SE of jct. with SC 165, Summerville vicinity, 97000445

TEXAS

Tarrant County
Grapevine Commercial Historic District (Boundary Increase) (Grapevine MPS), 300 and 400 blocks of S. Main St., Grapevine, 97000444

VIRGINIA

Albemarle County
Clark, George Rogers, Sculpture (Four Monumental Figurative Outdoor Sculptures in Charlottesville MPS), Monument Square, bounded by University and Jefferson Park Aves. and the railroad tracks, Charlottesville, 97000448

Charlottesville Independent City,
Jackson, Thomas Jonathan, Sculpture (Four Monumental Figurative Outdoor Sculptures in Charlottesville MPS), Jackson Park, bounded by High, Jefferson, and 4th Sts., and Albemarle Co. Courthouse, Charlottesville, 97000446

Lee, Robert Edward, Sculpture (Four Monumental Figurative Outdoor Sculptures in Charlottesville MPS) Lee Park, bounded by Market, Jefferson, 1st and 2nd Sts., NE., Charlottesville, 97000447

Lewis, Meriwether and William Clark, Sculpture (Four Monumental Figurative Outdoor Sculptures in Charlottesville MPS), Jct. of Ridge and W. Main Sts., and McIntire Rd., Charlottesville, 97000449

WASHINGTON

Spokane County
Desmet Avenue Warehouse Historic District, Roughly, N side of Desmet Ave., from Pearl St. to US 395–2, Spokane, 97000450

[FR Doc. 97–11113 Filed 4–29–97; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA–748 (Final)]

Engineered Process Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete From Japan; Notice of Commission Determination To Conduct a Portion of the Hearing In Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of a respondent in the above-captioned final investigation, the Commission has unanimously determined to conduct a portion of its hearing scheduled for April 24, 1997 in camera. See Commission rules 207.24(d), 201.13(m) and 201.35(b)(3) (19 CFR 207.24(d), 201.13(m) and 201.35(b)(3)). The remainder of the hearing will be open to the public. The Commission unanimously has determined that the seven-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3098. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that the respondents have justified the need for a closed session. A full discussion regarding the financial condition and related proprietary data of the industry and the bids for individual projects in this investigation can only occur if a portion of the hearing is held in camera. Because much of this information is not publicly available, any discussion of issues relating to this information will necessitate disclosure of business proprietary information (BPI). Thus, such discussions can only occur if a portion of the hearing is held in camera. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioner and by respondent, with questions from the Commission. In addition, the hearing will include an in camera session for a

presentation that discusses only the financial data submitted and information on bids for individual projects and for questions from the Commission relating to the BPI, followed by an in camera rebuttal presentation by petitioners. Testimony by industry representatives and questioning by the Commissioners and Staff will be permitted during the in camera session. Industry representatives will not be allowed to be present during the testimony or questioning of other industry representatives or when another firm's BPI is being discussed. For any in camera session the room will be cleared of all persons except those who are presently testifying or being questioned or who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. *See* 19 CFR 201.35(b)(1), (2). The time for the parties' presentations and rebuttals in the in camera session will be taken from their respective overall allotments for the hearing. All persons planning to attend the in camera portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in *Engineered Process Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete, from Japan,* Inv. No. 731–TA–748 (Final) may be closed to the public to prevent the disclosure of BPI.

By order of the Commission.
Issued: April 23, 1997.

Donna R. Koehnke,
Secretary.

[FR Doc. 97–11150 Filed 4–29–97; 8:45 am]
BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Heavy Forged Handtools From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Request for comments regarding the institution of a section 751(b) review investigation concerning the Commission's affirmative determinations in investigation No. 731–TA–457 (Final), Heavy Forged Handtools from the People's Republic of China.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) (the Act) to review the Commission's affirmative determinations in the above investigation. The purpose of the proposed review investigation is to determine whether partial revocation of the existing antidumping order on imports of heavy forged handtools from the People's Republic of China (China) would be likely to lead to continuation or recurrence of material injury to the affected domestic industry within a reasonably foreseeable time. 19 U.S.C. 1675a(a)(1). In particular, the Commission must determine whether, in the absence of an antidumping order covering these products, subject imports of picks and mattocks from China would be likely to lead to continuation or recurrence of material injury to the domestic industry producing such products.[1] Picks and mattocks are provided for in subheading 8201.30.00 of the Harmonized Tariff Schedule of the United States.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.

On February 11, 1991, the Commission issued an affirmative injury determination with respect to picks and mattocks in the context of its determinations in Heavy Forged Handtools from the People's Republic of China, Inv. No. 731–TA–457 (Final) (56 F.R. 7060, Feb. 21, 1991). The Commission made four separate affirmative determinations covering the following classes or kinds of heavy forged handtools: (1) Hammers and sledges, with heads weighing two pounds or more, with or without handles (striking tools); (2) all bar tools, track tools, and wedges (bar tools); (3) picks and mattocks, with or without handles (digging tools); and, (4) axes, adzes and hewing tools, other than machetes, with or without handles (hewing tools). Commerce issued an antidumping order covering all four categories of tools.

On April 16, 1997, the Commission received a request to review its affirmative determination with respect to picks and mattocks in light of changed circumstances (the request), pursuant to section 751(b) of the Act (19 U.S.C. 1675(b)). The request was filed by counsel on behalf of Olympia Industrial, Inc. (Olympia), a major importer and distributor of heavy forged handtools, including picks and mattocks. The alleged changed circumstances include: (1) Cessation of U.S. production of picks and mattocks, at least for commercial markets; (2) lack of competition between imports and U.S.-made picks and mattocks; (3) the argument that any production decline in the United States since imposition of the antidumping order is not the ''natural and direct result'' of the order, and; (4) the argument that prices of imports of picks and mattocks from nonsubject countries, such as Mexico, Poland, and India, are lower than prices of imports of picks and mattocks from China.

Written Comments Requested

Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure (19 C.F.R. 207.45(b)), the Commission requests comments concerning whether the alleged changed circumstances are sufficient to warrant institution of a review investigation.

Written Submissions

In accordance with section 201.8 of the Commission's rules (19 C.F.R. 201.8), the signed original and 14 copies of all written submissions must be filed with the Secretary to the Commission, 500 E Street, S.W., Washington, DC 20436. All comments must be filed no later than 30 days after the date of publication of this notice in the **Federal Register**. The Commission's determination regarding initiation of a review investigation is due within 30 days of the close of the comment period. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under section 201.6 of the Commission's rules

[1] In the 1991 investigation of heavy forged handtools from China, the Commission found four separate like products corresponding to the four classes or kinds of articles defined by the Department of Commerce (Commerce) to be within the scope of investigation. One of the four like products found was ''picks and mattocks, with or without handles'' (digging tools). Accordingly, the Commission found a separate domestic industry producing these products.

(19 C.F.R. 201.6). Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top ''Confidential Business Information.'' The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the non-business proprietary version of the request and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–205–2000.

Issued: April 23, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–11149 Filed 4–29–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–368–371 and 731–TA–763–766 (Preliminary)]

Certain Steel Wire Rod From Canada, Germany, Trinidad and Tobago, and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada, Germany, Trinidad and Tobago,[2] and Venezuela of certain steel wire rod, provided for in subheadings 7213.91.30, 7213.91.45, 7213.91.60, 7213.99.00, 7227.20.00, and 7227.90.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Canada, Germany, Trinidad & Tobago, and Venezuela and/or sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Crawford found in the negative with respect to Trinidad & Tobago.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, as amended in 61 FR 37818 (July 22, 1996), the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On February 26, 1997, a petition was filed with the Commission and the Department of Commerce by counsel for Connecticut Steel Corp., Wallingford, CT; Co-Steel Raritan, Perth Amboy, NJ; GS Industries, Inc., Georgetown, SC; Keystone Steel & Wire Co., Peoria, IL; North Star Steel Texas, Inc., Beaumont, TX; and Northwestern Steel & Wire, Sterling, IL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of certain steel wire rod from Canada, Germany, Trinidad and Tobago, and Venezuela. Accordingly, effective February 26, 1997, the Commission instituted countervailing duty Investigations Nos. 701–TA–368–371 (Preliminary) and antidumping Investigations Nos. 731–TA–763–766 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 6, 1997 (62 FR 10292). The conference was held in Washington, DC, on March 19, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 14, 1997. The views of the Commission are contained in USITC Publication 3037 (April 1997), entitled ''Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela: Investigations Nos. 701–TA–368–371 (Preliminary) and 731–TA–763–766 (Preliminary).''

Issued: April 23, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–11148 Filed 4–28–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Privacy Act of 1974; Establishment of New Systems of Records; Revision of Systems of Records; Deletion of a System of Records

AGENCY: International Trade Commission.

ACTION: Request for comments on proposed establishment of new Privacy Act systems of records, revision of systems of records, and deletion of a system of records.

SUMMARY: Pursuant to 5 U.S.C. 522a(e)(4) of the Privacy Act of 1974, the U.S. International Trade Commission (''Commission'') proposes the following actions: (1) Consolidate and revise two existing systems of records, currently entitled ''Budgetary and Payroll-Related Records'' and ''Time and Attendance Records,'' into a new system of records entitled ''Pay, Leave and Travel Records;'' (2) revise the existing system of records entitled ''Grievance Records;'' (3) revise the existing system of records entitled ''Office of Inspector General Investigative Files General and Criminal'' by clarifying that there are two separate systems of records entitled ''Office of Inspector General Investigative Files (General)'' and ''Office of Inspector General Investigative Files (Criminal);'' (4) establish a new system of records entitled ''Telephone Call Detail Records;'' (5) establish a new system of records entitled ''Security Access Records;'' (6) establish a new system of records entitled ''Personnel Security

Investigative Files Records;'' (7) establish a new system of records entitled ''Library Circulation Records;'' (8) establish a new system of records entitled ''Parking Records;'' (9) establish a new system of records entitled ''Mailing List Records;'' (10) establish a new system of records entitled ''Congressional Correspondence Records;'' and (11) eliminate a current system of records entitled ''Employment and Financial Disclosure Records.''

DATES: Comments must be received no later than June 9, 1997. The proposed revisions and additions to the Commission's systems of records will become effective on that date unless otherwise published in the **Federal Register**.

ADDRESSES: Written comments should be directed to the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Anjali K. Hansen, Esq., Office of the General Counsel, U.S. International Trade Commission, tel. 202–205–3117. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, these revisions, deletions, and additions to the Commission's system of records will be reported to the Office of Management and Budget, the Chair of the Committee on Government Reform and Oversight of the House of Representatives, and the Chair of the Committee on Governmental Affairs of the Senate. The revisions to existing Commission systems of records, the addition of new systems of records, and the deletion of a system of records are in response to a comprehensive review of the Commission's systems of records conducted by the Commission's Office of Inspector General and Office of General Counsel. The Commission proposes to revise and consolidate existing systems of records by updating, clarifying and conforming the information in the Commission's Privacy Act notices to reflect current procedures. The Commission proposes to consolidate the ''Budgetary and Payroll-Related Records'' and ''Time and Attendance Records'' into a new system of records entitled ''Pay, Leave and Travel Records'' since these functions have become more integrated. The Commission proposes to divide the current Office of Inspector General notice into two separate notices (criminal and general) because two separate records systems are maintained that are subject to different exemptions under the Privacy Act. The Commission also proposes to notice seven systems of records which are new systems of records maintained by the Commission. The Commission proposes to delete the current system of records entitled ''Employment and Financial Disclosure Records'' because the Commission's records are covered by Government-wide systems of records (OGE/GOVT–1 and OGE/GOVT–2). Finally, the Commission proposes to revise the routine uses applicable to its systems of records to reflect current agency practice and to standardize routine uses that are applicable to more than one system of records. Because the establishment of the system covering personnel security investigative files records requires the promulgation of a Commission rule exempting this system from certain provisions of the Privacy Act, the Commission will also be publishing a notice of proposed rulemaking.

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Appendix B: Government-Wide Systems of Records Applicable to the Commission

ITC–1

SYSTEM NAME:

Pay, Leave and Travel Records.

SYSTEM LOCATIONS:

Office of Finance and Budget, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436; Administrative Service Center Payroll Operations Division, Bureau of Reclamation, U.S. Department of the Interior, Mail Stop D–2600, 7201 West Mansfield Avenue, Lakewood, CO 80235–2230; General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131; and in all Commission offices located at the same address as the Office of Finance and Budget. For Retired Personnel Files: National Archives and Records Administration National Personnel Records Center (Civilian Personnel Records Center), 111 Winnebago Street, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains various records relating to pay, leave and travel. This includes information such as: Name; date of birth; Social Security number; W–2 address; grade; employing organization; timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; activity accounting reports; Civil Service Retirement and Federal Retirement System contributions; FICA withholdings; Federal, State, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; levy, garnishment, and salary and administrative offset documents; savings bonds allotments; union and management association dues withholding allotments; Combined Federal Campaign and other allotment authorizations; direct deposit information; information on the leave transfer program; travel records; and tax fringe benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 5 U.S.C. Chapters 53, 55, 57 and 61; 31 U.S.C. 3131 and 3512; Executive Order 9397.

PURPOSE(S):

These records are used for the purposes of administering pay and leave, authorizing travel, activity accounting, and budget preparation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A–K apply to this system.

The pay and leave records are transmitted electronically by the Commission directly to the Administrative Service Center, U.S. Bureau of Reclamation, U.S. Department of Interior, which provides payroll services. The U.S. Department of Interior transmits relevant portions of those records as necessary to the following:

(a) To the Treasury Department for issuance of pay checks;

(b) To the Treasury Department for issuance of savings bonds;

(c) To the U.S. Office of Personnel Management (''OPM'') for retirement, health and life insurance purposes, and to carry out OPM's Government-wide personnel management functions;

(d) To the National Finance Center, U.S. Department of Agriculture for the Thrift Savings Plan and Temporary Continuation of Coverage;

(e) To the Social Security Administration for reporting wage data in compliance with the Federal Insurance Compensation Act;

(f) To the Internal Revenue Service and to State and local tax authorities for tax purposes, including reporting of withholding, audits, inspections, investigations, and similar tax activities;

(g) To the Combined Federal Campaign for charitable contribution purposes; and

(h) To officials of labor organizations recognized under 5 U.S.C. Chapter 71 for the purpose of identifying Commission employees contributing union dues each pay period and the amount of dues withheld.

Travel records are transmitted to the Philadelphia Finance Center, U.S. Department of Treasury for issuance of travel reimbursement checks.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on computer media, on paper in file folders, and on microfiche. The computer records are shared electronically with the Department of the Interior.

RETRIEVABILITY: These records are retrieved by the name and Social Security Number of the individuals on whom they are maintained.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are kept in limited access areas within the building. The paper files are maintained in secure file cabinets, and access is limited to persons whose official duties require access. The computer files can only be accessed by authorized individuals through the use of passcodes.

RETENTION AND DISPOSAL: Payroll and salary and administrative offset records will be updated as required in accordance with the National Archives and Records Administration's (NARA's) General Records Schedule 2. Time and attendance records generally will be destroyed after a General Accounting Office (GAO) audit or when six years old, whichever is sooner, in accordance with NARA's General Records Schedule 2. Tax withholding records will be destroyed when four years old in accordance with NARA's General Records Schedule 2. U.S. Savings Bond authorization (SF 1192 or equivalent) will be destroyed when superseded or after separation of employee in accordance with NARA's General Records Schedule 2. Bond registration files, receipt and transmittal files will be destroyed four months after date of issuance of bond in accordance with NARA's General Records Schedule 2. Combined Federal Campaign and other allotments will be destroyed after a GAO audit or when three years old, whichever is sooner. Thrift Savings Plan Election forms will be destroyed when superseded or after separation of employee in accordance with NARA's General Records Schedule 2. Direct deposit sign-up forms will be destroyed when superseded or after separation of employee in accordance with NARA's General Records Schedule 2. Levy and garnishment records will be destroyed three years after garnishment is terminated. Travel authorization records will be destroyed six years after the period of the account in accordance with NARA's General Records Schedule 9. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Budget, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Information in this system comes from official personnel documents, the individual to whom the record pertains, and Commission officials responsible for pay, leave, travel and activity reporting requirements.

ITC–2

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Offices of Personnel, Administration, Operations, General Counsel, and the office where grievance originated, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former Commission employees who have submitted grievances in accordance with part 771 of the regulations of the Office of Personnel Management (5 CFR part 771), under 5 U.S.C. 7121, or through a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of grievances filed by agency employees under part 771 of regulations issued by the United States' Office of Personnel Management, under 5 U.S.C. 7121 or under negotiated grievance procedures. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decisions, and related correspondence and exhibits. The system includes files and records of internal grievance and arbitration systems established through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 5 U.S.C. 7121; 5 CFR part 771.

PURPOSE(S):

These records are used to process grievances submitted by Commission employees for relief in a matter of concern or dissatisfaction which is subject to the control of agency management, and to provide individuals who submit grievances with a copy of their records in accordance with the grievance process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, B, C, E, F, G, H, I, J, K and L apply to this system.

Information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on computer media on an internal Commission system and on paper in file folders.

RETRIEVABILITY: These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are kept in limited access areas within the building. The paper files are maintained in secure file cabinets, and access is limited to persons whose official duties require access. The computer files can only be accessed by authorized individuals.

RETENTION AND DISPOSAL: These records will be retained for a minimum of four years but not longer than seven years after closing of the case in accordance with the National Archives and Records Administration's General Records Schedule 1. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment;
5. Approximate date of closing of the case (if applicable); and
6. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment;
5. Approximate date of closing of the case (if applicable); and
6. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 C.F.R. part 201).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual filing the grievance;
b. The testimony of witnesses;
c. Agency officials; and
d. Related correspondence from organizations or persons.

ITC–3

SYSTEM NAME:

Office of Inspector General (''OIG'') Investigative Files (General).

SYSTEM LOCATION:

Office of Inspector General, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals and contractors, who are or have been the focus of an OIG investigation relating to the programs and operations of the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains investigatory materials collected by the OIG's investigative unit for law enforcement purposes.

This system contains documentation of any and all complaints and allegations initiating investigations; all relevant correspondence and interviews; witness statements; affidavits; copies of all subpoenas issued; transcripts of any testimony taken in the investigation and accompanying exhibits; documents and other records or copies obtained during the investigation; internal staff memoranda, staff working papers and other documents and records relating to the investigation; and all reports on the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is the Inspector General Act of 1978 (Pub. L. 95–452) with any revisions or amendments.

PURPOSE(S):

These records are used to investigate and/or take other actions to address allegations of fraud, waste and abuse of a non-criminal nature by Commission employees or contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General Routine Uses A–K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on paper in binders or folders, and on computer media on an internal Commission system.

RETRIEVABILITY:

These records are retrieved by a unique control number assigned to each investigation.

SAFEGUARDS:

These records are maintained in a building with restricted public access. The records in this system are kept in a limited access area within the building. The paper files are maintained in secure file cabinets, and access is limited to persons whose official duties require access. The computer files can only be accessed by authorized individuals.

RETENTION AND DISPOSAL:

These records will be retained for ten years following the end of the fiscal year in which an investigation was closed in accordance with the National Archives and Records Administration's General Records Schedule 22. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of Inspector General, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment or dates of contractual relationship; and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment or dates of contractual relationship; and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment or dates of contractual relationship; and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

These files contain information supplied by the following: Individuals, including those to whom the information relates where practicable; witnesses; contractors, corporations, and other entities; records of individuals and of the Commission; Federal, foreign, state or local bodies and law enforcement agencies; documents; correspondence; interview memoranda; transcripts of testimony; and other miscellaneous sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), this system of records is exempt from (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f) of the Privacy Act. These exemptions are established in the Commission's rules at 19 CFR 201.32.

ITC–4

SYSTEM NAME:

Office of Inspector General (''OIG'') Investigative Files (Criminal).

SYSTEM LOCATION:

Office of Inspector General, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individuals and contractors, who are or have been the focus of an OIG criminal investigation relating to the programs and operations of the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records maintained by the OlG's criminal investigations subunit, and consists of information compiled for the purpose of conducting criminal investigations.

This system contains documentation of any and all complaints and allegations initiating investigations; all relevant correspondence and interviews; witness statements; affidavits; copies of all subpoenas issued; transcripts of any testimony taken in the investigation and accompanying exhibits; documents and other records or copies obtained during the investigation; internal staff memoranda, staff working papers and other documents and records relating to the investigation; and all reports on the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is the Inspector General Act of 1978 (Pub. L. 95–452) with any revisions or amendments.

PURPOSE(S):

These records are used to investigate allegations of criminal violations by Commission employees or contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

General Routine Uses A–K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

TAhese records are maintained on paper in binders or folders, and on computer media on an internal Commission system.

RETRIEVABILITY:

These records are retrieved by a unique control number assigned to each investigation.

SAFEGUARDS:

These records are maintained in a building with restricted public access. The records in this system are kept in a limited access area within the building. The paper files are maintained in secure file cabinets, and access is limited to persons whose official duties require access. The computer files can only be accessed by authorized individuals.

RETENTION AND DISPOSAL:

These records will be retained for ten years following the end of the fiscal year in which an investigation was closed in accordance with the National Archives and Records Administration's General Records Schedule 22. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of Inspector General, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment or dates of contractual relationship; and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment or dates of contractual relationship; and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment or dates of contractual relationship; and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

These files contain information supplied by the following: Individuals, including those to whom the information relates where practicable; witnesses; contractors, corporations, and other entities; records of individuals and of the Commission; Federal, foreign, state or local bodies and law enforcement agencies; documents; correspondence; interview memoranda; transcripts of testimony; and other miscellaneous sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), this system of records is exempted from all provisions of the Privacy Act except (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11), and (i). These exemptions are established in the Commission rules at 19 CFR 201.32.

ITC–5

SYSTEM NAME:

Telephone Call Detail Records.

SYSTEM LOCATION:

Offices of Management Services and Information Systems, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436; General Services Administration, 13221 Woodland Park Rd., Herndon, VA 22071; U.S. Sprint, 8330 Ward Pkwy, Kansas City, MO 64114–2028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees and all contractors, sub-contractors, consultants and other individuals who are assigned telephone numbers by the Commission and who make long-distance telephone calls or long-distance facsimile transmissions from or charged to the Commission telephone system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of Commission telephones to place long-distance telephone calls or long-distance facsimile transmissions; records indicating assignment of telephone numbers to room numbers and employees; and records relating to location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii); 41 CFR 201–21.6.

PURPOSE(S):

Records in this system are used to verify telephone usage and to resolve billing discrepancies so that telephone bills can be paid. They may also be used to identify and seek reimbursement for unofficial calls, and as a basis for taking action when agency employees or other persons misuse or abuse Commission telephone services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, B, C, E, F, G, H, I, K and L apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on computer media on an internal Commission system, on paper in file folders, and on computer tape in file cabinets.

RETRIEVABILITY: These records are retrieved by the telephone number assigned to an individual, by office, by date, by number called, and by city called.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are kept in limited access areas within the building. The paper files and computer tapes are maintained in secure file cabinets, and access is limited to persons whose official duties require access. The computer files can only be accessed by authorized individuals through the use of passcodes.

RETENTION AND DISPOSAL: These records are disposed of as provided in the National Archives and Records Administration's General Records Schedule 12. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Information Services, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable);
5. Assigned phone number; and
6. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Assigned phone number; and
6. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Assigned phone number; and
6. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Telephone assignment records; call detail listings and electronic files from the telephone service provider; supervisors' confirmation of employees' responsibility for calls; and certification of telephone bills.

ITC–6

SYSTEM NAME:

Security Access Records.

SYSTEM LOCATION:

Office of Management Services, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436; Federal Protective Services Division, General Services Administration, Southeast Federal Center, Bldg. 202, Washington, D.C. 20407; and Kastle Systems, 1501 Wilson Blvd., Arlington, VA 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees and all contractors, sub-contractors, consultants and other individuals who are assigned electronic security keys, and all visitors that sign in at the guard station upon entering the Commission premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the use of electronic security keys, including records on which keys were used to gain or seek access to controlled areas, and the time at which access was gained or sought; and records relating to entry of Commission premises, including the times at which entry and exit were made and location accessed within the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S):

These records are used to permit tracking of individual movements in circumstances such as when there has been a security breach or theft, to monitor access to restricted areas, and to keep track of all visitors to the Commission or those individuals who do not have Commission identification cards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, B, C, E, F, G, H, I, K and L apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: The visitor log records are maintained on paper in file folders; the security key records are maintained on electronic tape and magnetic disk.

RETRIEVABILITY: The visitor log records are retrieved by month and year; the security key records are retrieved by area accessed, date and time of entry, key number, and name of individual.

SAFEGUARDS: The visitor log records are maintained by the Federal Protective Service in a secure facility with access limited to persons whose official duties require access. The security key records are maintained by the contractor in a secure facility with access limited to persons whose official duties require access.

RETENTION AND DISPOSAL: The visitor log records will be retained for two years in accordance with the National Archives and Records Administration's General Records Schedule 18. The security key records are maintained for 60 days. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Facilities Support Division, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable);
5. Date of visit(s) (for visitor log records); and
6. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable);
5. Date of visit(s) (for visitor log records); and
6. Signature.

Individuals requesting access must comply with the Commission's Privacy

Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable);
5. Date of visit(s) (for visitor log records); and
6. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Information in this system comes from the visitor logs and, in the case of security key records, from the Commission security contractor.

ITC–7

SYSTEM NAME:

Personnel Security Investigative Files.

SYSTEM LOCATION:

Office of Personnel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees and all applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to name, date of birth, place of birth, Social Security Number, citizenship, fingerprints, credit references, credit records, education, arrest records, Federal employee relatives, dates and purposes of visits to foreign countries, passport number(s), names of spouse(s), names of relatives, names of references, date(s) of appointment, position title(s), grade, duty station(s), Office of Personnel file folder location, type of clearance granted, clearance date, clearance termination date, suitability date, investigation basis, investigation completion date, background investigation update and upgrade information, Commission termination date, security briefing data, and security investigator's notes on information gathered during the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: Executive Orders 10450 and 12065; 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S):

Records in this system are used to: determine whether to issue security clearances; provide a current record of Commission employees with security clearance(s); and provide access cards and keys to Commission buildings and offices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, B, C, E, F, G, H, I, J, and K apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on paper in file folders.

RETRIEVABILITY: These records are retrieved by name.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are kept in locked file cabinets in a limited access area within the building. Access is limited to persons whose official duties require access.

RETENTION AND DISPOSAL: These records will be retained not later than five years after separation or transfer of employee in accordance with the National Archives and Records Administration's General Records Schedule 18. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained; Office of Personnel Management; and any contractor who has been retained by the Commission to conduct background investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(5) and (k)(6), this system of records is exempted from (c)(3), (d), (e)(1), (e)(4)(G)–(I) and (f) of the Privacy Act. These exemptions are established in the Commission rules at 19 CFR 201.32.

ITC–8

SYSTEM NAME

Library Circulation Records.

SYSTEM LOCATION:

The National Library of International Trade (''Library''), U.S. International Trade Commission. 500 E Street, SW, Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees who have borrowed materials from the Library.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to titles and other identifying data on materials borrowed from the Library, and agency, office, office telephone number, and office room number of borrower, and the scheduled return date for each item borrowed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 40 U.S.C. 483(b)(1); 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S):

To locate Library materials in circulation and to control and inventory Library materials loaned.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses E, H, I and L apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on computer media on an internal Commission system and on paper in an index system.

RETRIEVABILITY: These records are retrieved by name, by title of item borrowed, and by call number.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are in a limited access area within the building. The paper records are kept within the control of Library staff during working hours and in a locked area at other times. The computer files can only be accessed by authorized individuals.

RETENTION AND DISPOSAL: These records are maintained until the borrowed material is returned or until an employee is no longer employed at the Commission. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Library Services, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number;
4. Dates of employment; and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Information is obtained from the individual who borrows materials, from library records on materials borrowed, and from the Commission telephone directory.

ITC–9

SYSTEM NAME:

Parking Records.

SYSTEM LOCATION:

Facilities Support Division of the Office of Management Services, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees and other authorized individuals who have monthly parking permits or who are members of carpools.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to name, office room number, office phone number, agency, home address, automobile type and license number, and length of government service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii); 40 U.S.C. 491; 41 CFR 101–20.1 *et seq.*

PURPOSE(S):

To allocate and control parking spaces and to assist in creating carpools.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, B, C, E, F, G, H, I, K and L apply to this system.

Relevant information in this system may be disclosed as necessary to other Federal agencies or Federal contractors with statutory authority to assist in the collection of Commission debts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures may be made from this system pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f) to ''consumer reporting agencies'' as defined in 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on paper in file folders and on computer media.

RETRIEVABILITY:

These records are retrieved by applicant name or space assignment.

SAFEGUARDS:

These records are maintained in a building with restricted public access. The records in this system are in a limited access area within the building. Access is limited to persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are maintained until parking permit expiration date or cancellation. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Facilities Management Specialist, Office of Management Services, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to whom the records pertain.

ITC–10

SYSTEM NAME:

Mailing List Records

SYSTEM LOCATION:

Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting placement on a Commission mailing list.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, business or home address, telephone numbers, facsimile numbers and electronic mail address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S):

Records in this system are used to address various agency publications.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Address labels from these records are transmitted to the Government Printing Office to be affixed to the Commission's mailings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on computer media on an internal Commission system.

RETRIEVABILITY: These records are retrieved by name and record number.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are kept in a limited access area within the building. Access to the files is limited to individuals whose official duties require access.

RETENTION AND DISPOSAL: Records are maintained until individuals to whom the records pertain request deletion or fail to respond to a validation request. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Secretary, Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Information is obtained from the individual to whom the records pertain.

ITC–11

SYSTEM NAME:

Congressional Correspondence Records

SYSTEM LOCATION:

Office of External Relations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, and other offices in the Commission with information pertaining to the correspondence located at the same address as the Office of External Relations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and title of, and referrals of constituents' inquiries, from Members of Congress and responses thereto, and any other personal information in correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system includes the following with any revisions or amendments: 44 U.S.C. 3101; 19 U.S.C. 1331(a)(1)(A)(iii).

PURPOSE(S):

Records in this system are used to respond to Congressional inquiries and inform Congress about Commission activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, K and L apply to this system.

Referral may be made to other Federal, State, or local government agencies for appropriate action when the matter complained of or inquired about comes within the jurisdiction of such agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: These records are maintained on paper in file folders and on computer media on an internal Commission system.

RETRIEVABILITY: These records are retrieved by name of Member of Congress.

SAFEGUARDS: These records are maintained in a building with restricted public access. The records in this system are kept in limited access areas within the building. The paper files are stored in secure file cabinets and access is limited to persons whose official duties require access. The computer files can only be accessed by authorized individuals.

RETENTION AND DISPOSAL: Records are maintained at least two years subsequent to the end of a Member of Congress' term in office. Records will be disposed of in a secure manner.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of External Relations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

NOTIFICATION PROCEDURE.

Individuals wishing to inquire whether this system of records contains information about them should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting access must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the Privacy Act Officer, Office of the Director of Administration, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Individuals must furnish the following information for their records to be located and identified:

1. Full name(s);
2. Date of birth;
3. Social Security Number (for employees);
4. Dates of employment (if applicable); and
5. Signature.

Individuals requesting amendment must comply with the Commission's Privacy Act regulations on verification of identity (19 CFR part 201).

RECORD SOURCE CATEGORIES:

Members of Congress, their staffs, and individuals on whose behalf there have been Congressional inquiries.

Appendix A—General Routine Uses Applicable to More Than One System of Records

A. Disclosure for Law Enforcement Purposes

When information indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

B. Disclosure Incident to Requesting Information

Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency

Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of

records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget

Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices

Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of the individual about whom the record is maintained. Disclosure will not be made until the congressional office has furnished appropriate documentation of the individual's request, such as a copy of the individual's written request.

F. Disclosure to Department of Justice

Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Commission is authorized to appear, when:

1. The Commission, or any component thereof; or
2. Any employee of the Commission in his or her official capacity; or
3. Any employee of the Commission in his or her individual capacity where the Department of Justice or the Commission has agreed to represent the employee; or
4. The United States

is a party to litigation or has an interest in such litigation, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is deemed by the Commission to be for a purpose that is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives and GSA

Information may be disclosed to the National Archives and Records Administration or General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

H. Disclosure to Contractors, Grantees, Etc.

Information may be disclosed to agency contractors, grantees, consultants, or volunteers who have been engaged to assist the agency in the performance of a contract, service, grant, cooperative agreement, job, or other activity for the Commission related to this system of records and who need to have access to the records in order to perform the activity for the Commission. This includes Federal agencies providing payroll, management, or administrative services to the Commission. When appropriate, recipients shall be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints and Appeals

Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee or former employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management

Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection with Litigation

Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Commission, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

L. Disclosure to Labor Unions

Information from this system of records may be disclosed to provide information to officials of labor organizations when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

Appendix B—Government-Wide System Notices Applicable to the Commission

The Commission maintains some records covered by Government-wide system of records notices published by other agencies. There may not be actual Commission files in all Government-wide systems. This list includes all Government-wide system notices known as the publication date, but any later established Government-wide system notices may also be applicable.

1. OGE/GOVT–1—Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records
2. OGE/GOVT–2—Confidential Statements of Employment and Financial Interests
3. EEOC/GOVT–1—Equal Employment Opportunity Commission Records and Appeal Records.
4. FEMA/GOVT–1—National Defense Executive Reserve System
5. GSA/GOVT–2—Employment Under Commercial Activities Contracts
6. GSA/GOVT–3—Travel Charge Card Program
7. GSA/GOVT–4—Contracted Travel Service Program
8. DOL/ESA–13—Employment Standards Administration, Office of Workers' Compensation Programs, Federal Employees' Compensation Act File
9. DOL/ETA–14—Employment Training Administration Job Corpsman Records
10. MSPB/GOVT–1—Appeal and Case Records
11. OPM/GOVT–1—General Personnel Records
12. OPM/GOVT–2—Employee Performance File System Records
13. OPM/GOVT–3—Records of Adverse Actions and Actions Based on Unacceptable Performance
14. OPM/GOVT–5—Recruiting, Examining, and Placement Records
15. OPM/GOVT–6—Personnel Research and Test Validation Records
16. OPM/GOVT–7—Applicant—Race, Sex, National Origin and Disability Status Records
17. OPM/GOVT–9—File on Position Classification Appeals, Job Grading Appeals, and Retained Grade or Pay Appeals
18. OPM/GOVT–10—Employee Medical File System Records

Issued: April 22, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–11138 Filed 4–29–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

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 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 purposes 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, NW., Room S–3014, Washington, DC 20210.

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

Maine
ME970018 (Feb. 14, 1997)
ME970026 (Feb. 14, 1997)
ME970030 (Feb. 14, 1997)

New Jersey
NJ970003 (Feb. 14, 1997)

New York
NY970002 (Feb. 14, 1997)
NY970008 (Feb. 14, 1997)
NY970013 (Feb. 14, 1997)
NY970031 (Feb. 14, 1997)
NY970042 (Feb. 14, 1997)
NY970049 (Feb. 14, 1997)
NY970073 (Feb. 14, 1997)
NY970087 (Feb. 14, 1997)

Volume II

District of Columbia
DC970001 (Feb. 14, 1997)
DC970003 (Feb. 14, 1997)

Maryland
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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 county.

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, D.C. this 25th day of April 1997.

Carl Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–11112 Filed 4–29–97; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–052)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: May 21, 1997, 8:30 a.m. to 3 p.m.; and May 22, 1997, 8:30 a.m. to noon.

ADDRESSES: Johnson Space Center, Building 1, Room 360, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Ms. Anne L. Accola, Code Z, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2096.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Update on Activities at NASA
—Integrated Financial Management Project
—Full Cost Initiative
—Committee and Task Force Reports
—Technology Development in the HEDS Strategic Enterprise
—Institutional and Programmatic Changes and Challenges at JSC
—Discussion of Findings and Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register. Unbadged visitors will be required to obtain a visitor's badge at the Johnson Space Center badging office in Building 110.

Dated: April 24, 1997.

Leslie M. Nolan,

Advisory Committee Managements Officer, National Aeronautics and Space Administration.

[FR Doc. 97–11202 Filed 4–29–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMUNICATIONS SYSTEMS

Notice

AGENCY: National Communications System (NCS).

ACTION: Notice of publication.

SUMMARY: Federal Telecommunication Recommendation (FTR) 1024A–1997, ''Project 25 Radio Equipment'' was approved for publication on April 16, 1997. This recommendation describes a family of 12.5 kHz bandwidth or less digital radios that can be used in a wide variety of Government applications; and supersedes FTR 1024–1997, dated January 21, 1997. Project 25 is a joint effort of US Federal, state, and local government, and industry. State government participation is through the National Association of State Telecommunications Directors (NASTD); local government participation is through the Association of Public-safety Communications Officials, International (APCO); and industry participation is through the Telecommunications Industry Association (TIA). A copy of FTR 1024A–1997, in PDF format, is available on the World-Wide Web at <http://members.aol.com/Project25/>.

FOR FURTHER INFORMATION: Contact Mr. Robert Fenichel at telephone (703) 607–6190, e-mail <fenicher@ncs.gov>, or write to the National Communications System, Attn: N6, 701 South Court House Road, Arlington, VA 22204–2198.

Dennis Bodson,

Chief, Technology and Standards Division.

[FR Doc. 97–11127 Filed 4–29–97; 8:45 am]

BILLING CODE 5000–03–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Company; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License DPR–23

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Carolina Power & Light Company (CP&L or the

licensee) to withdraw the remaining portion of its January 30, 1996, application for proposed amendment to Facility Operating License No. DPR–23 for the H. B. Robinson Steam Electric Plant, Unit No. 2, (HBR) located in Darlington County, South Carolina.

The proposed amendment would have revised the technical specifications (TS) to change the wording of TS 4.6.1.3 to require inspection of the EDGs ''at least once every refueling outage'' instead of ''at each refueling.''

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 28, 1996, (61 FR 7546). However, by letter dated March 14, 1997, the licensee withdrew the remaining proposed change.

For further details with respect to this action, see the application for amendment dated January 30, 1996, as supplemented May 20, 1996, and the licensee's letter dated March 14, 1997, which withdrew the remaining portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland, this 23rd day of April 1997.

For the Nuclear Regulatory Commission.

Brenda L. Mozafari,

Project Manager, Project Directorate, Division of Reactor Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 97–11122 Filed 4–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–254 and 50–265]

Commonwealth Edison company and Midamerican Energy Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–29 and DPR–30, issued to Commonwealth Edison Company (ComEd, the licensee), for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendments would reflect a change in the Quad Cities, Unit 2, Minimum Critical Power Ratio (MCPR) Safety Limit and add the Siemens Power Corporation (SPC) methodology for application of the Advanced Nuclear Fuel for Boiling Water Reactors (ANFB) Critical Power Correlation to coresident General Electric fuel for Quad Cities, Unit 2, Cycle 15, to Technical Specification (TS) Section 6.9.A.6.b.

This request for amendments was submitted under exigent circumstances to support Quad Cities, Unit 2, Cycle 15, operation which is scheduled to be on line May 19, 1997. On March 20, 1997, SPC determined the need for a larger data base for determining the additive constant uncertainty. The combined time necessary for SPC to develop the new data base and the time for ComEd to develop this TS request would not allow the normal 30-day period for public comment to support Quad Cities, Unit 2, startup.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC staff must determine that the requested amendments involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated:

The probability of an evaluated accident is derived from the probabilities of the individual precursors to that accident. The consequences of an evaluated accident are determined by the operability of plant systems designed to mitigate those consequences. Limits have been established consistent with NRC approved methods to ensure that fuel performance during normal, transient, and accident conditions is acceptable. The proposed Technical Specifications amendment conservatively establishes the MCPR Safety Limit for Quad Cities Unit 2, such that the fuel is protected during normal operation and during any plant transients or anticipated operational occurrences. Additionally, methodologies are being added to the Section 6.9.A.6.b list of methodologies utilized in determining core operating limits.

a. MCPR Safety Limit and MCPR Safety Limit Bases Change

The probability of an evaluated accident is not increased by increasing the MCPR Safety Limit to 1.10 and changing the MCPR Safety Limit Bases. The change does not require any physical plant modifications, physically affect any plant components, or entail changes in plant operation. Therefore, no individual precursors of an accident are affected.

This Technical Specification amendment proposes to change the MCPR Safety Limit to protect the fuel during normal operation as well as during any transients or anticipated operational occurrences. The method that is used to determine the ATRIUM–9B additive constant uncertainty is conservative, such that, the resulting MCPR Safety Limit is high enough to ensure that less than 0.1% of the fuel rods are expected to experience boiling transition if the limit is not violated. Operational limits will be established based on the proposed MCPR Safety Limit to ensure that the MCPR Safety Limit is not violated during all modes of operation. This will ensure that the fuel design safety criteria, more than 99.9% of the fuel rods avoiding transition boiling during normal operation as well as anticipated operational occurrences, is met. The method for calculating an ATRIUM–9B additive constant uncertainty, is described in Reference 2 [SPC document, *ANFB Critical Power Correlation Uncertainty For Limited Data Sets,* ANF–1125(P), Supplement 1, Appendix D, Siemens Power Corporation—Nuclear Division, Submitted on April 18, 1997] and is based on an expanded pool of data for the ATRIUM–9B fuel design (527 data points). The additive constant uncertainty from Reference 2 is then used to determine the change from the additive constant uncertainty using the original pool of data (125 data points). This difference is conservatively doubled and added to the additive constant uncertainty using the original pool of data (125 data points). Reference 5 [Siemens Power Corporation letter, ''Interim Use of Increased ANFB Additive Constant Uncertainty'', HDC:97:033, H.D. Curet to Document Control Desk, April 18, 1997] documents the conservative interim approach of doubling the difference in additive constant uncertainties. The resulting additive constant uncertainty is used to determine the Quad Cities Unit 2 Cycle 15 MCPR Safety Limit. Since the new MCPR Safety Limit was determined using a conservative ATRIUM–9B additive constant uncertainty, and the operability of plant systems designed to mitigate any consequences of accidents have not changed, the consequences of an accident previously evaluated are not expected to increase.

b. Addition of Siemens Power Corporation's (SPC) methodology for Application of the ANFB Critical Power Correlation to Coresident GE Fuel for Quad Cities Unit 2 Cycle 15 to Section 6.9.A.6.b

The probability of an evaluated accident is not increased by adding Reference 1 [ComEd letter, ''ComEd Response to NRC Staff Request for Additional Information (RAI) Regarding the Application of Siemens Power Corporation ANFB Critical Power Correlation to Coresident General Electric Fuel for LaSalle Unit 2 Cycle 8 and Quad Cities Unit 2 Cycle 15, NRC Docket No.'s 50–373/374 and 50–254/265'', J.B. Hosmer to U.S. NRC, July 2, 1996, transmitting the topical report, *Application of the ANFB Critical Power Correlation to Coresident GE Fuel for Quad Cities Unit 2 Cycle 15*, EMF–96–051(P), Siemens Power Corporation—Nuclear Division, May 1996, and related information], to Section 6.9.A.6.b. Reference 1 describes the methodology used to determine the additive constants and the associated uncertainty of the Quad Cities Unit 2 Cycle 15 GE9 and GE10 fuel for the ANFB critical power correlation. The additive constant and the associated uncertainties for the GE9 and GE10 fuel are used to calculate the MCPR Safety Limit, which in turn is used to establish the MCPR operating limit for Quad Cities Unit 2 Cycle 15 operation. Therefore, adding Reference 1 to Section 6.9.A.6.b of the Technical Specifications updates the Reference list to include a methodology used for determining Quad Cities Unit 2 Cycle 15 operational limits.

Adding Reference 1 to the Reference list in Section 6.9.A.6.b also will not increase the consequences of an accident previously evaluated. Reference 1 determines the additive constants and the associated uncertainty for the GE fuel in Quad Cities Unit 2 Cycle 15. It also provides input for determining the MCPR Safety Limit. Because Reference 1 contains conservative methods and calculations and because the operability of plant systems designed to mitigate any consequences of accidents have not changed, the consequences of an accident previously evaluated will not increase.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated:

Creation of the possibility of a new or different kind of accident would require the creation of one or more new precursors of that accident. New accident precursors may be created by modifications of the plant configuration, including changes in allowable modes of operation. This Technical Specification submittal does not involve any modifications of the plant configuration or allowable modes of operation. This Technical Specification submittal involves a) an added conservatism in the Quad Cities Unit 2 MCPR Safety Limit due to analytical changes and use of an expanded database, and b) an additional reference incorporated in Section 6.9.A.6.b describing the methodology used to determine the additive constants and additive constant uncertainty for GE9 and GE10 fuel for Quad Cities Unit 2 Cycle 15. Therefore, no new precursors of an accident are created and no new or different kinds of accidents are created.

3. Involve a significant reduction in the margin of safety for the following reasons:

The MCPR Safety Limit provides a margin of safety by ensuring that less than 0.1% of the rods are expected to be in boiling transition if the MCPR limit is not violated. The proposed Technical Specification amendment reflects MCPR Safety Limit results from conservative calculations by SPC using the new ATRIUM–9B additive constant uncertainty. These new ATRIUM–9B additive constant uncertainty calculations are based on a larger pool of data than previous calculations (527 data points versus 125 data points). Additionally, the additive constant uncertainty resulting from statistical analyses of the larger pool of data is conservatively applied to calculate a new MCPR Safety Limit of 1.10, which is more restrictive than the current MCPR Safety Limit of 1.07.

SPC has increased its ATRIUM–9B critical power test data base from 125 data points at 1000 psi with mass fluxes ranging from 0.5 to 1.5 Mlb/hr-ft^2, to 527 data points that cover a wider range of operating pressures, flows, and axial power shapes.

The Experimental Critical Power Ration (ECPR) and the standard deviation of the ECPR for each of the 527 data points are statistically examined by an Analysis of Variance. The results of the Analysis of Variance of the Pressure Groups are a mean ECPR, a standard deviation of ECPR, degrees of freedom, and equivalent sample size.

The overall uncertainty for CPR is statistically calculated using the standard deviation of the pooled data and the variance between the means associated with the axial power shapes. An upper 95% confidence limit standard deviation is calculated based on Chi-Square for the calculated degrees of freedom. This overall standard deviation in ECPR is converted to an additive constant uncertainty. This conversion is derived from the ratios of the ANFB correlation standard deviation to the additive constant standard deviation for the ATRIUM–9B data.

This calculated additive constant uncertainty is not directly applied to the MCPR Safety Limit calculation. A conservative ATRIUM–9B additive constant uncertainty is used to calculate a new MCPR Safety Limit for Quad Cities Unit 2 Cycle 15.

The difference is calculated between the additive constant uncertainties after and prior to the data set being expanded to include 527 points. This difference is then conservatively doubled and added to the additive constant uncertainty prior to the expansion of the data set (based on 125 data points).

The resulting additive constant uncertainty, 0.029, is used to calculate a new MCPR Safety Limit value of 1.10 for Quad Cities Unit 2 Cycle 15.

Because a conservative method is used to apply the ATRIUM–9B additive constant uncertainty to the MCPR Safety Limit calculation, a decrease in the margin of safety will not occur due to changing the MCPR Safety Limit. The revised Safety Limit will ensure the appropriate level of fuel protection. Additionally, operational limits will be established based on the proposed MCPR Safety Limit to ensure that the MCPR Safety Limit is not violated during all modes of operation. This will ensure that the fuel design safety criteria, more than 99.9% of the fuel rods avoiding transition boiling during normal operation as well as anticipated operational occurrences, is met.

The margin of safety is not decreased by adding the Reference to Section 6.9.A.6.b of Siemens Power Corporation's (SPC) methodology for application of the ANFB Critical Power Correlation to coresident GE Fuel for Quad Cities Unit 2 Cycle 15. While this methodology is in review by the NRC, and pending approval for application to Quad Cities Unit 2 Cycle 15, it is the same methodology previously reviewed and approved for use at LaSalle Unit 2 (References 3 and 4) [ComEd letter, ''Application of Siemen's Power Corporation ANFB Critical Power Correlation to Coresident General Electric Fuel for LaSalle Unit 2 Cycle 8'', G.G, Benes to U.S. Nuclear Regulatory Commission, dated March 8, 1996, and NRC SER letter, ''Safety Evaluation for Topical Report EMF–96–021(P), Revision 1, 'Application of the ANFB Critical Power Correlation to Coresident GE Fuel for LaSalle Unit 2 Cycle 8' (TAC No. M94964)'', D.M. Skay to I. Johnson, dated September 26, 1996.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike,

Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely 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 for amendments dated April 21, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 24th day of April 1997.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–11120 Filed 4–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244]

Rochester Gas and Electric Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP–18 issued to Rochester Gas & Electric Corporation for operation of the R. E. Ginna Nuclear Power Plant located in Wayne County, New York.

The proposed amendment would revise the Ginna Station Improved Technical Specifications (ITS) to reflect a planned modification to the spent fuel pool (SFP) storage racks. Specifications associated with SFP boron concentration, fuel assembly storage, and the maximum limit on the number of fuel assemblies which can be stored in the SFP would be revised.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The design basis events considered for the spent fuel pool include both external events and postulated accidents in the pool. The external events considered are tornado missiles and seismic events. The evaluation of the postulated impact of a tornado missile is detailed in Sections 3, 4, and 6 of Reference 1 [see application dated March 31, 1997]. The structural evaluation indicates that there are no gross distortions of the racks or any adverse effects upon plant structures or equipment. The radiological consequences of this event indicate that offsite doses are ''well within'' the 10 CFR 100 limits.

The structural evaluation is detailed in Section 3 of Reference 1 [see application dated March 31, 1997]. Current state of the art methods are used in the structural analysis. The evaluation of the storage racks is based on a conservative interpretation of the ASME [American Society of Mechanical Engineers] Boiler and Pressure Vessel Code. The evaluation of the spent fuel pool is based on a conservative interpretation of requirements set forth in the American Concrete Institute, Code Requirements for Nuclear Safety Related Concrete Structures, and American Institute of Steel Construction, Specification for Structural Steel Buildings. The spent fuel storage system was designed to meet all applicable structural criteria for normal (Level A), upset (Level B), and faulted (Level D) conditions as defined in NUREG–0900, SRP [Standard Review Plan] 3.8.4, Appendix D. The following loadings were considered: dead weight, seismic, thermal, stuck fuel assembly, drop a fuel assembly, and tornado missile impact. Load combinations were performed in accordance with SRP 3.8.4, Appendix D. Given the evaluated seismic events, the changes in the final position of the racks are small as compared to the initial position prior to the seismic event. The maximum closure of gaps is such that no significant changes in gaps result during any single seismic event. Furthermore, the combined gap closures resulting from a combination of 5 OBEs [Operating Basis Earthquakes] and 1 SSE [Safe Shutdown Earthquake] show that there are no rack-to-rack or rack-to-wall impacts. These evaluations conclude that under these postulated events the stored fuel assemblies are maintained in a stable, coolable geometry, and a subcritical configuration.

As described in the bases for LCO [Limiting Condition for Operation] 3.7.12 and 3.7.13, the postulated accidents in the spent fuel pool are divided into two categories. The first are those involving a loss of cooling in the spent fuel pool. The thermal-hydraulic analysis for the maximum expected decay heat loads is described in Section 5 of Reference 1 [see application dated March 31, 1997]. The proposed modification does not change the configuration of the available spent fuel cooling systems, the limiting design conditions for maximum decay heat load which occurs during a full core offload, or the existing requirement to maintain pool temperature below 150°F. Utilizing the three available spent fuel cooling systems, Ginna Station maintains full redundancy during high heat load conditions. The decay heat load to the spent fuel pool is maintained within the capacity of the operating cooling system by appropriately delaying fuel offload from the reactor. Should a failure occur on the operating cooling system, the resulting heat rates allow sufficient time to place a standby cooling system in service before the pool design limit temperature is exceeded. Increases in spent fuel pool temperature, with the corresponding decrease in water density and void formation from boiling, will result in a decrease in reactivity due to the decrease in moderation effects. In addition, the analysis demonstrates that the storage rack geometry and required fuel storage configurations result in a $K_{eff} \leq$[less than or equal to] .95 assuming no soluble boron allowing for the potential of makeup to the pool with unborated water.

The second category is related to the movement of fuel assemblies and other loads above the spent fuel pool. The limiting accident with respect to reactivity is the fuel handling accident which is analyzed in Section 4 of Reference 1 [see application dated March 31, 1997]. For both the incorrectly transferred fuel assembly (placed in an unauthorized location) or a dropped fuel assembly, the positive reactivity effects resulting are offset by the negative reactivity from the required minimum soluble boron concentration. The resulting K_{eff} is shown to be less than 0.95. The radiological consequences of a fuel assembly drop remain as described in Section 15.7.3 of the UFSAR [Updated Final Safety Analysis Report] and as discussed in Section 6 of Reference 1 [see application dated March 31, 1997]. Loads in excess of a fuel assembly and its handling tool are administratively prohibited from being carried over spent fuel. There are no changes anticipated for either the fuel handling equipment or the auxiliary building overhead crane due to the proposed modification to the fuel storage racks. The modification is scheduled for the Year 1998 to be performed while Ginna Station is operating. Movement of heavy loads around the spent fuel pool are controlled by the requirements of NUREG–0612 and the regulatory guidelines set forth in NRC Bulletin 96–02 (see Section 3 of Reference 1).

[see application dated March 31, 1997]. Spent fuel casks and storage racks (during removal and installation) will be moved using the auxiliary building crane and lifting attachments satisfying the single failure proof criteria of NUREG–0554, obviating the need to determine the consequences for this accident.

Based on the above, it is concluded that the proposed changes do not significantly increase the probability or consequences of any accident previously analyzed.

2. Operation in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed modification does not alter the function of any system associated with spent fuel handling, cooling, or storage. The proposed changes do not involve a different type of equipment or changes in methods governing normal plant operation. The additional restrictions placed on the acceptable storage locations for spent fuel are consistent with the type of restriction that previously existed. The potential violation of these restrictions (incorrectly transferred fuel assembly) are analyzed as discussed above. The design, analysis, fabrication, and installation meet all the appropriate NRC regulatory requirements, and appropriate industry codes and standards.

Based on the above, the change does not create the possibility of a new or different kind of accident from any previously analyzed.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in the margin of safety.

The Licensing Report enclosed as Reference 1 [see application dated March 31, 1997] addresses the following considerations: nuclear criticality, thermal-hydraulic, and mechanical, material, and structural. Results of these evaluations demonstrate that the changes associated with the spent fuel reracking do not involve a significant reduction in the margin of safety as summarized below:

Nuclear Criticality

The established regulatory acceptance criterion is that K_{eff} be less than or equal to 0.95, including all uncertainties at the 95/95 probability/confidence level, under normal and abnormal conditions. The methodology used in the evaluation meets NRC requirements, and applicable industry codes, standards, and specifications. In addition, the methodology has been reviewed and approved by the NRC in recent nuclear criticality evaluations. Specific conditions which were evaluated include misloading of a fuel assembly, drop of a fuel assembly (shallow, deep drops, and side drops), pool water temperature effects, and movement of racks due to seismic events. Results described in Section 4 of Reference 1 [see application dated March 31, 1997] document that the criticality acceptance criterion is met for all normal and abnormal conditions.

Thermal-Hydraulic

Conservative methods and assumptions have been used to calculate the maximum temperature of the fuel and the increase of the bulk pool water temperature in the spent fuel pool under normal and abnormal conditions. The methodology for performing the thermal-hydraulic evaluation meets NRC regulatory requirements. Results from the thermal-hydraulic evaluation show that the maximum temperature of the hottest fuel assembly, intact or consolidated canister, is less than the temperature for nucleate boiling condition. The effects of cell blockage on the maximum temperature of intact fuel and consolidated canisters were evaluated. Results described in Section 5 of Reference 1 [see application dated March 31, 1997] show that adequate cooling of the intact or consolidated fuel is assured. In all cases the existing spent fuel pool cooling system will maintain the bulk pool temperature at or below 150 °F by delaying core offload from the reactor.

Mechanical, Material, and Structural

The primary safety function of the spent fuel pool and the racks is to maintain the spent fuel assemblies in a safe configuration through all normal and abnormal loads. Abnormal loadings which have been considered in the evaluation are: seismic events, the drop of a fuel assembly, the impact of a tornado missile, a stuck assembly, and the drop of a heavy load. The mechanical, material, and structural design of the new spent fuel racks is in accordance with NRC regulatory requirements (including the NRC OT Position dated April 14, 1978, [NRC letter to all power reactor licensees dated April 14, 1978] and addendum dated January 18, 1979), and applicable industry standards. The rack materials are compatible with the spent fuel pool environment and fuel assemblies. The material used as a neutron absorber (borated stainless steel) has been approved by the American Society for Testing and Materials (ASTM), and licensed previously by the NRC for use as a neutron absorber at Indian Point 3, Indian Point 2, and Millstone 2. The structural evaluation presented in Section 3 of Reference 1 [see application dated March 31, 1997] documents that the tipping or sliding of the free-standing racks will not result in rack-to-rack or rack-to-wall impacts during seismic events. The spent fuel assemblies will remain intact and the criticality criterion of k_{eff} less than or equal to 0.95 is met.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Rochester Public Library, 115 South Avenue, Rochester, New York 14610. If a request for a hearing or petition for leave to intervene is filed by the above date, the

Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to S. Singh Bajwa, petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005, attorney for the licensee.

Nontimely 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 for amendment dated March 31, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Dated at Rockville, Maryland, this 24th day of April 1997.

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–11121 Filed 4–29–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company; North Anna Power Station, Units 1 and 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the provisions of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 to Virginia Electric and Power Company (the licensee) for North Anna Power Station, Units 1 and 2 (NPS1&2), located in Louisa County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed action would enable the licensee to use demonstration fuel assemblies that contain some fuel rods whose zirconium-based cladding composition is somewhat different from the zirconium-based compound named zircaloy or ZIRLO. These demonstration assemblies would be loaded into NPS–1 for three cycles, with the initial irradiation planned for North Anna 1 Cycle 13. Irradiation of these four fuel assemblies may occur in either North Anna Unit 1 or North Anna Unit 2, or a combination of the two units, subject to the following constraints:

(1) The assemblies are not to be irradiated for more than three full operating cycles, and

(2) The maximum rod average burnup of any fuel rod in these assemblies shall not exceed the North Anna Units 1 and

2 lead rod burnup restriction of 60,000 megawatt days per metric ton uranium (MWD/MTU).

The proposed action is in accordance with the licensee's application for exemption of September 4, 1996 as supplemented February 3, 1997.

The Need for the Proposed Action

The proposed exemption to 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 5O is needed because these regulations specifically refer to light-water reactors containing fuel consisting of uranium oxide pellets enclosed in zircaloy or ZIRLO tubes. Zircaloy and ZIRLO are zirconium-based alloys currently in use as cladding for fuel pellets. A new zirconium-based cladding has been developed which is not the same chemical composition as zircaloy or ZIRLO, and which the licensee wants to test in reactor operation. Since 10 CFR 50.46 and 10 CFR Part 5O, Appendix K, limit Emergency Core Cooling System (ECCS) calculations to zircaloy and 10 CFR 50.44 relates to the generation of hydrogen gas from a metal-water reaction with zircaloy or ZIRLO, an exemption is required in order to place four demonstration assemblies in the reactor core(s).

Environmental Impacts of the Proposed Action

The proposed action will allow the use of the new cladding with chemical composition not significantly different from zircaloy or ZIRLO. Use of the demonstration assemblies with the new zirconium-based cladding does not affect the Emergency Core Cooling Systems calculations and has no significant effect on the previous assessment of hydrogen gas generation following a loss-of-coolant accident. With regard to potential radiological impacts to the general public, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect the potential for radiological accidents and does not affect radiological plant effluents. The demonstration assemblies meet the same design bases as the fuel which is currently in the reactors. No safety limits have been changed or setpoints altered as a result of the use of these assemblies. The Final Safety Analysis Report (FSAR) analyses are bounding for the demonstration assemblies as well as the remainder of the core. The advanced zirconium-based alloys have been shown through testing to perform satisfactorily under conditions representative of a reactor environment. In addition, the relatively small number of fuel rods involved does not represent a prohibitively large inventory of radioactive material which could be released into the reactor coolant in the event of cladding failure. The only credible consequence of this change would be a failure of the demonstration claddings. Even in the case of gross fuel failure, the number of rods involved is less than 3% of the core and, thus, sufficiently small that environmental impact would be negligible and is bounded by previous assessments. The small number of fuel rods involved in conjunction with the chemical similarity of the demonstration cladding to zircaloy cladding ensures that hydrogen production would not be significantly different from previous assessments. As a result, the proposed exemption does not affect the consequences of radiological accidents. No changes are being made in the types or amounts of any radiological effluent that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational exposure. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to the potential environmental impacts associated with the transportation of the demonstration assemblies, the advanced claddings have no impact on previous assessments determined in accordance with 10 CFR 51.52.

With regard to potential nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Because the Commission's staff has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative to the proposed exemption will have either no significantly different environmental impact or greater environmental impact. The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to the operation of North Anna Power Station, Units 1 and 2, issued by the Commission in April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with Mr. Foldesi of the Virginia Department of Health on April 24, 1997, regarding the environmental impact of the proposed action. Mr. Foldesi had no comments on behalf of the Commonwealth of Virginia.

Finding of No Significant Impact

Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated September 4, 1996, as supplemented February 3, 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 located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland this 24th day of April, 1997.

For the Nuclear Regulatory Commission.

Ngoc B. Le,

Acting Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–11119 Filed 4–29–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

1997 List of Designated Federal Entities and Federal Entities

AGENCY: Office of Management and Budget.

ACTION: Notice

SUMMARY: This notice provides a list of Designated Federal Entities and Federal Entities, as required by the Inspector General Act of 1978 (IG Act), as subsequently amended.

FOR FURTHER INFORMATION CONTACT: Suzanne Murrin (telephone: 202–395–1040), Office of Federal Financial Management, Office of Management and Budget.

SUPPLEMENTARY INFORMATION: This notice provides a copy of the 1997 List of Designated Federal Entities and Federal Entities, which the Office of Management and Budget (OMB) is required to publish annually under the IG Act.

The List is divided into two groups: Designated Federal Entities and Federal Entities. The Designated Federal Entities are required to establish and maintain Offices of Inspector General. The 29 Designated Federal Entities are as listed in the IG Act, except that those agencies which have ceased to exist have been deleted from the list.

Federal Entities are required to annually report to each House of the Congress and the OMB on audit and investigative activities in their organizations. Federal Entities are defined as ''any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive Branch of the government, or any independent regulatory agency'' other than the Executive Office of the President and agencies with statutory Inspectors General. There are 4 deletions and 2 additions in the 1997 Federal Entities list from the 1996 list published in the September 26, 1996, **Federal Register**.

The 1997 Designated Federal Entities and Federal Entities List was prepared in consultation with the U.S. General Accounting Office.

G. Edward DeSeve,

Controller, Office of Federal Financial Management.

Herein follows the text of the 1997 List of Designated Federal Entities and Federal Entities:

1997 List of Designated Federal Entities and Federal Entities

The IG Act, as subsequently amended, requires OMB to publish a list of ''Designated Federal Entities'' and ''Federal Entities'' and the heads of such entities. Designated Federal Entities were required to establish Offices of Inspector General before April 17, 1989. Federal Entities are required to report annually to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

Designated Federal Entities and Entity Heads

1. Amtrak—Chairperson
2. Appalachian Regional Commission—Federal Co-Chairperson
3. The Board of Governors, Federal Reserve System—Chairperson
4. Commodity Futures Trading Commission—Chairperson
5. Consumer Product Safety Commission—Chairperson
6. Corporation for Public Broadcasting—Board of Directors
7. Equal Employment Opportunity Commission—Chairperson
8. Farm Credit Administration—Chairperson
9. Federal Communications Commission—Chairperson
10. Federal Election Commission—Chairperson
11. Federal Housing Finance Board—Chairperson
12. Federal Labor Relations Authority—Chairperson
13. Federal Maritime Commission—Chairperson
14. Federal Trade Commission—Chairperson
15. Legal Services Corporation—Board of Directors
16. National Archives and Records Administration—Archivist of the United States
17. National Credit Union Administration—Board of Directors
18. National Endowment for the Arts—Chairperson
19. National Endowment for the Humanities—Chairperson
20. National Labor Relations Board—Chairperson
21. National Science Foundation—National Science Board
22. Panama Canal Commission—Chairperson
23. Peace Corps—Director
24. Pension Benefit Guaranty Corporation—Chairperson
25. Securities and Exchange Commission—Chairperson
26. Smithsonian Institution—Secretary
27. Tennessee Valley Authority—Board of Directors
28. United States International Trade Commission—Chairperson
29. United States Postal Service—Postmaster General

Federal Entities and Entity Heads

1. Advisory Council on Historic Preservation—Chairperson
2. African Development Foundation—Chairperson
3. American Battle Monuments Commission—Chairperson
4. Architectural and Transportation Barriers Compliance Board—Chairperson
5. Armed Forces Retirement Home—Board of Directors
6. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairperson
7. Christopher Columbus Fellowship Foundation—Chairperson
8. Commission for the Preservation of America's Heritage Abroad—Chairperson
9. Commission of Fine Arts—Chairperson
10. Commission on Civil Rights—Chairperson
11. Committee for Purchase from People Who Are Blind or Severely Disabled—Chairperson
12. Court of Veterans Appeals—Chief Judge
13. Defense Nuclear Facilities Safety Board—Chairperson
14. Export-Import Bank—President and Chairperson
15. Farm Credit System Financial Assistance Corporation—Chairperson
16. Farm Credit System Insurance Corporation—Board of Directors
17. Federal Financial Institutions Examination Council Appraisal Subcommittee—Chairperson
18. Federal Mediation and Conciliation Service—Director
19. Federal Mine Safety and Health Review Commission—Chairperson
20. Federal Retirement Thrift Investment Board—Chairperson
21. Franklin Delano Roosevelt Memorial Commission—Chairperson
22. Harry S. Truman Scholarship Foundation—Chairperson
23. Institute of American Indian and Alaska Native Culture and Arts Development—Chairperson
24. Institute for Museum and Library Services—Board of Directors
25. Inter-American Foundation—Chairperson
26. James Madison Memorial Fellowship Foundation—Chairperson
27. Japan-U.S. Friendship Commission—Chairperson
28. Marine Mammal Commission—Chairperson
29. Merit Systems Protection Board—Chairperson
30. Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation—Chairperson
31. National Bankruptcy Review Commission—Chairperson
32. National Capital Planning Commission—Chairperson
33. National Commission on Libraries and Information Science—Chairperson
34. National Council on Disability—Chairperson
35. National Education Goals Panel—Chairperson
36. National Endowment for Democracy—Chairperson
37. National Mediation Board—Chairperson
38. National Science Foundation/Arctic Research Commission—Chairperson

39. National Transportation Safety Board—Chairperson
40. Neighborhood Reinvestment Corporation—Chairperson
41. Nuclear Waste Technical Review Board—Chairperson
42. Occupational Safety and Health Review Commission—Chairperson
43. Office of Government Ethics—Director
44. Office of Navajo and Hopi Indian Relocation—Chairperson
45. Office of Special Counsel—Special Counsel
46. Office of the Nuclear Waste Negotiator—Negotiator
47. Offices of Independent Counsel—Independent Counsels
48. Ounce of Prevention Council—Chairperson
49. Overseas Private Investment Corporation—Board of Directors
50. Postal Rate Commission—Chairperson
51. Selective Service System—Director
52. Smithsonian Institution/John F. Kennedy Center for the Performing Arts—Chairperson
53. Smithsonian Institution/National Gallery of Art—Board of Trustees
54. Smithsonian Institution/Woodrow Wilson International Center for Scholars—Board of Trustees
55. State Justice Institute—Director
56. Trade and Development Agency—Director
57. U.S. Enrichment Corporation—Chairperson
58. U.S. Holocaust Memorial Council—Chairperson
59. U.S. Institute of Peace—Chairperson

[FR Doc. 97–11191 Filed 4–29–97; 8:45 am]
BILLING CODE 3110–01–P

PENSION BENEFIT GUARANTY CORPORATION

Request for Comment on Proposed Collection of Information Under the Paperwork Reduction Act; Locating and Paying Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of submission for OMB review; comment request

SUMMARY: The Pension Benefit Guaranty Corporation has requested that the Office of Management and Budget approve a collection of information under the Paperwork Reduction Act. The purpose of the information collection is to enable the PBGC to pay benefits to participants and beneficiaries in plans covered by the PBGC insurance program.

DATES: All written comments should be sent to the address below within 30 days of April 30, 1997.

ADDRESSES: All written comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 725 17th Street, NW., Room 10235, Washington, DC 20503. The request for approval and copies of the proposed collection of information will be available for public inspection at the PBGC Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Marc L. Jordan, Attorney, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC has requested OMB approval of a collection of information needed to pay participants and beneficiaries who may be entitled to pension benefits under a defined benefit plan that has terminated. The collection consists of information participants and beneficiaries are asked to provide in connection with an application for benefits. In addition, in some instances, as part of a search for participants and beneficiaries who may be entitled to benefits, the PBGC requests individuals to provide identifying information that the individual would provide as part of an initial contact with the PBGC. All requested information is needed to enable the PBGC to determine benefit entitlements and to make appropriate payments.

The PBGC estimates that it will request that 62,720 individuals submit applications for benefits and that the associated burden is 30,360 hours (an average of slightly less than 30 minutes per individual). The PBGC further estimates that 5,000 individuals will provide the PBGC with identifying information as part of an initial contact and that the associated burden is 1,250 hours (15 minutes per individual). Thus, the total estimated burden associated with this collection of information is 31,610 hours.

Issued at Washington, D.C., this 25th day of April, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–11232 Filed 4–29–97; 8:45 am]
BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22632; 811–2094]

United Continental Income Investment Programs; Notice of Application

April 23, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: United Continental Income Investment Programs.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 26, 1996, and amended on November 26, 1996, and March 12, 1997.

HEARING OF 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 May 19, 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 request 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 6300 Lamar Avenue, P.O. Box 29217, Shawnee Mission, KS 66201–9217.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenless, Senior Counsel, (202) 942–0581 or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants Representations

1. Applicant is a unit investment trust that has variously offered Monthly Investment Program (''MIPs'') and

Executive-Professional Investment Programs (''EIPs''). Applicant was created under the laws of Missouri pursuant to a custodian agreement dated July 15, 1970. Waddell & Reed, Inc. (the ''Sponsor'') and State Bank and Trust Company (the ''Custodian'') serve as applicant's Sponsor and Custodian, respectively.

2. According to SEC records, on August 3, 1970, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and a registration statement on Form N–8B–2 under section 8(b) of the Act. On or about the same day, applicant filed a registration statement on Form S–6 under the Securities Act of 1933. The Form S–6, filed to register $10,000,000 face amount of MIPs and $10,000,000 face amount of EIPs, became effective on November 18, 1970, and the initial public offering of MIPs and EIPs commenced on or soon after such date (MIPs and EIPs are collectively referred to herein as ''Programs'').

3. In 1973, the Sponsor ceased to offer and sell any new Program. The Custodian subsequently informed the Sponsor that it intended to resign as custodian. Accordingly, and in light of changes since the inception of the Programs in the ways of investing in United Continental Income Fund, Inc. (the ''Fund''), the Fund which underlies the Programs, the Sponsor determined not to continue the Programs.

4. The Program certificates provide that the Programs may be changed by agreement of the Sponsor and the Custodian without the consent of the Program holders, provided that the change does not adversely affect the substantive rights of the Program holders. The Sponsor determined that: (a) The amendment of the certificates of each Program to permit the termination of that Program by the Sponsor did not adversely affect the substantive rights of the Program holders; and (b) overall, as direct shareholders of the Fund, Program holders on the Termination Date, as defined below, would be in a position at least as favorable, if not more favorable, than if their Programs had not terminated. Effective March 11, 1996, the Sponsor and the Custodian amended the certificates of the Programs to permit the termination of each Program by the Sponsor in accordance with the terms of the notice sent to Program holders as described below.

5. On or about February 29, 1996, applicant sent to all holders of record of an interest in applicant notice that, as of May 30, 1996 (the ''Termination Date''), applicant would be terminated and the Sponsor would arrange for each holder of a Program to receive the number of Class A shares of the Fund held by applicant corresponding to the value of such holder's interest in the Program and thus representing an in-kind distribution of the holder's pro rata interest in the assets of applicant.

6. As of May 29, 1996, there was $390,529 face amount of Programs outstanding, representing beneficial interests in applicant having an aggregate value of $1,120,765 based on 46,103.025 Fund shares owned by applicant for outstanding Programs at $24.31 per Fund share.[1]

7. On the Termination Date, applicant distributed all of its net assets, consisting of shares of the Fund, to Program holders of record on that date. Each such Program holder received, at no acquisition fee, the number of Class A shares of the Fund corresponding to the value of his or her Program interest. The distribution to and receipt by each Program holder of record was effected by the establishment, on the books of the Fund, of an account in the name of that individual with the requisite number of Class A shares of the Fund. Distributions of 46,103.025 Fund shares held by applicant in the total amount of $1,124,453 to 35 holders of record represented approximately 100% of the net assets of applicants. Each Program holder received his or her proportionate share of such liquidation distribution in Class A shares of the Fund.

8. Any holder of an uncompleted Program on the Termination Date with a face amount of less than $12,000, may purchase Class A shares of the Fund at net asset value (''NAV''), plus a maximum sales charge of 2%, up to the amount representing the unpaid balance of his or her Program, if the purchase order is so designated. Any holder of an uncompleted Program on the Termination Date with a face amount of $12,000 or more, may purchase Class A shares of the Fund at NAV, up to the amount representing the unpaid balance of the Program, if the purchase order is so designated. In addition, any person who was a Program holder on the Termination Date may purchase Class A shares of the Fund at NAV up to the amount representing partial Program withdrawals outstanding on the Termination Date provided the purchase order is so designated.[2]

9. Applicant states that, in order to ensure that holders of uncompleted Programs received full credit for sales commissions previously paid, the Sponsor analyzed the maximum commission rate that would have been applicable to subsequent payments under the Program. Applicant further states that, for each of the foregoing categories of holders of uncompleted Programs, the sales charge, if any, for purchases of Class A shares of the Fund reflecting the unpaid balance of the face amount of the Program is less than the sales charge that would have been applicable if such purchases had been made under continuation of the Program. Termination of the Programs did not result in any Program holder paying a sales charge in excess of that permitted under section 27 of the Act or provided under the terms of the Program.

10. Expenses incurred in connection with the liquidation consists primarily of legal, printing, mailing, and miscellaneous administrative expenses. The expenses are expected to total approximately $4,234, and have been or will be paid by the Sponsor.

11. Applicant has no assets or securityholders, and is not a party to any litigation or administrative proceeding. The only known debts or other liabilities of applicant that remain outstanding are legal fees of approximately $325, which will be paid by the Sponsor. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11089 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

[1] The dollar value of the face amount of Programs is the total amount of payments to be made under the Programs purchased by Program holders. The aggregate value of Programs outstanding is the net asset value of the shares of the Fund attributable to such Programs outstanding, which may be greater or less than the face amount depending on the number of payments made and changes in the value of the Fund shares.

[2] The terms of the Programs allowed Program holders who had made 18 minimum monthly payments to make partial withdrawals of cash or Fund shares from their Programs, subject to certain restrictions. After 90 days from the time of making a withdrawal and before the Program's termination or exchange, Program holders could redeposit cash or Fund shares (depending on what had been withdrawn) to their Programs without a sales charge. Despite the 90-day provision, Program holders were permitted to make partial withdrawals up to the Termination Date, and redeposits at any time subsequent to the conversion.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22630; 811–975]

United Periodic Investment Plans to Acquire Shares of United Science Fund, a Class of Shares Issued by United Funds, Inc.; Notice of Application

April 23, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: United Periodic Investment Plans to Acquire Shares of United Science Fund, a Class of Shares Issued by United Funds, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 26, 1996, and amended on November 26, 1996, and March 12, 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 May 19, 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, 6300 Lamar Avenue, P.O. Box 29217, Shawnee Mission, KS 66201–9217.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, (202) 942–0581, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a unit investment trust that has variously offered Periodic Investment Plans to Acquire United Science Fund Shares of United Funds, Inc. and Periodic Investment Plans with Insurance to Acquire United Science Fund Shares of Untied Funds, Inc. (collectively, the ''Plans''). Applicant was created under the laws of Missouri pursuant to a trust agreement (''Trust Agreement'') dated August 29, 1960. Waddell & Reed, Inc. (the ''Sponsor'') and State Street Bank and Trust Company (the ''Custodian'') serve as applicant's Sponsor and Custodian, respectively.

2. According to SEC records, on August 24, 1960, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act. On August 29, 1960, applicant filed a registration statement on Form N–8B–2 under section 8(b) of the Act to register the Plans, which became effective in 1960. The initial public offering of the Plans commenced on or soon after such date.

3. Before February 29, 1996, the Sponsor ceased to offer and sell any new Plan. The Custodian subsequently informed the Sponsor that it intended to resign as custodian. Accordingly, and in light of changes since the inception of the Plans in the ways of investing in United Funds, Inc. Science and Technology Fund (the ''Fund''),[1] the Fund which underlies the Plans, the Sponsor determined not to continue the Plans.

4. The Trust Agreement provides that the Plans may be changed by agreement of the Sponsor and the Custodian without the consent of the Plan holders, provided that the change does not adversely affect the substantive rights of the Plan holders. The Sponsor determined that: (1) The amendment of the certificates of each Plan to permit the termination of that Plan by the Sponsor did not adversely affect the substantive rights of the Plan holders; and (b) overall, as direct shareholders of the Fund, Plan holders on the Termination Date, as defined below, would be in a position at least as favorable, if not more favorable, than if their Plans had not terminated. Effective March 11, 1996, the Sponsor and the Custodian amended the certificates of the Plans to permit the termination of each plan by the Sponsor in accordance with the terms of the notice sent to Plan holders as described below.

5. On or about February 29, 1996, applicant sent to all holders of record of an interest in applicant notice that, as of May 30, 1996 (the ''Termination Date''), applicant would be terminated and the Sponsor would arrange for each holder of a Plan to receive the number of Class A shares of the Fund held by applicant corresponding to the value of such holder's interest in the Plan and thus representing an in-kind distribution of the holder's pro rata interest in the assets of applicant.

6. As of May 29, 1996, there was $43,115,292 face amount of Plans outstanding, representing beneficial interests in applicant having an aggregate value of $87,227,151 based on 3,309,072.514 Fund shares owned by applicant for outstanding Plans at $26.36 per Fund share.[2]

7. On the Termination Date, applicant distributed all of its net assets, consisting of shares of the Fund, to Plan holders of record on that date. Each such Plan holder received, at no acquisition fee, the number of Class A shares of the Fund corresponding to the value of his or her Plan interest. The distribution to and receipt by each Plan holder of record was effected by the establishment, on the books of the Fund, of an account in the name of that individual with the requisite number of Class A shares of the Fund. Distributions of 3,309,072.514 Fund shares held by applicant in the total amount of $88,352,236 to 9,590 holders or record represented approximately 100% of the net assets of applicant. Each Plan holder received his or her proportionate share of such liquidation distribution in Class A shares of the Fund.

8. Any holder of an uncompleted Plan on the Termination Date with a face amount of less than $12,000, may purchase Class A shares of Fund at net asset value (''NAV''), plus a maximum sales charge of 2%, up to the amount representing the unpaid balance of his or her Plan, if the purchase order is so designated. Any holder of an uncompleted Plan on the Termination Date with a face amount of $12,000 or more, may purchase Class A shares of the Fund at NAV, up to the amount representing the unpaid balance of the Plan, if the purchase order is so designated. In addition, any person who was a Plan holder on the Termination

[1] United Science Fund of United Funds, Inc. is now known as United Science and Technology Fund, a series of Untied Funds, Inc.

[2] The dollar value of the face amount of Plans is the total amount of payments to be made under the Plans purchased by Plan holders. The aggregate value of Plans outstanding is the net asset value of the shares of the Fund attributable to such Plans outstanding, which may be greater or less than the face amount depending on the number of payments made and changes in the value of the Fund shares.

Date may purchase Class A shares of the Fund at NAV up to the amount representing partial Plan withdrawals outstanding on the Termination Date, provided the purchase order is so designated.[3]

9. Applicant states that, in order to ensure that holders of uncompleted Plans received full credit for sales commissions previously paid, the Sponsor analyzed the maximum commission rate that would have been applicable to subsequent payments under the Plan. Applicant further states that, for each of the foregoing categories of holders of uncompleted Plans, the sales charge, if any, for purchases of Class A shares of the Fund reflecting the unpaid balance of the face amount of the Plan is less than the sales charge that would have been applicable if such purchases had been made under continuation of the Plan. Termination of the Plans did not result in any Plan holder paying a sales charge in excess of that permitted under section 27 of the Act or provided under the terms of the Plan.

10. Expenses incurred in connection with the liquidation consist primarily of legal, printing, mailing, and miscellaneous administrative expenses. The expenses are expected to total approximately $14,430, and have been or will be paid by the Sponsor.

11. Applicant has no assets or securityholders, and is not a party to any litigation or administrative proceeding. The only known debts or other liabilities of applicant that remain outstanding are legal fees of approximately $325, which will be paid by the Sponsor. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11090 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

[3] The terms of the Plans allowed Plan holders who had made 18 minimum monthly payments to make partial withdrawals of cash or Fund shares from their Plans, subject to certain restrictions. After 90 days from the time of making a withdrawal and before the Plan's termination or exchange, Plan holders could redeposit cash or Fund shares (depending on what had been withdrawn) to their Plans without a sales charge. Despite the 90-day provision, Plan holders were permitted to make partial withdrawals up to the Termination Date, and redeposits at any time subsequent to the conversion.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22633; 811–2432]

United Income Investment Programs; Notice of Application

April 23, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: United Income Investment Programs.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 26, 1996, and amended on November 26, 1996, and March 12, 1997.

HEARING OR NOTIFICATION OF HEARING: An ordering 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 pm. on May 19, 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, NW., Washington, DC 20549. Applicant, 6300 Lamar Avenue, PO Box 29217, Shawnee Mission, KS 66201–9217.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, (202) 942–0581, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a unit investment trust that has variously offered Monthly Investment (''MIPs'') and Variable Investment Programs (''VIPs''). Applicant was created under the laws of Missouri pursuant to a custodian agreement dated November 1, 1973. Waddell & Reed, Inc. (the ''Sponsor'') and State Street Bank and Trust Company (the ''Custodian'') serve as applicant's Sponsor and Custodian, respectively.

2. On November 7, 1973, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and a registration statement on Form N–8B–2 under section 8(b) of the Act, and, according to SEC records, a registration statement on Form S–6 under the Securities Act of 1933. The Form S–6, filed to register $10,000,000 face amount of MIPs, became effective on January 2, 1974. The registration of an indefinite face amount of VIPs became effective on or about November 3, 1975. The initial public offering of MIPs and VIPs commenced on or soon after their respective effective dates (MIPs and VIPs are collectively referred to herein as ''Programs'').

3. Before February 29, 1996, the Sponsor ceased to offer and sell any new Program. The Custodian subsequently informed the Sponsor that it intended to resign as custodian. Accordingly, and in light of changes since the inception of the Programs in the ways of investing in United Funds, Inc. Income Fund (the ''Fund''), the Fund which underlies the Programs, the Sponsor determined not to continue the Programs.

4. The Program certificates provide that the Programs may be changed by agreement of the Sponsor and the Custodian without the consent of the Program holders, provided that the change does not adversely affected the substantive rights of the Program holders. The Sponsor determined that: (a) The amendment of the certificates of each program to permit the termination of that Program by the Sponsor did not adversely affect the substantive rights of the Program holders on the Termination Date, as defined below, would be in a position at least as favorable, if not more favorable, that if their Programs had not terminated. Effective March 11, 1996, the Sponsor and the Custodian amended the certificates of the Programs to permit the termination of each Program by the Sponsor in accordance with the terms of the notice sent to Program holders as described below.

5. On or about February 29, 1996, applicant sent to all holders of record of an interest in applicant notice that, as of May 30, 1996 (the ''Termination Date''), applicant would be terminated and the Sponsor would arrange for each holder of a Program to receive the number of Class A shares of the Fund held by

applicant corresponding to the value of such holder's interest in the Program and thus representing an in-kind distribution of the holder's pro rata interest in the assets of applicant.

6. As of May 29, 1996, there was $192,817,034 face amount of Programs outstanding, representing beneficial interests in applicant having an aggregate value of $127,953,550 based on $4,023,696.556 Fund shares owned by applicant for outstanding Programs at $31.80 per Fund share.[1]

7. On the Termination Date, applicant distributed all of its net assets, consisting of shares of the Fund, to Program holders of record on that date. Each such Program holder received, at no acquisition fee, the number of Class A shares of the Fund corresponding to the value of his or her Program interest. The distribution to and receipt by each Program holder of record was effected by the establishment, on the books of the Fund, of an account in the name of that individual with the requisite number of Class A shares of the Fund. Distributions of 4,023,696.556 Fund shares held by applicant in the total amount of $128,557,105 to 23,330 holders of record represented approximately 100% of the net assets of applicant. Each Program holder received his or her proportionate share of such liquidation distribution in Class A shares of the Fund.

8. Any holder of an uncompleted Program on the Termination Date with a face amount of less than $12,000, may purchase Class A shares of the Fund at net asset value (''NAV''), plus a maximum sales charge of 2%, up the amount representing the unpaid balance of his or her Program, if the purchase order is so designated. Any holder of an uncompleted Program on the Termination Date with a face amount of $12,000 or more, may purchase Class A shares of the Fund at NAV, up the amount representing the unpaid balance of the Program, if the purchase order is so designated. In addition, any person who was a Program holder on the Termination Date may purchase Class A shares of the Fund at NAV up to the amount representing partial Program withdrawals outstanding on the Termination Date, provided the purchase order is so designated.[2]

9. Applicant states that, in order to ensure that holders of uncompleted Programs received full credit for sales commissions previously paid, the Sponsor analyzed the maximum commission rate that would have been applicable to subsequent payments under the Program. Applicant further states that, for each of the foregoing categories of holders of uncompleted Programs, the sales charge, if any, for purchases of Class A shares of the Fund reflecting the unpaid balance of the face amount of the Program is less than the sales charge that would have been applicable if such purchases had been made under continuation of the Program. Termination of the Programs did not result in any Program holder paying a sales charge in excess of that permitted under section 27 of the Act or provided under the terms of the Program.

10. Expenses incurred in connection with the liquidation consist primarily of legal, printing, mailing, and miscellaneous administrative expenses. The expenses are expected to total approximately $33,079, and have been or will be paid by the Sponsor.

11. Applicant has no assets or securityholders, and is not a party to any liquidation or administrative proceeding. The only known debts or other liabilities of applicant that remain outstanding are legal fees of approximately $325, which will be paid by the Sponsor. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC. by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11082 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

[1] The dollar value of the face amount of Programs is the total amount of payments to be made under the Programs purchased by Program holders. The aggregate value of Programs outstanding is the net asset value of the shares of the Fund attributable to such Programs outstanding, which may be greater or less than the face amount depending on the number of payments made and changes in the value of the Fund shares.

[2] The terms of the Programs allowed Programs holders who had made 18 minimum monthly payments to make partial withdrawals of cash or Fund shares from their Programs, subject to certain restrictions. After 90 days from the time of making a withdrawal and before the Program's termination or exchange, Program holders could redeposit cash or Fund shares (depending on what had been withdrawn) to their Programs without a sales charge. Despite the 90-day provision, Program holders were permitted to make partial withdrawals up the Termination Date, and redeposits at any time subsequent to the conversion.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22635; 811–2092]

United International Growth Investment Programs; Notice of Application

April 23, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: United International Growth Investment Programs.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 26, 1996, and amended on November 26, 1996, and March 12, 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 May 19, 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, NW., Washington, DC 20549. Applicant, 6300 Lamar Avenue, PO Box 29217, Shawnee Mission, KS 66201–9217.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, (202) 942–0581, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulations).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a unit investment trust that has variously offered Monthly

Investment Programs (''MIPs''), Executive-Professional Investment Programs (''EIPs''), and Variable Investment Programs (''VIPs''). Applicant was created under the laws of Missouri pursuant to a custodian agreement dated July 15, 1970. Waddell & Reed, Inc. (the ''Sponsor'') and State Street Bank and Trust Company (the ''Custodian'') serve as applicant's Sponsor and Custodian, respectively.

2. According to SEC records, on July 22, 1970, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, a registration statement on Form N–8B–2 under section 8(b) of the Act, and a registration statement on Form S–6 under the Securities Act of 1933. The Form S–6, filed to register $10,000,000 face amount of MIPs and $10,000,000 face amount of EIPs, became effective on November 18, 1970, and the initial public offering of MIPs and EIPs commenced on or after such date. Thereafter, applicant filed a registration statement to register an indefinite face amount of VIPs that became effective in October 1975. The initial public offering of VIPs commenced and the public offering of applicant's MIPs and EIPs ceased on or soon after such effective date (MIPs, EIPs, and VIPs are collectively referred to herein as ''Programs'').[1]

3. Before February 29, 1996, the Sponsor ceased to offer and sell any new Program. The Custodian subsequently informed the Sponsor that it intended to resign as custodian. Accordingly, and in light of changes since the inception of the Programs in the ways of investing in the Fund that underlies the Programs, the Sponsor determined not to continue the Programs.

4. The Program certificates provide that the Programs may be changed by agreement of the Sponsor and the Custodian without the consent of the Program holders, provided that the change does not adversely affect the substantive rights of the Program holders. The Sponsor determined that: (a) The amendment of the certificates of each Program to permit the termination of that Program by the Sponsor did not adversely affect the substantive rights of the Program holders; and (b) overall, as direct shareholders of the Fund, Program holders on the Termination Date, as defined below, would be in a position at least as favorable, if not more favorable, than if their Programs had not terminated. Effective March 11, 1996, the Sponsor and the Custodian amended the certificates of the Programs to permit the termination of each Program by the Sponsor in accordance with the terms of the notice sent to Program holders as described below.

5. On or about February 29, 1996, applicant sent to all holders of record of an interest in applicant notice that, as of May 30, 1996 (the ''Termination Date''), applicant would be terminated and the Sponsor would arrange for each holder of a Program to receive the number of Class A shares of the Fund held by applicant corresponding to the value of such holder's interest in the Program and thus representing an in-kind distribution of the holder's pro rata interest in the assets of applicant.

6. As of May 29, 1996, there was $67,489,901 face amount of Programs outstanding, representing beneficial interests in applicant having a aggregate value of $48,795,644 based on 5,532,385.980 Fund shares owned by applicant for outstanding Programs at $8.82 per Fund share.[2]

7. On the Termination Date, applicant distributed all of its net assets, consisting of shares of the Fund, to Program holders of record on that date. Each such Program holder received, at no acquisition fee, the number of Class A shares of the Fund corresponding to the value of his or her Program interest. The distribution to and receipt by each Program holder of record was affected by the establishment, on the books of the Fund, of an account in the name of that individual with the requisite number of Class A shares of the Fund. Distributions of 5,532,385.980 Fund shares held by applicant in the total amount of $48,850,968 to 8,243 holders of the record represented approximately 100% of the net assets of applicant. Each Program holder received his or her proportionate share of such liquidation distribution in Class A shares of the fund.

8. Any holder of an uncompleted Program on the Termination Date with a face amount of less than $12,000, may purchase Class A shares of the Fund at the net asset value (''NAV'', plus a maximum sales charge of 2%, up to the amount representing the unpaid balance of his or her Program, if the purchase order is so designated. Any holder of an uncompleted Program on the Termination date with a face amount of $12,000 or more, may purchase Class A shares of the Fund at NAV, up to the amount representing the unpaid balance of the Program, if the purchase order is so designated. In addition, any person who was a Program, holder on the Termination Date may purchase Class A shares of the Fund at NAV up to the amount presenting partial Program withdrawals outstanding on the Termination Date, provided the purchase order is so designated.[3]

9. Applicant states that, in order to ensure that holders of uncompleted Programs received full credit for sales commissions previously paid, the Sponsor analyzed the maximum commission rate that would have been applicable to subsequent payments under the Program. Applicant further states that, for each of the foregoing categories of holders of uncompleted Programs, the sales charge, if any, for purchases of Class A shares of the Fund reflecting the unpaid balance of the face amount of the Program is less than the sales charge that would have been applicable if such purchases had been made under continuation of the Program. Termination of the Programs did not result in any Program holder paying a sales charge in excess of that permitted under section 27 of the Act or provided under section 27 of the Act or provided under the terms of the Program.

10. Expenses incurred in connection with the liquidation consist primarily of legal, printing, mailing, and miscellaneous administrative expenses. The expenses are expected to total approximately $19,393, and have been or will be paid by the Sponsor.

11. Applicant has no assets or security holders, and is not a party to any litigation or administrative proceeding. The only known debts or other liabilities of applicant that remain outstanding are legal fees of approximately $325, which will be paid by the Sponsor. Applicant is not engaged, nor does it proposed to engage,

[1] On September 11, 1981, United Continental Growth Fund, Inc., the underlying funding vehicle for the Programs, changed its name to United International Growth Fund, Inc. (the ''Fund''). Applicant changed its name from United Continental Growth Investment Program to United International Growth Investment Programs contemporaneously with the name change of the Fund.

[2] The dollar value of the face amount of Programs is the total amount of payments to be made under the Programs purchased by Program holders. The aggregate value of Programs outstanding is the net asset value of the shares of the Fund attributable to such Programs outstanding, which may be greater or less than the face amount depending on the number of payments made and changes in the value of the Fund shares.

[3] The terms of the Programs allowed Program holders who had made 18 minimum monthly payments to make partial withdrawal of cash or Fund shares from their Programs, subject to certain restrictions. After 90 days from the time of making withdrawal and before the Program's termination or exchange, Program holders could redeposit cash or Fund shares (depending on what had been withdrawn) to their Programs without a sale charge. Despite the 90-day provision, Program, holders were permitted to make partial withdrawals up to the Termination Date and redeposits at any time subsequent to the conversion.

in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11083 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22631; 811–447]

United Periodic Investment Plans to Acquire United Accumulative Fund Shares of United Funds, Inc.; Notice of Application

April 23, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: United Periodic Investment Plans to Acquire United Accumulative Fund Shares of United Funds, Inc.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 26, 1996, and amended on November 26, 1996, and March 12, 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 May 19, 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, 6300 Lamar Avenue, P.O. Box 29217, Shawnee Mission, KS 66201–9217.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, (202) 942–0581, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a unit investment trust that has variously offered Periodic Investment Plans to Acquire United Accumulative Fund Shares of United Funds, Inc. and Periodic Investment Plans with Insurance to Acquire United Accumulative Fund Shares of United Funds, Inc. (collectively, the ''Plans''). Applicant was created under the laws of Missouri pursuant to a trust agreement dated October 14, 1940. On July 15, 1958, applicant and the then-acting trustee entered into a supplemental trust agreement (''Trust Agreement''), which in fact was an independent agreement creating the Plans. Waddell & Reed, Inc. (the ''Sponsor'') and State Street Bank and Trust Company (the ''Custodian'') serve as applicant's Sponsor and Custodian, respectively.

2. On June 25, 1941, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act and a registration statement on Form N–8B–2 under section 8(b) of the Act. Applicant's registration statement on Form S–6 under the Securities Act of 1933, for the registration of United Accumulative Purchase Agreements and Periodic Investment Plans (with and without insurance) (''Purchase Agreements'' and ''Periodic Investment Plans''), became effective in 1941, and the initial public offering of the Purchase Agreements and Periodic Investment Plans commenced on or soon after such effective date. Thereafter, applicant filed a registration statement of revised forms to register the Plans that became effective on or about February 17, 1959. The initial public offering of the Plans commenced on or soon after such effective date, and the public offering of the Purchase Agreements and Periodic Investment Plans ceased on or prior to such effective date.

3. Before February 29, 1996, the Sponsor ceased to offer and sell any new Plan. The Custodian subsequently informed the Sponsor that it intended to resign as custodian. Accordingly, and in light of changes since the inception of the Plans in the ways of investing in United Funds, Inc. Accumulative Fund (the ''Fund''), the Fund which underlies the Plans, the Sponsor determined not to continue the Plans.

4. The Trust Agreement provides that the Plans may be changed by agreement of the Sponsor and the Custodian without the consent of the Plan holders, provided that the change does not adversely affect the substantive rights of the Plan holders. The Sponsor determined that: (a) The amendment of the certificates of each Plan to permit the termination of that Plan by the Sponsor did not adversely affect the substantive rights of the Plan holders; and (b) overall, as direct shareholders of the Fund, Plan holders on the Termination Date, as defined below, would be in a position at least as favorable, if not more favorable, then if their Plans had not terminated. Effective March 11, 1996, the Sponsor and the Custodian amended the certificates of the Plans to permit the termination of each Plan by the Sponsor in accordance with the terms of the notice sent to Plan holders as described below.

5. On or about February 29, 1996, applicant sent to all holders of record of an interest in applicant notice that, as of May 30, 1996 (the ''Termination Date''), applicant would be terminated and the Sponsor would arrange for each holder of a Plan to receive the number of Class A shares of the Fund held by applicant corresponding to the value of such holder's interest in the Plan and thus representing an in-kind distribution of the holder's pro rata interest in the assets of applicant.

6. As of May 29, 1996, there was $38,841,779 face amount of Plans outstanding, representing beneficial interests in applicant having an aggregate value of $228,599,642 based on 28,083,494,129 Fund shares owned by applicant for outstanding Plans at $8.14 per Fund share.[1]

7. On the Termination Date, applicant distributed all of its net assets, consisting of shares of the Fund, to Plan holders of record on that date. Each such Plan holder received, at no acquisition fee, the number of Class A shares of the Fund corresponding to the value of his or her Plan interest. The distribution to and receipt by each Plan holder of record was effected by the establishment, on the books of the Fund, of an account in the name of that individual with the requisite number of Class A shares of the Fund. Distributions of 28,083,494.129 Fund shares held by applicant in the total

[1] The dollar value of the face amount of Plans is the total amount of payments to be made under the Plans purchased by Plan holders. The aggregate value of Plans outstanding is the net asset value of the shares of the Fund attributable to such Plans outstanding, which may be greater or less than the face amount depending on the number of payments made and changes in the value of the Fund shares.

amount of $230,565,487 to 9,464 holders of record represented approximately 100% of the net assets of applicant. Each Plan holder received his or her proportionate share of such liquidation distribution in Class A shares of the Fund.

8. Any holder of an uncompleted Plan on the Termination Date with a face amount of less than $12,000, may purchase Class A shares of the Fund at net asset value (''NAV''), plus a maximum sales charge of 2%, up to the amount representing the unpaid balance of his or her Plan, if the purchase order is so designated. Any holder of an uncompleted Plan on the Termination Date with a face amount of $12,000 or more, may purchase Class A shares of the Fund at NAV, up to the amount representing the unpaid balance of the Plan, if the purchase order is so designated. In addition, any person who was a Plan holder on the Termination Date may purchase Class A shares of the Fund at NAV up to the amount representing partial Plan withdrawals outstanding on the Termination Date, provided the purchase order is so designated.[2]

9. Applicant states that, in order to ensure that holders of uncompleted Plans received full credit for sales commissions previously paid, the Sponsor analyzed the maximum commission rate that would have been applicable to subsequent payments under the Plan. Applicant further states that, for each of the foregoing categories of holders of uncompleted Plans, the sales charge, if any, for purchases of Class A shares of the Fund reflecting the unpaid balance of the face amount of the Plan is less than the sales charge that would have been applicable if such purchases had been made under continuation of the Plan. Termination of the Plans did not result in any Plan holder paying a sales charge in excess of that permitted under section 27 of the Act or provided under the terms of the Plan.

10. Expenses incurred in connection with the liquidation consist primarily of legal, printing, mailing, and miscellaneous administrative expenses. The expenses are expected to total approximately $15,052, and have been or will be paid by the Sponsor.

11. Applicant has no assets or securityholders, and is not a party to any litigation or administrative proceeding. The only known debts or other liabilities of applicant that remain outstanding are legal fees of approximately $325, which will be paid by the Sponsor. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11088 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

[2] The terms of the Plans allowed Plan holders who had made 18 minimum monthly payments to make partial withdrawals of cash or Fund shares from their Plans, subject to certain restrictions. After 90 days from the time of making a withdrawal and before the Plan's termination or exchange, Plan holders could redeposit cash or Fund shares (depending on what had been withdrawn) to their Plans without a sales charge. Plan holders were permitted to make partial withdrawals up to the Termination date. The Sponsor therefore determined to allow redeposits at any time subsequent to the conversion to avoid the denial of a redeposit request due to the termination of the Plans.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22634; 811–2097]

United Vanguard Investment Programs; Notice of Application

April 23, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Untied Vanguard Investment Programs.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Appicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on July 26, 1996, and amended on November 26, 1996, and March 12, 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 May 19, 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, NW., Washington, DC 20549. Applicant, 6300 Lamar Avenue, PO Box 29217, Shawnee Mission, KS 66201–9217.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, (202) 942–0581, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a unit investment trust that has variously offered Monthly Investment Programs (''MIPs''), Executive-Professional Investment Programs (''EIPs''), and Variable Investment Programs (''VIPs''). Applicant was created under the laws of Missouri pursuant to a custodian agreement dated July 15, 1970. Waddell & Reed, Inc. (the ''Sponsor'') and State Street Bank and Trust Company (the ''Custodian'') serve as applicant's Sponsor and Custodian, respectively.

2. On August 5, 1970, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and a registration statement on Form N–8B–2 under section 8(b) of the Act. According to SEC records, on the same day, applicant filed a registration statement on Form S–6 under the Securities Act of 1933. The Form S–6, filed to register $10,000,000 face amount of MIPs and $10,000,000 face amount of EIPs, became effective on November 18, 1970, and the initial public offering of MIPs and EIPs commenced on or after such date. Thereafter, applicant filed a registration statement to register an indefinite face amount of VIPs that became effective in October 1975. The initial public offering of VIPs commenced and the public offering of applicant's MIPs and EIPs ceased on or soon after such effective date (MIPs, EIPs, and VIPs are collectively referred to herein as ''Programs'').

3. Before February 29, 1996, the Sponsor ceased to offer and sell any new Program. The Custodian subsequently informed the Sponsor that it intended to resign as custodian. Accordingly, and in light of changes since the inception of the Programs in the ways of investing in United Vanguard Fund, Inc. (the ''Fund''), the Fund which underlies the Programs, the Sponsor determined not to continue the Programs.

4. The Program certificates provide that the Programs may be changed by agreement of the Sponsor and the Custodian without the consent of the Program holders, provided that the change does not adversely affect the substantive rights of the Program holders. The Sponsor determined that (a) The amendment of the certificates of each Program to permit the termination of that Program by the Sponsor did not adversely affect the substantive rights of the Program holders; and (b) overall, as direct shareholders of the Fund, Program holders on the Termination Date, as defined below, would be in a position at least as favorable, if not more favorable, than if their Programs had not been terminated. Effective March 11, 1996, the Sponsor and the Custodian amended the certificates of the Programs to permit the termination of each Program by the Sponsor in accordance with the terms of the notice sent to Program holders as described below.

5. On or about February 29, 1996, applicant sent to all holders of record of an interest in applicant notice that, as of May 30, 1996 (the ''Termination Date''), applicant would be terminated and the Sponsor would arrange for each holder of a Program to receive the number of Class A shares of the Fund held by applicant corresponding to the value of such holder's interest in the Program and thus representing an in-kind distribution of the holder's pro rata interest in the assets of applicant.

6. As of May 29, 1996, there was $159,658,510 face amount of Programs outstanding, representing beneficial interests in applicant having an aggregate value of $124,345,028 based on 14,325,464,045 Fund shares owned by applicant for outstanding Programs at $8.68 per Fund share.[1]

7. On the Termination Date, applicant distributed all of its net assets, consisting of shares of the Fund, to Program holders of records on that date. Each such Program holder received, at no acquisition fee, the number of Class A shares of the Fund corresponding to the value of his or her Program interest. The distribution to and receipt by each Program holder of record was effected by the establishment, on the books of the Fund, of an account in the name of that individual with the requisite number of Class A shares of the Fund. Distributions of 14,325,464.045 Fund shares held by applicant in the total amount of $125,634,320 to 20,339 holders of records represented approximately 100% of the net assets of applicant. Each Program holder received his or her proportionate share of such liquidation distribution in Class A shares of the Fund.

8. Any holder of an uncompleted Program on the Termination Date with a face amount of less than $12,000, may purchase Class A shares of the Fund at net asset value (''NAV''), plus a maximum sales charge of 2%, up to the amount representing the unpaid balance of his or her Program, if the purchase order is so designated. Any holder of an uncompleted Program on the Termination Date with a face amount of $12,000 or more, may purchase Class A shares of the Fund at NAV, up to the amount representing the unpaid balance of the Program, if the purchase order is so designated. In addition, any person who was a Program holder on the Termination Date may purchase Class A shares of the Fund at NAV up to the amount representing partial Program withdrawals outstanding on the Termination Date, provided the purchase order is so designated.[2]

9. Applicant states that, in order to ensure that holders of uncompleted Programs received full credit for sales commissions previously paid, the Sponsor analyzed the maximum commission rate that would have been applicable to subsequent payments under the Program. Applicant further states that, for each of the foregoing categories of holders of uncompleted Programs, the sales charge, if any, for purchases of Class A shares of the Fund reflecting the unpaid balance of the face amount of the Program is less than the sales charge that would have been applicable if such purchases had been made under continuation of the Program. Termination of the Programs did not result in any Program holder paying a sales charge in excess of that permitted under section 27 of the Act or provided under the terms of the Program.

10. Expenses incurred in connection with the liquidation consist primarily of legal, printing, mailing, and miscellaneous administrative expenses. The expenses are expected to total approximately $30,678, and have been or will be paid by the Sponsor.

11. Applicant has no assets or securityholders, and is not party to any litigation or administrative proceeding. The only known debts or other liabilities of applicant that remain outstanding are legal fees of approximately $325, which will be paid by the Sponsor. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11081 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

[1] The dollar value of the face amount of Programs is the total amount of payment to be made under the Programs purchased by Program holders. The aggregate value of Programs, outstanding is the net asset value of the shares of the Fund attributable to such Programs outstanding, which may be greater or less than the face amount depending on the number of payments made and changes in the value of the Fund shares.

[2] The terms of the Programs allowed Program holders who had made 18 minimum monthly payments to make partial withdrawals of cash or Fund shares from their Programs, subject to certain restrictions. After 90 days from the time of making a withdrawal and before the Program's termination or exchange, Program holders could re-deposit cash or Fund shares (depending on what had been withdrawn) to their Programs without a sales charge. Program holders were permitted to make partial withdrawals up to the Termination Date. The Sponsor therefore determined to allow redeposits at any time subsequent to the conversion to avoid the denial request due to the termination of the Program.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 28, 1997.

A closed meeting will be held on Friday, May 2, 1997, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session

The subject matter of the closed meeting scheduled for Friday, May 2, 1997, at 10:00 a.m., will be:

Post oral argument discussion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

April 25, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–11356 Filed 4–28–97; 1:46 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38541; File No. SR–CBOE–97–14]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change Relating to the Issuance of Trading Permits and Other Procedures Resulting from the Transfer of the Options Business of the New York Stock Exchange to the Chicago Board Options Exchange

April 23, 1997.

I. Introduction

On March 3, 1997, the Chicago Board Options Exchange, Inc., (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder[2] a proposed rule change relating to issues arising from the transfer of the New York Stock Exchange's (''NYSE'') options business to the CBOE. The proposed rule change was published for comment in Securities Exchange Act Release No. 38375 (March 7, 1997), 62 FR 12667 (March 17, 1997). The Commission received two comment letters in response to the proposal.[3]

II. Description of the Proposal

The purpose of the proposed rule change is to authorize the issuance of 75 ''Options Trading Permits'' (''Permits'') in connection with the proposed transfer of the NYSE's options business to CBOE, and to define the rights and obligations associated with such Permits.[4] In addition, the proposed rule change amends CBOE rules as necessary to provide for the trading on CBOE of options on the NYSE Composite Index. The 75 Permits are proposed to be issued pursuant to the terms of an agreement between CBOE and NYSE. The agreement represents the culmination of a process initiated by NYSE in the summer of 1996 when it announced that it intended to discontinue its options business. At that time, NYSE invited interested parties wishing to continue NYSE's options business to bid for its acquisition by offering trading rights and other benefits to NYSE members, including payment for the ''going business'' value of the business to be acquired. Based on its bid in response to NYSE's invitation, NYSE determined to enter into exclusive negotiations with CBOE. A definitive agreement between CBOE and NYSE (''Transfer Agreement'') was executed as of February 5, 1997.[5]

The Transfer Agreement contemplates that trading in NYSE Options[6] will commence on the CBOE trading floor on April 28, 1997, (''Effective Date''), subject to the fulfillment of specified conditions and the approval of this proposed rule change and the parallel filing by NYSE.[7] The Transfer Agreement provides that CBOE will pay $5,000,000 as the purchase price for the business to be transferred, of which $1,200,000 will be retained by NYSE to cover its costs associated with the termination of its options activities and as payment for a ten-year license granted to CBOE to enable it to trade options on the NYSE Composite Index, and $3,800,000 net of a tax reserve will be distributed pro rata to all NYSE members, or the NYSE Foundation, depending on the tax treatment by the Internal Revenue Service.[8]

The Transfer Agreement also provides that CBOE will issue up to a total of 75 Permits to those NYSE specialist and non-specialist firms and sole proprietors who operated pursuant to options trading rights on NYSE on December 5, 1996, and who agree to transfer their options activities to CBOE. In the case of a NYSE specialist, the specialist firm may select any qualified person to act as its nominee on CBOE. In the case of a non-specialist, the individual acting pursuant to an options trading badge on NYSE on December 5, 1996, must personally relocate to Chicago in order to receive a Permit. If less than 75 Permits are issued to NYSE specialists and non-specialists, the Transfer Agreement provides that the difference between 75 Permits and the number of Permits so issued will be deposited in a lease pool to be leased to qualified persons who wish to trade NYSE Options on CBOE. The proceeds from the lease of these Permits will be paid to certain designated persons who held options trading rights on NYSE, as described below.

The issuance of 75 Permits is proposed to be authorized pursuant to a new Section 2(e) to the Exchange's Constitution. That section provides that all Permits expire on the seventh anniversary of the date when trading begins on the floor of CBOE in NYSE Options. It also specifies that Permit holders shall have none of the rights of members except as specified in the Rules of the Exchange.

The rights and obligations of holders of Permits are set forth in proposed new Exchange Rule 3.27, which incorporates by reference many of the other rules of the Exchange pertaining to the rights and obligations of Exchange members generally. Subparagraph (a)(1) of Rule 3.27 reflects the terms of the Transfer Agreement by providing that NYSE non-specialist firms and sole proprietors who were engaged in business on the options floor of NYSE immediately prior to the Effective Date are entitled to the same number of Permits as the number of options floor badges they held on NYSE on December 5, 1996, but that each individual who held an NYSE Options floor badge and acted as a non-specialist must personally relocate to Chicago in order to be entitled to a Permit in respect of that badge. Subparagraph (a)(2) provides that each specialist firm engaged in business on the options floor of NYSE is likewise entitled to the same number of Permits as the number of options floor badges they held on NYSE, and that, subject to the rules of CBOE, each such firm may designate any qualified person to be the firm's nominee on CBOE.

Subparagraph (a)(3) of Rule 3.27 describes the terms of the lease pool pursuant to which any of the 75 Permits not issued to NYSE members active on the NYSE options floor, or any so issued but subsequently surrendered, will be leased by CBOE through an auction or other competitive process. The lease proceeds would ordinarily be paid to those persons identified by NYSE as having used or leased NYSE Options trading rights on December 5, 1996, or holders of options trading rights that,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letters from Simon Erlich, Option Member, NYSE to Commission (March 10, 1997) (''Erlich Letter); Michael Schwartz, Chairman, Committee on Options Proposals, to Jonathan G. Katz, Secretary, Commission (April 8, 1997) (''COOP Letter'').

[4] See also Securities Exchange Act Release No. 38376 (March 7, 1997), 62 FR 12671 (March 17, 1997) (notice of filing of proposed rule change regarding the transfer of the NYSE options business to the CBOE).

[5] A copy of the Agreement is attached as Exhibit B to File No. SR–CBOE–97–14 and is available for review at the Office of the Secretary of CBOE, and in the Public Reference Room of the Commission.

[6] ''NYSE Options'' are defined as those classes of options that were traded on NYSE immediately prior to the Effective Date and not then also traded on CBOE, and those classes of options on at least 14 additional underlying stocks which CBOE has agreed to designate as NYSE Options during each of the seven years following the Effective Date.

[7] On April 23, 1997, the Commission approved the NYSE filing. See Securities Exchange Act Release No. 38542 (April 23, 1997).

[8] Details of the cash distribution to NYSE members were described in Item 3 of the parallel proposed rule change filed by NYSE.

while not so used or leased, were formally separated from their NYSE memberships on that date, or transferees of such persons.

Subparagraph (a)(4) of Rule 3.27 provides that if a Permit issued to a Options badge holder is not used during the first year following the Effective Date, the Permit shall be surrendered, and shall be added to the lease pool described above, unless the inactivity of the Permit has been consented to by CBOE.

Subparagraph (a)(5) of Rule 3.27 provides that Permits issued to NYSE Options badge holders pursuant to subparagraphs (a) (1) and (2) are not transferable for one year following the Effective Date, except as consented to by the Exchange in the event of death, hardship or certain successions in ownership. Following this one year period, Permits are freely transferable in accordance with Exchange rules governing the transfer of memberships generally.

Paragraph (b) of Rule 3.27 describes the trading rights to which the holder of a Permit is entitled. In general, these include the right to be admitted to the separate CBOE trading facility devoted exclusively to the trading of NYSE Options, as defined in the Rule, and to engage in the activities of a Market-Maker, Designated Primary Market-Maker (''DPM'') and/or Floor Broker in respect of those options, subject to the applicable rules of the Exchange. In addition, the holder of a Permit is entitled to trade by order as principal those classes of options traded on CBOE's regular trading floor that were dually traded on both CBOE and NYSE immediately prior to the Effective Date. Permit holders are also entitled to trade by order as principal all other classes of options traded on CBOE's regular trading floor, provided that such trades during any calendar quarter (as measured by contract volume) do not exceed twenty percent of the sum of the permit holder's total in person principal trades in Options and the Permit holder's principal trades by order in options that were dually traded on both CBOE and immediately prior to the Effective Date. Finally, a Permit holder is entitled to be admitted to the regular options trading floor in order to respond to the call of a Board Broker or Order Book Official for additional market-makers pursuant to Exchange Rule 7.5.

Paragraph (c) of Rule 3.27 provides that each NYSE specialist firm to which a Permit is issued will be appointed as the DPM in the same classes of NYSE Options as those for which it was designated as a specialist on NYSE, subject to qualifying to act as such pursuant to CBOE rules. Paragraph (c) also provides that the DPMs for the additional classes of NYSE Options designated each year shall be chosen from among Permit holders. Subject to the rules of the Exchange, specialist firms appointed as DPMs in NYSE Options shall be entitled to continue to act as such during the term of the Permits, and thereafter if they become regular members of the Exchange. CBOE will allocate to the new program securities underlying at least 14 new options classes per year for the first seven years after the transfer.

Paragraph (d) of Rule 3.27, together with Section 2(e) of the Exchange Constitution, provides that Permit holders shall have the same rights and obligations of members, except that they shall have no right to petition or vote or to be counted as part of a quorum at meetings of members, they shall have no interest in the assets or property of the Exchange, they shall not share in any distribution by the Exchange, they shall not participate in the Exchange's member death benefit program, and they shall not have the right to transact business with the public in any securities dealt in on the Exchange other than NYSE Options. Holders of Permits may serve on any committee of the Exchange to which they are appointed, and are deemed to be appointed market makers in all classes of NYSE Options pursuant to Exchange Rule 8.3.

Paragraph (d) also provides that membership application fees shall be waived in connection with the approval of Permit holders or their nominees in connection with the original issuance of a Permit but not the subsequent transfer or lease of a Permit, and shall also be waived in connection with the approval of the initial holder or its nominee as a regular member of the Exchange or as the nominee of a regular member. Membership or nominee applications made by Permit holders or their nominees who are not subject to a statutory disqualification and are not the subjects of a self-regulatory organization investigation that may involve their fitness for membership shall be deemed effective for a temporary period of six months, so as not to interrupt their Exchange activities while their applications are being processed.

CBOE also proposes to amend certain of the rules in Chapters XXIV and XXIVA of the Rules of the Exchange, which govern the trading of index options and FLEX options, respectively, in order to provide for the listing and trading of options on the NYSE Composite Index. (Hereafter, such index is referred to as the ''Index'' and such options as ''NYA Options''.) The Index is a capitalization-weighted index comprising all of the over 2,500 common stocks listed on NYSE. The Index is expressed in relation to the base period market value which has been adjusted for capitalization changes over time. The base value of the Index was set at 50 on December 31, 1965. NYSE will continue to act as the reporting authority for the Index, and CBOE will trade NYA Options pursuant to a license granted by NYSE.

As traded on NYSE and as proposed to be traded on CBOE, NYA Options are European-style, A.M.-settled index options, strike prices for which are introduced at $2.50 or $5.00 intervals for strike prices below $200 or at or above $200, respectively. The Index Multiplier for NYA Options is $100. CBOE proposes to apply to NYA Options the sane 45,000 contract position and exercise limits (no more than 25,000 contracts expiring in the nearest expiration month) and the same hedge exemption that currently apply to such options under NYSE rules. In addition to regular index options, CBOE proposes to provide for trading in Quarterly Index Expiration options (''QIX'' options), long-term and reduced-value long-term options (''LEAPS'' and ''reduced-value LEAPs'') and A.M.-settled FLEX Options on the Index pursuant to the same rules and procedures that currently govern trading on CBOE in these types of options.

In addition, the proposed rule change includes a few corrections to the table of position limits set forth in Rule 24.4 in order to add references to classes of index options that were inadvertently omitted from the table when it was last revised, and a few clarifications to the language of Rule 24A.4(b) concerning the specification of the exercise settlement values for FLEX Index Options. No substantive changes will result from these corrections and clarifications.

III. Comments

The Commission received two comment letters regarding the proposed rule change.[9] The first commenter, Mr. Erlich, opposes the transfer of the options business, finding the agreement discriminatory and monopolistic.[10] Mr. Erlich believes that the agreement treats specialists as a class over other options members, and treats lease pool participants with separated options trading rights less favorably than those lease pool participants with unseparated option trading rights. The commenter

[9] See note 3 supra.

[10] See Erlich Letter.

finds the agreement monopolistic because it will result in more options being traded in fewer exchanges. Finally, Mr. Erlich questions how one exchange can sell to another exchange that which has been granted for free (*i.e.*, the right to sell options).

The second commenter, the COOP, is in favor of the proposal, stating that the relative size of the NYSE Options program coupled with its lack of automatic execution capability has led to cost inefficiencies.[11] The COOP believes that the efficiencies resulting from the consolidation of the NYSE Options market with CBOE will more than off-set the small reduction in intermarket competition.

IV. Discussion

The Commission believes CBOE's proposed rule change is consistent with Section 6(b)(5) of the Act.[12] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, perfect the mechanism of a free and open national market system, and, in general, to further investor protection and the public interest.

Pursuant to the terms of the Transfer Agreement, CBOE proposes to distribute 75 Permits to those NYSE specialist and non-specialist firms and sole proprietors who operated pursuant to options trading rights on NYSE on December 5, 1996, and who agree to transfer their options activities to CBOE. The Commission believes the method by which the 75 Permits are distributed is equitable in that it will enable those holders of NYSE Option trading rights who actively traded NYSE Options as of December 5, 1996, to continue trading such options on the CBOE. The requirement that non-specialists must relocate to Chicago in order to obtain a Permit is a reasonable means of ensuring that a certain level NYSE Options trading expertise will be present at CBOE, and should help facilities the smooth transition of trading in NYSE Options. By contrast, NYSE specialist firms may either trade in person on CBOE, or appoint any qualified person to be the firm's nominee. The NYSE has indicated that this distinction in treatment by CBOE among NYSE specialist and non-specialist firms reflects CBOE's desire to attract experienced traders, while encouraging all options specialists to participate in the transfer.[13]

The Commission believes it is within the reasonable business judgement of the CBOE to treat the two types of options traders differently. Due to the expertise of the specialist firms in trading NYSE Options, the capital commitment of the specialist firms, and the relationships they have established with order routing firms, it is reasonable for the CBOE to grant them more flexible Permits than other NYSE options members.

CBOE proposes to deposit into a ''lease pool'' any of the 75 Permits not issued to, or those Permits surrendered by, NYSE specialist and non-specialist firms. The Permits in the lease pool will be leased through an auction or other competitive process, with lease proceeds being paid to persons identified by the NYSE. The Commission believes that the creation of a lease pool and the distribution of the remaining Permits via a competitive process is an appropriate method for assessing and distributing such Permits. This will establish a mechanism that helps to assure that an acceptable number of options market making firms that trade NYSE Options, thereby promoting liquidity for those options. Furthermore, an auction or other competitive process is a fair and equitable manner of distributing the remaining Permits.

CBOE is requiring Permit holders to use the Permit during the first year following the Effective Date or otherwise surrender the Permit to the lease pool. The Commission believes this will encourage Permit holders to utilize their trading rights, and assure that the Permits are being used effectively and productively in the trading of NYSE Options. CBOE also proposes to limit the rights of Permit holders to transfer the Permits for one year following the Effective Date (except with the consent of CBOE). This restriction also appropriately serves to encourage Permit holders to maximize the use of the Permits. While the Permit holders are restricted from transferring the Permits for one year from the Effective Date, they may freely transfer the Permits thereafter. Furthermore, NYSE specialist firms are not forbidden from changing their nominee. Overall, the Commission believes the restrictions on the transfer of Permits in the first year will provide an acceptable method for CBOE to obtain the trading experts of the Permit holders during the transition in trading of NYSE Options, thereby encouraging a stable trading environment for NYSE Options.

CBOE's proposed rule change delineates clearly the trading rights to which holders of the Permits are entitled (*i.e.*, as principal in options that were dually traded on CBOE and NYSE prior to the Effective Date, as well as other classes of options traded on CBOE's regular trading floor), and limits Permit holders' access to the separate CBOE trading facility, except in special instances. The Commission believes that the restrictions on Permit holders with regard to trading in former dually listed options and those options traded on CBOE's regular trading floor are appropriate requirements, consistent with the purpose of the Transfer Agreement. These limitations allow Permit holders to benefit from trading in dually listed options and options traded on CBOE's trading floor, while ensuring their concentration on the trading of NYSE Options. Moreover, the proposed limitations are merely limitations on the benefits afforded solely by the Permit. The Commission notes that CBOE encourages Permit holders to apply to become CBOE members. Once approved, such Permit holders would receive all the rights, and be subject to the same obligations, of other CBOE members.

CBOE proposes to appoint each NYSE specialist firm to which a Permit is issued as the DPM in the same classes of NYSE Options as those for which it was designated as a specialist on NYSE. The Commission believes this will assure a certain level of expertise in trading the various classes of options. Moreover, it will promote consistency and continuity in the trading of those options, thus facilitating the smooth trading of the NYSE Options business on the CBOE.

CBOE's proposal restricts Permit holders from transacting business with the public in any securities dealt in on the Exchange other than NYSE Options. The rule sets forth the limitations of the Permit, not the limitations of individuals who otherwise meet the Exchange's requirements, or the requirements of any other self-regulatory organization, for transacting such business with the public. For example, Permit holders who become members of the Exchange may transact business with the public if they meet the Exchange's requirements for doing so. The Commission believes this restriction is appropriate, in that it does not bar Permit holders, per se, but simply sets limits on the extent of the validity of the Permit itself.

CBOE proposes to waive membership application fees in connection with an application for approval as a Permit holder, and submission of an application for approval as a member of the Exchange. The Commission believes this provision is equitable, as it provides

[11] See COOP Letter.

[12] 15 U.S.C. 78f(b)(5).

[13] See Securities Exchange Act Release No. 38376 (March 7, 1997), 62 FR 12671 (March 17, 1997).

an incentive for NYSE Options firms to continue their business at CBOE, while encouraging them to become regular members of the Exchange. The Commission believes that by waiving these fees, CBOE demonstrates its continued support for the NYSE Options firms who will transfer their activities to the Exchange.

CBOE is amending its rules regarding the trading of index options and FLEX options and providing for the listing and trading of the NYA Options. The Commission believes these changes will facilitate the transfer, and continued trading of, NYA Options at CBOE as they were traded on NYSE. CBOE proposes to provide for trading in QIX options, LEAPs and reduced-value Leaps and A.M.-settled FLEX Options on the Index pursuant to the same rules and procedures that currently govern trading on CBOE in these types of options. The Commission believes that the various types of options proposed by CBOE will enhance and encourage trading of NYA Options. In this regard, the Commission believes the rules and procedures currently governing trading on CBOE in these options will appropriately apply to NYA Options.

CBOE proposes to amend the table of position limits set forth in Rule 24.4 to add references to classes of index options that were previously omitted from the table when it was last revised. Further, CBOE proposes to clarify the language of Rule 24A.4(b) regarding specification of exercise settlement values for FLEX Index Options. The Commission believes these changes are reasonable as they merely clarify existing practice and will not result in substantive changes for CBOE members.

CBOE is constructing a new trading facility dedicated solely to NYSE Options which will be configured and equipped in the same manner as its existing trading floor. The surveillance and regulatory responsibilities resulting from the transfer of the NYSE Options business to CBOE are not expected to add significantly to CBOE's existing regulatory workload, and CBOE believes it has adequate resources to assume these added responsibilities. CBOE intends to add one additional output line to the Options Price Reporting Authority (''OPRA'') processor for purposes of transmitting market information pertaining to NYSE Options. This will not increase the total input to OPRA because two lines from NYSE to the OPRA processor will be terminated at the time of the transfer to CBOE. Based on CBOE's representations, the Commission believes that CBOE had adequate facilities and resources to provide for the trading, surveillance and data dissemination required to accommodate their acquisition of NYSE's options business.

The Commission appreciates the concerns and interests expressed by the commenters. The Commission has closely examined the critical views of the proposal expressed in the Erlich letter, particularly that the transfer is discriminatory, monopolistic, and constitutes an improper sale of options from one exchange to another. While the Transfer Agreement does provide different treatment among certain NYSE members, the Commission believes that this appropriately reflects the enhanced value that certain NYSE members (*i.e.,* options specialists) provide to the CBOE. Despite such distinctions, the Transfer Agreement, as a whole, significantly benefits a broad cross-section of NYSE options traders. The Commission also does not believe that the Transfer Agreement is monopolistic, noting that four vibrant options exchanges will remain after the transfer has been completed.[14] Finally, the Commission disagrees with Mr. Erlich's assertion that the Transfer Agreement constitutes an illegal sale of a ''franchise'' in NYSE Options. Rather, the Commission believes that the Transfer Agreement provides an appropriate vehicle for the CBOE to purchase, through an organized transaction, a trained pool of talent with experience in the trading characteristics of NYSE Options. The Commission notes that any other options exchange may, at any time, trade all or some NYSE Options. The Commission believes that CBOE is providing a viable choice for those NYSE Option traders who desire to continue conducting an options business. Given NYSE's expressed intention to terminate options trading on its Exchange, the Commission believes that the transfer of the options business to CBOE will provide NYSE Options firms with benefits otherwise potentially unavailable if the NYSE firms were to negotiate individually with the CBOE.[15]

Should the NYSE decide to re-enter the options business within a year of the Effective Date, it has agreed to pay CBOE $500,000. The Commission believes this agreement is reasonable and does not constitute a ''noncompetition'' agreement between CBOE and NYSE, but instead serves to compensate CBOE for a portion of the costs associated with acquiring the NYSE's Options business and essentially refund the fee earned by the NYSE for brokering the transfer of its options business to the CBOE. Moreover, the payment amount is so small that it would not effectively serve as any deterrent to the NYSE's re-entry into trading NYSE Options.

[14] Of the approximately 2,800 equity options currently traded, more than 660 are dually or multiply listed. Moreover, the Act does not require that an options exchange continue its operations. The NYSE has made a business decision to exit the options business, and the Act does not provide a basis to negate the decision of a marginal exchange (in the options business) to discontinue its operations.

[15] The Commission also notes that any NYSE Options firm always had the ability to become a member of any other options exchange and conduct an options business on that exchange.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the CBOE, and in particular Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (File No. SR–CBOE–97–14) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

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[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38540; International Series Release No. 1076; File No. SR–ISCC–97–1]

Self-Regulatory Organizations; International Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding the London Stock Exchange Link

April 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 21, 1997, the International Securities Clearing Corporation (''ISCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by ISCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested

[1] 15 U.S.C. 78s(b)(91).

persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change eliminates ISCC's link with the London Stock Exchange (''LSE'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISCC 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. ISCC 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 ISCC to eliminate its link with the LSE. In 1986, ISCC and the LSE entered into an Interim Linkage Agreement and an Interim Safe Custody Agreement pursuant to which ISCC could obtain on behalf of ISCC members comparison, settlement, and custody services in the United Kingdom from the LSE. At the same time, ISCC filed an application to become registered as a clearing agency. While the application was undergoing the review process, ISCC by letter dated August 22, 1986,[3] sought advice from the Commission staff that the Division of Market Regulation (''Division'') would not recommend enforcement action against ISCC if it operated the link with the LSE. On September 10, 1986, the Division issued a no-action letter to ISCC.[4]

Subsequently, ISCC and the LSE renegotiated the linkage agreement and by letter dated December 23, 1988,[5] ISCC once again sought no-action relief with respect to its link with LSE. The Division issued a new no-action letter on March 12, 1990.[6]

ISCC's London link was originally implemented by ISCC to allow U.S. broker-dealers to compare and to settle transactions in U.K. equity securities with LSE members and other ISCC members. U.S. firms participating in ISCC's London link were given access to the LSE's TALISMAN (LSE's computerized settlement system) as well as the LSE's Checking (comparison) and Institutional Net Settlement (redelivery) systems.

The LSE is currently phasing out its TALISMAN system in order to convert to the CREST system. This phase out will be complete on April 22, 1997. Accordingly, the services to which ISCC's London link provides access will no longer exist. Thus, ISCC has filed requesting Commission approval of the elimination of the London link.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ISCC 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 relating to the proposed rule change have been solicited or received. ISCC will notify the Commission of any written comments received by ISCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions.[7] By discontinuing a service that does not provide a useful function, ISCC will eliminate an unnecessary drain on its resources. Such resources may be used towards other services that provide a more substantial benefit to the clearance and settlement process. Thus, the Commission believes that ISCC's proposal is consistent with Section 17A(b)(3)(F) of the Act.

ISCC requests the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because LSE will terminate TALISMAN as of April 22, 1997, and ISCC's continuance of the link will serve no useful function or provide a benefit to its members.

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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at ISCC. All submissions should refer to the File No. SR–ISCC–97–1 and should be submitted by May 21, 1997.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–ISCC–97–1) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[2] The Commission has modified the text of the summaries.

[3] Letter from Karen Saperstein, Associate General Counsel, ISCC, to Jonathan Kallman, Assistant Director, Commission (August 22, 1986).

[4] Letter from Jonathan Kallman, Assistant Director, Commission, to Karen Saperstein, Associate General Counsel, ISCC (September 10, 1986).

[5] Letter from Karen Saperstein, Associate General Counsel, ISCC, to Jonathan Kallman, Assistant Director, Commission (December 23, 1988).

[6] Letter from Jonathan Kallman, Assistant Secretary, Commission, to Karen Saperstein, Associate General Counsel (March 12, 1990).

[7] 15 U.S.C. 78q–1(b)(3)(F).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38542; File No. SR–NYSE–97–05]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Relating to the Agreement Transferring the New York Stock Exchange Options Business to the Chicago Board Options Exchange, Incorporated

April 23, 1997.

I. Introduction

On March 3, 1997, the New York Stock Exchange, Inc., (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the agreement transferring the NYSE's options business to the Chicago Board Options Exchange, Inc. (''CBOE''). The proposed rule change was published for comment in Securities Exchange Act Release No. 38376 (March 7, 1997), 62 FR 12671 (March 17, 1997). On April 22, 1997, NYSE amended the filing.[3] The Commission received six comment letters on the proposal.[4]

II. Description of the Proposal

The Exchange has stated that the purpose of the proposed rule change is to effect the fair and orderly transfer of the NYSE's options business to CBOE and to secure for traders and brokers who currently make their living on the Exchange's options floor an opportunity to continue their occupations at CBOE.

The Exchange and CBOE executed an agreement (''Transfer Agreement'') as of February 5, 1997 setting forth the terms and conditions by which CBOE would acquire the NYSE's options business. The effective date of the acquisition is scheduled for April 28, 1997, subject to fulfillment of conditions specified in the Transfer Agreement and approval of this proposed rule change and the parallel filing by CBOE.[5]

In accordance with the Transfer Agreement, CBOE will create and issue 75 options trading permits (''Permits''), each having a seven-year duration. Subject to limited exceptions, the Permits may not be sold, leased or transferred for a period of one year after the effective date under the transfer Agreement. The Permits will provide for trading on a new and separate trading floor at CBOE's Chicago facility. Representatives of the Exchange's options community have been provided an opportunity to participate in the design of the new trading floor, which will have services and support facilities comparable to those used on CBOE's principal options trading floor. Upon qualification pursuant to CBOE rules, Permit recipients will have (1) the right to act as broker or dealer in transferred options (i.e., options traded on NYSE and not dually listed on CBOE), as well as in options subsequently allocated to the program by CBOE; (2) the right to trade ''by order'' as principal on CBOE's principal trading facility those options dually listed on NYSE and CBOE; and (3) the right to trade ''by order'' as principal on CBOE's principal trading facility any other classes of CBOE options up to an aggregate of 20 percent of the holder's quarterly contract volume on CBOE.

In addition, each NYSE options specialist unit Permit holder will be appointed as the CBOE Designated a Primary Market-Maker (''DPM'') in its transferred specialty options. CBOE will allocate to the new program securities underlying at least 14 new options classes per year for the first seven years after the transfer.

Permit holders will be deemed limited members of the CBOE, subject generally to the same obligations under the CBOE rules as are regular CBOE members, with certain exceptions. One notable exception is that application fees will be waived in certain instances. Also, under certain circumstances, recipients of Permits or their nominees who move their principal residence to Chicago and qualify under CBOE rules may receive up to $10,000 per Permit for customary moving expenses.

Each Exchange non-specialist options firm, including sole proprietors, doing business on the NYSE options floor will be offered the same number of Permits as that firm had in valid NYSE floor badges as of December 5, 1996. However, in order for the firm to actually receive Permits, the firm's individual badge holders on that date must personally qualify and trade on CBOE as individual Permit holders or as ''nominees'' of the firms owning Permits. Consistent with CBOE rules permitting partnerships and corporations to be members, the firms themselves may own Permits. CBOE may impose limits on transfers on Permits and prohibit substitutions of nominees in a manner designed to assure that Permits are not transferred, and that nominees remain with the firm at CBOE for one year after issuance.

As in the case of non-specialist firms, each Exchange specialist options firm, including joint books, will be offered the same number of Permits as that firm had in valid NYSE floor badges as of December 5, 1996. However in contrast to non-specialist firms, no specified individual will be required to be a specialist firm's nominee or to move to or remain at CBOE as a condition of a Permit's effectiveness. Instead, the specialist firms can select the persons to become nominees and use the Permits. Nominees may be freely substituted, but CBOE may impose limits on transfers of Permits designed to assure that Permits are not transferred for one year after issuance.

CBOE will lease out any of the 75 Permits not issued as specified above, as well as any Permits revoked due to violation of CBOE restrictions on transfer and substitution of nominees, through an auction or other competitive processes. The proceeds from the leases will be distributed pro rata to the approximately 92 persons who, as a result of their options trading rights (''OTR''), were entitled to possible benefits.[6]

The purchase price under the Transfer Agreement is $5,000,000. The Exchange will retain $1.2 million of the purchase price to partially offset Exchange exit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from James E. Buck, Senior Vice President and Secretary, NYSE to Margaret J. Blake, Special Counsel, Division of Market Regulation, Commission (April 18, 1997).

[4] Letters from Simon Erlich, Options Member, NYSE, to Jonathan G. Katz, Secretary, Commission (March 19, 1997) (''Erlich Letter''); Andrew Rothlein, Stock and Index Option Broker-Dealer, NYSE, to Jonathan G. Katz, Secretary, Commission (April 4, 1997) (''Rothlein Letter''); Isaac M. Ovadiah, G.P., to Jonathan G. Katz, Secretary, Commission (April 7, 1997) (''Ovadiah Letter''); Ernest M. Cortegiano, to Jonathan G. Katz, Secretary, Commission (April 7, 1997) (''Cortegiano Letter''); Issac M. Ovadiah, to Arthur Levitt, Chairman, Commission (April 14, 1997) (''Ovadiah Letter No. 2''); Michael Schwartz, Chairman, Committee on Options Proposals (April 8, 1997) (''COOP'' Letter).

[5] On April 23, 1997, the Commission approved the parallel CBOE filing. See Securities Exchange Act Release No. 38541 (April 23, 1997).

[6] Because there are as many OTRs as there are Exchange members (a total of 1366), but only 92 OTRs were directly involved in the options business, there was an excess of 1274 OTRs, thus complicating negotiations to obtain cost-free trading permits. Accordingly, by resolution on September 5, 1996, the Exchange's Board limited the universe of OTR holders potentially entitled to direct benefits from the transfer to present and future holders of the 92 ''activated'' OTRs, that is, to: (1) Regular members who already were using or leasing out their OTRs, (2) holders of OTRs separated from equity memberships, and (3) subsequent purchasers from them.

costs and as compensation for a ten-year license given to CBOE to list and trade options on the NYSE Composite Index. The Exchange will distribute the remaining $3.8 million of the purchase price, net of an appropriate tax reserve, on a pro rata basis to all of its 1366 members, subject to a determination of whether or not the distribution will be taxed both to the Exchange and to the member recipients. The tax reserve also includes a component designed as a precaution to address the possibility that the lease pool proceeds (discussed herein) may result in imputed income to the Exchange. The Exchange will apply to the Internal Revenue Service for Private Letter Rulings to resolve the two tax questions. Pending receipt of the rulings, CBOE will pay the $3.8 million into an Escrow Account.

If the Exchange receives an adverse ruling on the lease proceeds, a portion of the escrow account will be released annually as needed to fund tax payments, with any surplus in excess of $1000 in the escrow account after funding of any Exchange tax payments on lease pool proceeds being paid either to the NYSE Foundation [7] or pro rata to the Exchange's 1366 members.[8] If the Exchange receives an adverse ruling on the distribution to the 1366 members, distribution (net of any tax reserve for the lease pool proceeds) of some or all of the escrow account may be made to the NYSE Foundation instead of the 1366 members. Under no circumstances will escrow funds, except for amounts owed to the Exchange and any tax reserves or reserve surplus less than $1000, be distributed other than to the 1366 members or the NYSE Foundation.

The Exchange proposes to retain discretion to require payment of outstanding amounts owing to the Exchange by OTR holders through the distribution lease pool proceeds or by conditioning the receipt of Permits upon payment of outstanding debts. (See, e.g., NYSE Constitution, Article II, Section 8; NYSE Rule 795(d)(i); and NYSE Rule 795.10, Supplementary Material.) The Exchange also originally proposed to retain the discretion to require the transfer of separated OTRs to the Exchange. In its letter responding to commenters, however, the Exchange stated its intention not to exercise this discretion.[9]

III. Comments

The Commission received six comment letters in response to the filing, with one commenter submitting two letters.[10] Four commenters opposed the NYSE's transfer of its options business,[11] and one commenter favored the transfer.[12] The Exchange submitted a letter in response to those commenters in opposition to the proposal.[13]

The four opposing commenters believe the transfer is discriminatory in that it treats differently non-specialist firms that have leased their OTRs versus non-specialist firms that have not.[14] Specifically, these commenters argue that a non-specialist firm leasing out OTRs will not have the right to receive a Permit on the CBOE, while non-specialist firms that have not leased out their OTRs may receive Permits for their individual badge holders. One commenter questioned why the lessees of Permits acquire more privileges than the actual lessors.[15]

Three opposing commenters state their disagreement with the difference in treatment of specialists and non-specialists firms in the transfer.[16] These commenters argue that allowing specialist firms to designate a nominee for trading NYSE Options, while denying that benefit to non-specialist firms, is anti-competitive and unfair. One commenter argues that this will have no constructive purpose and will only serve to drive non-specialist firms out of business.[17]

Two opposing commenters question the actual subject matter of the sale.[18] One commenter questions how one exchange may sell to another exchange that which it has been granted for free (*i.e.*, the right to trade in certain options).[19] Another commenter essentially believes CBOE is purchasing exclusive listing programs for the options currently listed on CBOE and NYSE, as well as trading privileges in those options allocated to NYSE.[20]

Two opposing commenters question the validity of the lease pool.[21] They believe there is no assurance that any revenue will be generated from the lease pool.

One commenter was in favor of the proposal.[22] This commenter believes the relative size of the NYSE Options program, coupled with the NYSE's lack of automatic execution capability for options, has led to cost inefficiencies. This commenter believes that the efficiencies available at CBOE will more than off-set any potential reduction in intermarket competition.

In response to commenters, the Exchange states that the proposal is not anticompetitive or discriminatory in its treatment of specialist versus non-specialist firms, but merely reflects the premium placed on specialists as opposed to non-specialists participating in the transfer. The Exchange further states that a badge holder of a non-specialist firm can receive the benefits of a Permit so long as it contributes the attributes that CBOE believes will most enhance success in the transferred market. The Exchange states that the number of Permits negotiated were based on what the market would economically support and the desire to maximize the business opportunities created in the transferred market. The Exchange believes that the resolution is both reasonable and fair.

In response to commenters' assertions of lost or reduced OTR lease revenues as a result of the sale, the Exchange notes that, subject to certain contingencies, OTR owners will receive, for seven years, payments from the CBOE lease pool that are anticipated to substantially exceed typical lease payments now received for OTRs. Moreover, the Exchange states that had it simply ceased operation of its options business without transferring it to CBOE, OTR lessors would thereafter have received no lease payments of any kind.

The Exchange states that the proposal is not monopolistic or an unlawful circumvention of Commission policy on dual listing of options. The Exchange states that it has no agreement with CBOE to restrict dual listings of options

[7] The NYSE Foundation, authorized by the Board of Directors of the Exchange in October 1983 and incorporated as a not-for-profit organization in November 1983, provides funds for educational, civic and charitable purposes. The Foundation's charitable giving focuses on three main areas: education, quality of life, and community. The escrow funds would be available for any such purposes other than those specifically targeted at the securities industry.

[8] See supra note 3. As originally filed, any surplus remaining in escrow after tax payments on the lease pool proceeds would revert to the Exchange's treasury. The amendment states that any surplus, in excess of $1000, of reserve tax funds remaining in the escrow account after tax payments on lease pool proceeds will be paid either to the NYSE Foundation or pro rata to the Exchange's 1366 members.

[9] See NYSE Letter.

[10] See supra note 4.

[11] See Erlich Letter; Rothlein Letter; Ovadiah Letter (April 4, 1997); Cortegiano Letter; Ovadiah Letter No. 2 (April 10, 1997).

[12] See COOP Letter.

[13] Letter from Richard P. Bernard, Executive Vice President and General Counsel, NYSE, to Michael A. Walinskas, Senior Special Counsel, Division of Market Regulation, Commission (April 21, 1997) (''NYSE Letter'').

[14] See Erlich Letter; Rothlein Letter; Ovadiah Letter (April 4, 1997); Cortegiano Letter.

[15] See Ovadiah Letter (April 4, 1997).

[16] See Erlich Letter; Ovadiah Letter (April 4, 1997); Cortegiano Letter.

[17] See Cortegiano Letter.

[18] See Erlich Letter; Cortegiano Letter.

[19] See Erlich Letter.

[20] See Cortegiano Letter.

[21] See Ovadiah Letter; Cortegiano Letter.

[22] COOP Letter.

or to restrict, monopolize or foreclose any market. Furthermore, the Exchange notes that the agreement with CBOE does not contain a covenant not to compete. The Exchange has agreed to pay $500,000 to CBOE if, within one year of the Effective Date, NYSE determines to reenter the options business. According to NYSE, this payment acts as a one-time ''benefit of the bargain'' payment to CBOE.

Finally, the Exchange notes that the value of the transfer of the Exchange's options business was determined by competitive bids in a free and open market setting.

IV. Discussion

The Commission believes NYSE's proposal is consistent with the requirements of Section 6(b)(5) of the Act.[23] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, perfect the mechanism of a free and open national market system, and, in general, to further investor protection and the public interest.

Early last year, the NYSE conducted a strategic review of the 13-year operation of its options business. In the course of the review, the Exchange considered the potential for overall growth in the options industry, explored the needs of the order-providing firms and the relationships through which the options business is done, assessed the existing capacity and structure in the options industry and the Exchange's existing and potential competitive position, and examined the scale of the effort necessary to make the Exchange's options business line profitable. The Exchange concluded that remaining in the options business, even at the then-current market share, would require significant capital expenditures, and that any effort to significantly improve market share would require an enormous expenditure of capital and human resources. After analyzing its strategic review, the NYSE determined that it was in the best interest of its members that the options business be transferred elsewhere rather than terminated. The Transfer Agreement between NYSE and the CBOE represents the culmination of NYSE's efforts to transfer the options business.

Based on the representations of the NYSE, and after review of the proposed filing and submitted comment letters, the Commission has determined the Exchange's proposal is consistent with the overall public interest. The Exchange conducted a careful assessments and review of its options business and determined that it no longer wished to continue this business. There is nothing in the Act that compels the NYSE to continue to trade a particular product line. Moreover, the NYSE is permitted to terminate the options business entirely (consistent with an orderly wind-down of existing positions). Rather than simply terminate its options business, the NYSE attempted to package its options business as a whole and attempted to transfer it to another exchange in return for certain privileges accruing to NYSE options members and consideration paid to NYSE members. This not only facilitated the transfer of a talent pool to the CBOE, but also directly benefited NYSE members.

According to the Exchange, it chose CBOE from among those exchanges showing interest in the transfer because opportunities for traders were best at CBOE. Furthermore, the CBOE bid was selected through an open and competitive process, with NYSE determining that the CBOE bid was superior both from a financial perspective, and in terms of the opportunity it promised NYSE Options traders and brokers to continue making their living in the options business. The Commission recognizes that the transfer may create hardships for some existing NYSE members. However, the Commission believes that the NYSE has made reasonable efforts to achieve a solution that has maximized the value of the NYSE Options program. Particularly, given the available alternative to the NYSE of terminating the business altogether, the Commission believes the transfer provides additional opportunities for NYSE options traders and brokers that the NYSE was under no obligation to provide under the federal securities laws.

In response to commenters concerns regarding the disparity in the treatment of specialist firms versus non-specialist firms, the Commission believes that such differential treatment is justified given the available alternatives. As noted by the Exchange, the elements of the transfer outlined above represent a series of pragmatic compromises negotiated to reconcile the respective goals of the Exchange and CBOE. NYSE sought to minimize the disruption in the lives of the option badge holders and to maximize the opportunity for its options traders and brokers to continue to make their living in the options business after the transfer.

CBOE sought to maximize the success of the transferred market as a whole by seeking to assure (1) that the NYSE Options specialists participated in the transfer, (2) that NYSE Option traders and brokers with trading experience moved to Chicago, and (3) that the number of Permits issued optimized the viability of the transferred market as a whole and of the businesses of the Permit holders individually. Thus the Transfer Agreement's ''homesteader'' element was designed to support CBOE's general goal of attracting experienced traders. However, the omission of a homesteading requirement for specialists reflects the higher priority attached by CBOE to assuring that all of the options specialists participated in the transfer. The terms of the business agreement negotiated and agreed to by the NYSE and CBOE do not appear inconsistent with the federal securities laws.

The Commission believes that the Transfer Agreement's provision for specialists to designate a nominee constitutes a reasonable method to encourage specialist firms to participate in the transfer. The difference in treatment between the specialist and non-specialist firms recognizes their largely disparate backgrounds, rights, duties and functions. The Commission believes it is within the reasonable business judgement of the CBOE to treat the two types of options traders differently. Due to the expertise of the specialist firms in trading NYSE Options, the capital commitment of the specialist firms, and the relationships they have established with order routing firms, it is reasonable for CBOE to grant them more flexible Permits than other NYSE Option members.

The Transfer Agreement also provides for differing treatment among OTR holders. Given the large number of OTR holders, the Exchange recognized the need to narrow the group eligible for Permits based on activity and expertise in trading of NYSE Options. In this regard, the proposal attempts to create an incentive to those individuals who actively trade NYSE Options (*i.e.*, badge holders) to continue their options business at CBOE. Some commenters opposed this incentive, noting it unjustly benefits lessees of OTRs over non-specialist firm lessors. given the large number of outstanding OTRs, however, the Commission believes it was reasonable for the Exchange to limit the number of Permits issued in order to achieve an economically beneficial transfer of the NYSE Options business. The Exchange made a determination that the transferred market would economically support only a limited number of Permits. Therefore, the Permits were distributed in a way designed to maximize business opportunities created in the transferred

[23] 15 U.S.C. 78f(b)(5).

market, based on its determination that non-specialist OTR lessors are less likely to have the knowledge and proficiency of their lessees in trading NYSE Options.

However, the Exchange did not intend to penalize the lessors, and in an effect to compensate these OTR holders, it created the lease pool concept, from which the lessors will receive direct benefits from leasing of excess Permits. As the NYSE noted, its anticipates, given certain contingencies, that payments from the lease pool will exceed lease payments now received for OTRs. Accordingly, the Commission believes that the established limit on Permits, the manner in which they are to be distributed, and the lease pool program, are all reasonable provisions contained in the Transfer Agreement. By limiting Permits to experienced NYSE Options traders, the Commission believes the Exchange's goal of transferring a pool of trained experts in NYSE Options is more likely to be met.

Some commenters questioned the validity of the transfer and believe it is noting more than the purchase of trading rights in NYSE-listed options. The Commission would regard any anticompetitive arrangements in the trading of options to be of very serious concern, but after reviewing the proposed transfer closely, the Commission disagrees with these assertions. As the Exchange noted in its letter responding to commenters,[24] there is no agreement between NYSE or CBOE to restrict dual listing of options or to restrict, monopolize or foreclose any market. The Commission believes that the proposal provides an appropriate vehicle for the CBOE to purchase, through an organized transaction, a trained pool of talent with experience in the trading characteristics of NYSE Options.[25] The Commission notes that any other options exchange may, at any time, trade all or some NYSE Options. Furthermore, the Commission believes that the transfer provides a viable choice of these NYSE Options traders who desire to continue conducting an options business. Given NYSE's expressed intention to terminate options trading on its Exchange, the Commission believes that the transfer of the options business to CBOE will provide NYSE Options firms with benefits otherwise potentially unavailable if the NYSE firms were to negotiate individual with the CBOE.[26]

Should the NYSE decide to re-enter the options business within a year of the Effective Date, it has agreed to pay CBOE $500,000. The Commission believes this agreement is reasonable and does not constitute a ''noncompetition'' agreement between CBOE and NYSE, but instead serves to compensate CBOE for portion of the costs associated with acquiring the NYSE's Options business and essentially refund the fee earned by the NYSE for brokering the transfer of its options business to the CBOE. Moreover, the payment amount is so small that it would not effectively serve as any deterrent to the NYSE's re-entry into trading NYSE Options.

Commenters questioned whether any revenue would be generated from the lease pool. The Commission believes, based on the representations of the Exchange, that the proceeds from the lease pool may substantially exceed typical lease payment now received for OTRs. The Commission notes that if the Exchange had determined to cease operation of its options business, OTR lessors would have received no lease payment of any kind. In this regard, the Commission believes the creation of a lease pool for distribution of lease proceeds is equitable.

The Exchange, pursuant to its Constitution and rules, retains the discretion to require payment of outstanding amounts owing to the Exchange by conditioning the receipt of Permits thereon, or through the distribution of lease pool proceeds.[27] The Commission believes such discretion is reasonable as it will assure the Exchange that upon the transfer of OTRs, outstanding debts to the Exchange will be settled. The Commission believes this is reasonable and will not affect the substantive rights of OTR holders as the provision is currently applied for the transfer of OTRs.

The Commission finds good cause to approve Amendment No. 1 to the filing prior to the 30th day after the date of publication of the notice of filing because the Amendment does not affect the substantive rights of the members and accelerated approval will facilitate the uninterrupted transfer of the NYSE Options business to CBOE as scheduled.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC 20549. Copies of such filings will also be available at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–97–05 and should be submitted by May 21, 1997.

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change and Amendment No. 1 are consistent with the Act and the rules and regulations thereunder applicable to the NYSE, and in particular Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (File No. SR–NYSE–97–05) be and hereby is approved, and that Amendment No. 1 filed thereto be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11087 Filed 4–29–97; 8:45 am]

BILLING CODE 8010–01–M

[24] See NYSE Letter.

[25] The fee paid by the CBOE also reflects, in part, the ten-year license granted to CBOE to enable it to trade NYA Options.

[26] The Commission also notes that any NYSE Options firm always had the ability to become a member of any other options exchange and conduct an options business on that exchange.

[27] NYSE Constitution, Article II, Section 8; NYSE rule 795(d)(i); and NYSE Rule 795.10, Supplementary Material.

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Loan Closing Documents.

Form No's.: SBA Form 147, 148, 159, 160, 160A 529B, 928, 1059.

Frequency: On Occasion.

Description of Respondents: SBA Loan Applicants.

Annual Responses: 45,000.

Annual Burden: 135,000.

Dated: April 23, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–11110 Filed 4–29–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2950]

State of Arkansas

As a result of the President's major disaster declaration on April 14, 1997, and an amendment thereto on April 16, I find that the following counties in the State of Arkansas constitute a disaster area due to damages caused by severe storms and flooding beginning on April 4, 1997 and continuing: Columbia, Craighead, Jefferson, Lonoke, Ouachita, and Poinsett. Applications for loans for physical damages may be filed until the close of business on June 13, 1997, and for loans for economic injury until the close of business on January 14, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Arkansas, Calhoun, Clark, Cleveland, Crittenden, Cross, Dallas, Faulkner, Grant, Greene, Jackson, Lafayette, Lawrence, Lincoln, Mississippi, Nevada, Prairie, Pulaski, Union, and White in the State of Arkansas; Claireborne and Webster in the State of Louisiana; and Dunklin in the State of Missouri. Interest rates are:

	Percent
For Physical Damage	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.250
For Economic Injury	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 295006 and for economic injury the numbers are 947400 for Arkansas, 947600 for Louisiana, and 947700 for Missouri.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 18, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–11104 Filed 4–29–97; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Notice of "Social Security Forums: Privacy and Customer Service in the Electronic Age"

AGENCY: Social Security Administration (SSA).

ACTION: Notice.

PLACES AND TIMES OF PUBLIC FORUMS

Hartford, Conn., State of Connecticut, Legislative Office Bldg., Room 1–D, 210 Capitol Ave.	May 5, 1997.
Des Moines, Iowa, Des Moines Convention Center.	May 16.
San Jose, Cal., San Jose State University, Student Union Bldg.	May 28.
Austin, Tex	June 6.
Atlanta, Ga., Richard E. Russell, Federal Bldg.	June 10.
Washington, D.C	June 16.

Locations of the other forums will be announced later.

Type of Meeting: The forums are open to the public.

Purpose: In our efforts to make it easier and simpler for our customers to deal with us, we are seeking new ways to interact with the public. SSA seeks the public's views on how the agency can provide electronic services to the public through the Internet while protecting the privacy of individual information in our records.

Social Security is committed to providing timely and quality service to its customers, while safeguarding individual privacy. To help meet these commitments, SSA's business plan includes the testing and implementation of secure electronic services directly to the public on networks such as the Internet. Over the past year, SSA has initiated several important Internet test services. One of these tests allows individuals to request and receive their Personal Earnings and Benefit Estimate Statement (PEBES) using an online, interactive process at the Social Security Administration Internet server, Social Security Online (http://www.ssa.gov).

PEBES information includes a year-by-year display of an individual's earnings covered by Social Security and Medicare; the Social Security taxes paid, and an estimate of retirement, survivors, and disability benefits. The PEBES does not include current year earnings, employer information, or any information that could reveal the whereabouts of an individual.

Nothing is more important to Social Security than maintaining the public's

confidence in our ability to carry out our mission by protecting the privacy of sensitive information we maintain about individual workers and beneficiaries. That confidence was questioned following the start of our test of the interactive PEBES service. In response to those concerns, Social Security suspended the interactive PEBES test on April 9, 1997. When the online service was suspended, the Acting Commissioner stated that he wanted to conduct a series of forums with the public to discuss issues of privacy and security in providing electronic services directly to the public. Our desire is to provide customers with ready access to their personal information without compromising privacy and without excessive barriers and costs.

In soliciting public views in the forums (and in comments outside the forums), SSA welcomes expert and general public input on the following questions:

—In providing electronic services, what information should SSA require from a customer for authentication of identity?

—Beyond information obtained directly from the customer, what further safeguards should SSA employ to support customer authentication and privacy in electronic transactions? Which safeguards should be employed in the near term, and which in the longer term?

—Should we reinstate the PEBES online service with minor additions to the safeguards we had in place, should we reinstate it only with fundamental changes to our safeguards, or should we not reinstate it at all?

—If you believe electronic PEBES should be reinstated, what additional safeguards should we include?

—Because the question of maintaining privacy in electronic transactions has far-reaching implications in both the public and private sectors, what other matters should SSA consider in addressing this major public policy issue?

Ground Rules and Agenda

The following general procedure will be followed for each forum:

• Experts and members of the general public are invited to attend the forums, state their views on these issues to an SSA executive panel, and submit written statements.

• Statements may be submitted to SSA before, at, or after the forums, with all statements submitted no later than June 20, 1997. Each statement should include a one-page summary of the submitter's views, focusing primarily on answers to the questions posed above.

• Each panel member will have five to eight minutes, and each member of the public will have four minutes, to state his/her views, with added time given to respond to questions seeking clarification from the SSA executive panel.

Agenda (subject to change):

11:30 am

Registration of experts and members of the public

Noon

Welcome and introduction by SSA panel; explanation of ground rules

12:30 pm

Panel of privacy experts and consumer advocates presents its views

1:30 pm

Panel of computer technology experts presents its views

2:45 pm

Panel of business experts (commerce, banking, financial planning) presents its views

3:45 pm

Members of public present their views

5.30 pm

Closing remarks by SSA executive panel

National Electronic Town Meeting

In addition to these public forums, SSA will conduct a National Electronic Town Meeting through its Internet web site. Dates and other details will be available later on Social Security Online, www.ssa.gov.

How to Notify SSA

Mail:

SSA Forums, Social Security Administration, Room 4–C–5 Annex, Baltimore MD 21235

Fax: 410–965–0695

Internet mail: publicforum@ssa.gov

We welcome your written statement even if you are unable to attend one of the forums or participate in the electronic town meeting.

Questions about forum procedures may be telephoned to: Linda Thibodeaux, Social Security Administration, 410–966–8222.

Dated: April 25, 1997.

Joan E. Wainwright,

Deputy Commissioner for Communications.

[FR Doc. 97–11300 Filed 4–29–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–022]

Chemical Transportation Advisory Committee; Subcommittee on the Review/Update of Vapor Control System Regulations Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Vapor Control System (VCS) Regulations Review/Update Subcommittee of the Chemical Transportation Advisory Committee (CTAC) will meet to continue work on developing a recommended revision of the marine vapor control regulations found in Title 33, Code of Federal Regulations, Part 154 and Title 46, Code of Federal Regulations, Part 39. The meetings are open to the public.

DATES: The meetings of the VCS Subcommittee will be held on May 19, 1997, from 9 a.m. to 4 p.m. and May 20, 1997, from 8 a.m. to 3 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before May 12, 1997.

ADDRESSES: The meetings of the VCS Subcommittee will be held in the training academy conference room, ABS Plaza, 16855 Northchase Drive, Houston, TX 77060. For directions to the meetings, please contact Lieutenant J.J. Plunkett, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Paul J. Book, American Commercial Barge Line Company; telephone (812) 288–0220, fax (812) 288–0478 or Lieutenant J.J. Plunkett, Commandant (G–MSO–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; telephone (202) 267–0087, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

The agenda includes the following:

(1) Presentation of each subcommittee member's work thus far and plans for the future.

(2) Review and discussion of the work completed by each member.

(3) Discussion of joint facility/vessel opportunities for improvements to the VCS program.

After meeting together, the subcommittee members will form into two work groups to discuss in detail

their assigned tasks. The two groups are facility VCS work group and vessel VCS work group.

Procedural

These meetings are open to the public. At the Subcommittee Chairperson's discretion, members of the public may make oral presentations during the meetings. Persons wishing to make oral presentations at the meetings should notify Mr. Book no later than May 12, 1997. Written material for distribution at the meetings should reach the Coast Guard no later than May 12, 1997. If a person submitting material would like a copy distributed to each member of the subcommittee in advance of the meetings, that person should submit 25 copies to Mr. Book no later than May 12, 1997.

Information on Services for the Disabled

For information on facilities or services for the disabled or to request special assistance at the meetings, contact Lieutenant Plunkett as soon as possible.

Dated: April 18, 1997.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 97–11212 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability and Public Hearing Capacity and Delay Study; Syracuse-Hancock International Airport, Syracuse, New York

SUMMARY: On November 26, 1996, the Federal Aviation Administration (FAA) issued a Record of Decision (ROD) setting out the FAA's consideration of environmental and other factors for Airport Layout Plan (ALP) approval and Federal financial participation in eligible projects associated with land acquisition; conditional approval for construction of a new east-west runway, related taxiways, and precision instrument approach capabilities for both ends of the new runway, pending capacity analysis using simulation modeling, as further described under the ROD's ''Mitigation''. The decision made by the ROD constitutes Federal environmental approval for the project, the requirements for which were imposed by applicable environmental statutes and regulations, and have been satisfied by an Environmental Impact Statement (EIS), signed on April 12, 1996.

Section X of the ROD, ''Mitigation'', stated that runway construction shall not commence until several actions are accomplished. The first action, which is the subject of this Notice, stated: ''A runway construction phasing plan shall be developed by the City of Syracuse, to be based on a comprehensive capacity and delay study using the FAA approved simulation model. Determining factors of runway need and timing shall include hours of delay and cost of delay relative to annual and daily aircraft operational levels. This study should consider all available technology and air traffic procedures in its evaluation of existing runway capacities. The study shall be reviewed and approved by the FAA and will be made available to all interested parties upon request.'' The Airport Capacity Study has been made available by the City of Syracuse for public review and comment on April 18, 1997. Notice by the City of Syracuse was made in both the Herald Journal and Post Standard Newspapers to run for ten (10) consecutive days.

EFFECTIVE DATE: This Notice is effective on the publication date of this Notice. The public comment period on the Airport Capacity Study will end on June 3, 1997, two weeks subsequent to the public hearing.

SUPPLEMENTARY INFORMATION: Interested persons are invited to comment on the Airport Capacity Study by submitting written comments to: Mr. Kenneth Kroll, Federal Aviation Administration Federal Building, Airports Division, AEA–610, JFK International Airport, Jamaica, New York 11430, (718) 553–3357.

All substantive comments will be considered by the FAA in its decision regarding the need and timing of the proposed new runway. The public is invited to review the Syracuse Airport Capacity Study, which will be available at the following locations during normal business hours:

Federal Aviation Administration, Fitzgerald Federal Building 111, JFK International Airport, Jamaica, New York 11430

Department of Aviation, Office of the Commissioner Aviation, Syracuse Hancock International Airport

City of Syracuse, City Clerk, City Hall, 201 East Washington Street

Onondaga County Public Library, Central Library, 447 South Salina Street

Onondaga County, Office of the County Clerk, Onondaga County Civic Center, 401 Montgomery Street

Town of Cicero, Office of the Town Clerk, 8236 South Main Street, Cicero

Town of Clay, Office of the Town Clerk, 4483 Route 31, Clay

Town of Dewitt, Office of the Town Clerk, 5400 Butternut Drive, Dewitt

Town of Salina, Office of the Town Clerk, 201 School Road, Liverpool

Village of North Syracuse, Office of the Village Clerk, 600 South Bay Road, North Syracuse

C&S Engineers, 1099 Airport Blvd., North Syracuse

A formal public hearing is scheduled for Tuesday, May 20, 1997 to obtain verbal and written comments on the subject study. The public hearing will be held at 7 pm at Gate 15 located in the South Concourse at Syracuse International Airport, Syracuse, New York.

Issued in Jamaica, New York on April 23, 1997.

Robert B. Mendez,

Manager, Airports Divisions, Federal Aviation Administration, Eastern Region.

[FR Doc. 97–11229 Filed 4–29–97; 8:45 am]

BILLING CODE 4710–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advice the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on May 14, 1997, at 10 a.m. Arrange for oral presentations by May 4, 1997.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street, NW., Suite 801, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075; e-mail Jean.Casciano@faa.dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on May 14, 1997, at the General Aviation Manufacturers

Association, 1400 K Street, NW., Suite 801, Washington, DC, 10 a.m. The agenda will include:

- A status report from the Digital Information Working Group,.
- Update on the status of the effort to define a strategy for expediting the completion of old ARAC tasks and recommendations,
- Update on the status of the FAA's Rulemaking Business Process Reengineering effort, and
- Administrative issues.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by May 4, 1997, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on April 22, 1997.

Jean Casciano,

Acting Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–11208 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–3–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Brownsville/South Padre Island International Airport, Brownsville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Brownsville/South Padre Island International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, TX 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Daniel T. Weber, Manager of Brownsville/South Padre Island International Airport at the following address: Mr. Daniel T. Weber, Director of Aviation, Brownsville/South Padre Island International Airport, 700 Minnesota Avenue, Brownsville, TX 78521.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, TX 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Brownsville/South Padre Island International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 10, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 29, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1997.

Proposed charge expiration date: August 1, 2003.

Total estimated PFC revenue: $1,067,427.00.

PFC application number: 97–01–C–00–BRO.

Brief description of proposed projects:

Projects to impose and use PFC's: Master Plan Update, Rehabilitate Airfield Pavement and Runway Lighting, Airfield Safety Improvements, Passenger Loading Bridges, FIS Facility, Terminal Capacity Improvements, Cargo Apron Rehabilitation and Expansion, and PFC Administrative Costs.

Proposed class or classes of air carriers to be exempted from collecting PFC's:

None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Boulevard, Fort Worth, TX 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Brownsville/South Padre Island International Airport.

Issued in Fort Worth, Texas on April 10, 1997.

Edward N. Agnew,

Acting Manager, Airports Division.

[FR Doc. 97–11215 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Pitt-Greenville Airport, Greenville, North Carolina.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Pitt-Greenville Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Mr. Terry R. Washington, Program Manager, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James G. Turcotte, Airport Manager of the Pitt-Greenville Airport Authority at the following address: Mr. James G. Turcotte, Airport Manager, Pitt-Greenville Airport Authority, Post Office Box 671, Greenville, North Carolina 27835.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Pitt-Greenville Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Southern Region, Atlanta Airports District Office, Attn: Mr. Terry R. Washington, Program Manager, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, Telephone: (404) 305–7143.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Pitt-Greenville Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 18, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Pitt-Greenville Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 25, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1997.

Proposed charge expiration date: July 9, 2001.

Total estimated PFC revenue: $453,648.00.

Application number: 97–01–C–00–PGV.

Brief description of proposed project(s): (1) Prepare PFC Application (Impose and Use); (2) Recover local share of Airport Grants 11–14 (Impose and Use); (3) Recover local share in terminal building ADA modifications (Impose and Use); (4) Security Fencing (Impose and Use); (5) Precision approach path indicators (PAPIs) for Runway 7/25 (Impose and Use); (6) Rescue Vehicle (Impose and Use); (7) Glide slope relocation (Impose Only); (8) Approach lighting system for Runway 19 (Impose Only); (9) Extend Runway 10 (500 feet) (Impose Only).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Pitt-Greenville Airport Authority.

Issued in College Park, Georgia on April 18, 1997.

Dell T. Jernigan,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 97–11207 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on PFC Application (#97–02–U–00–PIH) to Use the Revenue from a Passenger Facility Charge (PFC) at Pocatello Regional Airport; Submitted by the City of Pocatello, ID.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Pocatello Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Len Nelson, Airport Manager, at the following address: City of Pocatello, P.O. Box 4169, Pocatello, Idaho 83205.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Pocatello Regional Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (206) 277–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#97–02–C–00–PIH) to use the revenue from a PFC at Pocatello Regional Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 23, 1997, the FAA determined that the application to use the revenue from a PFC submitted by the City of Pocatello, Idaho, was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 29, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Actual charge effective date: September 1, 1994.

Proposed charge expiration date: March 3, 2002.

Total estimated net PFC revenue: $230,000.

Brief description of proposed project(s): Pavement Rehabilitation (Runway 3/21, Taxiways A, B, C, D, E and F).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators using aircraft with less than twenty seats, and maximum payload capacity of less than 6,000 pounds.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Regional, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, may inspect the application, notice and other documents germane to the application in person at the Pocatello Regional Airport..

Issued in Renton, Washington on April 23, 1997.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 97–11228 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. M–033]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Rebecca Mavilia Boyd, Office of Financial Approvals, Maritime Administration, MAR–580, Room 8114, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–5870 or FAX 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Records Retention Schedule.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0501.

Form Number: None.

Expiration Date of Approval: September 30, 1997.

Summary of Collection of Information: Section 801, Merchant Marine Act, 1936 as amended (46 APP USC 1211) requires retention of construction differential subsidy or operating differential subsidy records.

Need and Use of the Information: The information will be used to audit pertinent records at the conclusion of a contract when the contractor was receiving financial assistance from the government.

Description of Respondents: U.S. shipping companies.

Annual Responses: 15.

Annual Burden: 750 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, SW, Washington, DC 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Date: April 25, 1997.

Joel C. Richard,

Secretary.

[FR Doc. 97–11213 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. M–032]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request approval of information collection entitled Information to Determine Seamen's Reemployment Rights—National Emergency.

DATES: Comments should be submitted on or before June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher Krusa, Maritime Training Specialist, Office of Maritime Labor, Training, and Safety, MAR–250, Room 7302, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–2648 or fax 202–498–2288. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Information to Determine Seamen's Reemployment Rights—National Emergency

Type of Request: Approval of new information collection.

OMB Control Number: 2133–.

Form Number: Collection doesn't require completion of a form.

Expiration Date of Approval: Not applicable—new collection.

Summary of Collection of Information: The MARAD is requesting approval of this collection in an effort to implement provisions of the Maritime Security Act of 1996. These provisions amend the Merchant Marine Act, 1936, to grant reemployment rights and other benefits to certain merchant seamen serving on vessels used by the United States for a war, armed conflict, national emergency or maritime mobilization need. As such, this rule establishes the procedure for obtaining the necessary MARAD certification for reemployment rights and other benefits conferred by statute and its assistance in pursuing these statutory rights and benefits.

Need and Use of the Information: This information collection requires merchant seamen to provide documents indicating their period of employment and their merchant mariner's status. The information provided will allow MARAD to determine eligibility for reemployment rights when the employment is related to a designated national service.

Description of Respondents: Respondents are U.S. merchant seamen who have completed designated national service in time of war or national emergency and are seeking reemployment with a prior employer.

Annual Responses: 50.

Annual Burden: 50 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, SW, Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: April 24, 1997.

Joel C. Richard,

Secretary.

[FR Doc. 97–11214 Filed 4–29–97; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8109, 8109–B, and 8109–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 8109 and

8109–B (Federal Tax Deposit Coupon), and Form 8109–C (FTD Address Change).

DATES: Written comments should be received on or before June 30, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Federal Tax Deposit Coupon (Forms 8109 and 8109–B) and FTD Address Change (Form 8109–C).

OMB Number: 1545–0257.

Form Numbers: 8109, 8109–B, and 8109–C.

Abstract: Federal tax deposit coupons (Forms 8109 and 8109–B) are used by taxpayers to deposit certain types of taxes at authorized depositaries or in certain Federal Reserve Banks. Form 8109–C, FTD Address Change, is used to change the address on the FTD coupon. The information on the deposit coupon is used by the IRS to monitor compliance with the deposit rules and to insure that taxpayers are depositing the proper amounts within the proper time periods with respect to the different taxes imposed by the Internal Revenue Code.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Responses: 68,513,333.

Estimated Time Per Response: 2 min.

Estimated Total Annual Burden Hours: 2,016,425.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 23, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–11165 Filed 4–29–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8811

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8811, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

DATES: Written comments should be received on or before June 30, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations.

OMB Number: 1545–1099.

Form Number: 8811.

Abstract: Current regulations require real estate mortgage investment conduits (REMICS) to provide Forms 1099 to true holders of interests in these investment vehicles. Because of the complex computations required at each level and the potential number of nominees, the ultimate investor may not receive a Form 1099 and other information necessary to prepare their tax return in a timely fashion. Form 8811 collects information for publishing by the IRS so that brokers can contact REMICs to request the financial information and timely issue Forms 1099 to holders.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 1,000.

Estimated Time Per Response: 3hr., 29 min.

Estimated Total Annual Burden Hours: 3,490.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 24, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–11166 Filed 4–29–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 3069F

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 3069F, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 1997.

LAST NAME, FIRST NAME, MIDDLE NAME

ABDULKADIR, HELEN,
ACKER, CLARE, FRENKEL
ADAMKOWSKI, RANDAL, JOHN
ADAMS, JINA
ADAMS, DORIS, LEE
ADAMSON, VINCENT, ROY
ADRIAN, BARBARA, RUTH
ADRIAN, RICHARD, ALLAN
ALBERT, CRAIG
ALEXANDER, SO, AE
AN, KIM, MYUNG
ANDERSON, SUSAN, LALLY
ANDREWS, DENNIS, CLEVELAND
ANGLE, BONNIE, JEAN
ANGLE, CLOYD, FRANCIS
AVELING, ROSALIND, ROASLIND
BAGLEY III, RALPH, COLT
BANG, GISLE
BATTINGER, HARRY, ROBERT
BATTINGER, LORE
BEATT, HELEN, CHRISTINE
BEAVERS, WILLIAM, SAMUEL
BENDER, MARIA, KATHARINE
BENSON, LINDA, OTTILIE
BEPPU, OTSUYA
BEPPU, KUNINORI
BERGERUD, ARTHUR, THOMPSON
BERGMANN, FRED, HARALD
BESSETT, ALICE, AGMES
BLINN, DONALD, GEORGE
BOGDANOVICH, MARTIN, JOSEPH
BOGGS, TAE, KYONG
BONNICI, AARON, FRANK
BOWDEN, ROBERT, ROY
BRADBURY, GORDON, WILLIAM
BRADLEY, ESTIL, GIRVEN
BRENNINKMEYER, FRANK, BENEDICT
BROWN, PHILLIP, NICHOLAS
BRYAN, LISA, SUZANNE
BUCKNER, MICHAEL, ANTHONY
BURROWS, JACK, ANTHONY
BYUN, DOUGLAS, HEE
CAAN, DURIETTA, MARIA
CAMILLERI, TERRY, VICTOR
CASAL, CHRISTIAN
CASEIRO, HELEN, VUOKKO
CAVAGHAN, GLADYS
CENTURION, LEOPOLDO, FRANCISCO
CHALABY, JOSEPH, IBRAHIM
CHAMBERLAIN, COURTNEY, CHARLES
CHAN, CALEB, YUET-MING
CHANG, STEVE, PEN
CHANG, JIM, BYUNGOH
CHANG, STEVE, SUNGGILL
CHAUDHRY, LATIF, MOHAMMAD
CHEN, SHUENN, SAMSON
CHEN, RAY, RUEN-WU
CHENG, JOHN, S.
CHENG, EDMUND, WAI-WING
CHIEN, DAVID, TA
CHO, SON, KYONG
CHO, SUE, HEE
CHO, ERIC, DONGJOON
CHO, BONG, HYEON
CHO, HEISOOK
CHOI, HOLLYANN, HUICHON
CHOI, STEVEN
CHOI, MYUNG, DUK
CHOI, JANG, SHIK
CHOI, JOHN, BONG
CHOY, RAYMOND, O.
CHU, JAMES, CHI YING
CHU, EDWARD
CHUNG, LISA, EUN HEE
CHUNG, BONG, HEE
CHUNG, JEFFREY, SEI JONG
CHUNG, PAUL, CHANG-HOON
CHUNG, BO, YOUNG
CHUNG, DANIEL, JONGIN
CHUNG, IN, HO
CIANCIO, CARMELA
CLARK, MALCOLM, JOHN
CLARK, JANET, L.
CLARK, MARGARITA, GIL
CLARK, CAROLYN, HARRIET
CONLON, PAUL, JOSEPH
CONWAY, WILMER, CHEYNEY
COOK, WILHELMINA, DOROTHY
COOLEY, ANNE, MARLOWE
COOPER, LINA, GERTRUD
CORSAT, MARCELLE,
CRAFT, NORMAN, DAVID
CRAMER, DEBORAH, LYNN
CREETH, PATRICIA, MARILYN
CROTTY, JULIANA, MARY
CRUZ, ALBERTO, JUAN
CUNNINGHAM, PETER, ALLAN
DANIELSSON, LOUISE, MARIE
DAVID, DAN
DAVIDSON, ALISTAIR, GREGOR
DAVIDSON, ALISTAIR, GREGOR
DE HERRERA, CRISTINA, SORIANO
DEBONO, DENNIS
DEWAR, DONALD, CAMERON
DIAS, ALFONSO, RICK
DIAZ, REBECCA
DIETZ, CYNTHIA, JANE
DOHERTY, HELEN, MARIE
DOKKO, JOHN, BUCK
DONALD, JOHN, HOLLAND
DRAPER, RICHARD, LEE
EKLUND, PATRICIA, ELIZABETH
ELLIS, OK, HUI
ERHARD, WERNER, HANS
ESKILDSTRUP, KIRKE
EVANS, WESLEY, KENNETH
EVANS, BRENDA, JOYCE
EVANS, MARK, RIVINGTON
EVERAND, MARCUS, ANGEL LANE
FAIRLEIGH, SHIZUE
FARIS, JR., GERALD, DALE
FARMER, MICHAEL, LEE
FELDMAN, ANDRE, JAY
FIRMENICH, EVA, MARIA
FITZGERLALD, STEPHEN, CHARLES
FOX, MARY, CLARE
FREEMAN, ROGER, DANTE
FURGUIEL, SHIRLY, ANN
GALLAGHER, THOMAS
GARCIA, PABLO, MARCANO
GENTLE, CHONG, CH
GEORGAS, TARSI, BABIS
GIBBES, VIRGINIA
GLANNUM, HANS, ERLING, SOUNDERGA
GOEKJIAN, CHRISTOPHER, ALLAN
GOODELL, JOHN, SILAS
GOODYEAR, PAUL, WILLIAM
GRACE, FRANK, CLAYTON
GRANDE, GARY, ROY
GRANT, BRITT, HELEN
GREER, LAWRENCE, DONALD
GRIMM, CHARLES, RICHARD
GROSS, BRENT, PETER
GUENN, HEMMY, KIM
GUT, ANN, F.
GUTEDRING, SUSANNE, STEPHANIE
HABERFELD, FELICE, JEANNE
HAGELAND, INGE
HAGGLOF, MAI-LISE, INGER
HAHN-HADJALI, KAREN, CHRISTINE
HAN, JUEN, HYUNSOOK
HAN, SOO, NAM
HARDEN, EDGAR, FREDERICK
HARTWELL, GARY, ALAN
HAUGE, PRISCILLA, ANN
HAUGEN, LINDA
HAUS, BODO, GUNTER
HAYWOOD-FARMER, MARY
MARTHA
HEGARTY, DENIS, PATRICK
HELLSTROM, GUNNAR, OLOF
HENDERMAN, KEITH, BERTRAND
HENRIKSEN, KIRSTEN, LILLIAN
HERZOG, ERNST
HESSER, J., CRAIG
HEYMAN, ALAN, CHARLES
HIGGS, JUDITH, LYNN
HIGGS, DEREK, LESLIE
HIGHTOWER, BONITA
HO, HELAN, C
HO, LEO, CHI-CHEN
HO, STELLA, SUK YING CHEUNG
HOFFENBERG, PAUL, MARK
HOFMANN, MARGARET, ELSIEJ
HOLGERSON, MARIANNE
HOLMES, TERESA, ANN
HONG, JAJMES, SHU, KING
HONG, HARRY, YOUNG
HONG, FRANK

HONG, CONNIE
HORMEL, SANDRA, LYNN
HUMPHREY, JUDITH, ANN
HYUN, PAUL, SOONNO
JOWETT, JOHN
KAESTNER, LOUISE, CHRISTEL MARIE CA
KASPERSEN, IRENE
KENT, PHILIP
KIM, MICHAEL, HYUNG
KIM, HWI, JUNG
KIM, SUN, MI
KIM, KO, KWANG
KIM, SANG, WOOK
KIM, EUGENE, YONG
KIM, SUNG, YE
KIM, SOON, JUNG
KING, CHARLOTTE, OTTILIE
KOEFOE, KAREN, ELIZABETH MUNCH
KORMAN, SANG, ROK
KURTZ, JOHN, BELLAIR
LEE, EILEEN
LEE, KI, TAE
LEE, MIN, JAE
LEE, HYANG, WON
LYNAS, JOHNATHAN, FRANCIS
MCCARTHY, THOMAS, MICHAEL
MIN, CHAN, KI
MORRIS, JANE, MARIE
MULKEY, JOHN, CARTER
OLAUSSEN, TOM, KAARE
PARKER, PHILIP, HULL
POSTLER, KEITH
REUSSER, CATHERINE, DORIS
RICHER, ORTRUD, MARGARETE
RINGWAIT, JOHN, FOSTER
ROSSI, IDDA-MARIE
ROTHE, VIRGINA, CAROLINE R.
ROTHE, RUDOLPH, ALBERT
RUGTVED, KAI, SIGURD
SCHAEPPI, ULRICH, HANS
SCHOCH, NANCY, STEWART
SHELLEY, JAMES
SMITH, JONATHAN, DAVID
SNISKY, DEBRA, ANNE
STERNBERG, ILSE, RACHEL
STROUTH, ROBERT, LOUIS
STROUTH, BETTY, LOU
SUN, ALBERT, ING-SHAN
SUSSMAN, NAN, BRIGHT
THOMPSON, LISE
TOUCHE, ELIZABETH, LOUISE
VALKOS, JOSEPH, DANIEL
WALTHALL, FIONA, ANNE
WALTON, GARY, LEE
WHANG, HEEYU
WOLFE, ELENE, J.
WOOD, DIANA, E.
YOON, JOHN, CHONGYUL
ZU PAPPENHEIM, CHRISTIAN, RUDLOPH

Approved: April 24, l997.

Doug Rogers,

Project Manager, International District Operations.

[FR Doc. 97–11139 Filed 4–29–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Commissioner's Advisory Group: Public Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public meeting of Commissioner's Advisory Group.

SUMMARY: Public meeting of the Commissioner's Advisory Group (CAG) will be held in Washington, DC.

DATES: The meeting will be held May 20, 1997.

FOR FURTHER INFORMATION CONTACT: Merci del Toro at (202) 622–5081 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 USC App. (1988), that a public meeting of the CAG will be held on May 20, 1997, beginning at 9 am in Room 3313, main IRS building, 1111 Constitution Avenue, NW., Washington, DC 20224. The agenda will include the following topics: various IRS issue updates and reports by the CAG subgroups on Federal Tax Deposit Rules; Early Resolution of Appeals Issues; Customer Service Initiatives; and Small Business Issues.

Note: Last minute changes to the agenda or order of topic discussion are possible and could prevent effective advance notice.

The meeting will be in a room that accommodates approximately 50 people, including CAG members and IRS officials. Due to the limited conference space and security specifications, notification of intent to attend the meeting must be made with Lorenza Wilds. Ms. Wilds can be reached at (202) 622–6440 (not toll-free). Attendees are encouraged to allow enough time to clear security at the 1111 Constitution Avenue, NW entrance.

If you would like to have the CAG consider a written statement, please call (202) 622–5081 or write: Merci del Toro, Office of Public Liaison, C:I, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 3308 IR, Washington, DC 20224.

Dated: April 2, 1997.

Margaret Milner Richardson.

Commissioner of Internal Revenue.

[FR Doc. 97–11176 Filed 4–29–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 62, No. 83

Wednesday, April 30, 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 ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–32–000 and CP96–128–000]

Eastern Shore Natural Gas Company; Notice of Informal Settlement Conference

Correction

In notice document 97–10175, beginning on page 19316, in the issue of Monday, April 21, 1997, make the following correction:

On page 19316, in the third column, in the first document, in the **Docket Nos.** line, ''CP97–128–000'' should read ''CP96–128–000''.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11553–000]

Lace River Hydro; Correction to Notice of Intent to Conduct Environmental Scoping Meetings and a Site Visit

Correction

In notice document 97–10169, appearing on page 19319, in the issue of Monday, April 21, 1997, make the following correction:

On page 19319, in the third column, in the **Project No.** line, ''111553–000'' should read ''11553–000''.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[IL 102–2; FRL–5532–3]

40 CFR Part 52

Approval and Promulgation of Air Quality Implementation Plans; Illinois: Motor Vehicle Inspection and Maintenance

Correction

In rule document 96–18758, beginning on page 38582 in the issue of Thursday, July 25, 1996, make the following correction:

§ 52.726 [Corrected]

On page 38590, in the first column, in § 52.726, the paragraph designation ''(j)'' should read ''(m)''.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Hygromycin B, Pyrantel Tartrate, and Tylosin

Correction

In the issue of Wednesday, April 2, 1997, on page 15751, in the correction of rule document 97–7541, in the second column, in the last paragraph, ''first column'' should read ''second column''.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

29 CFR Part 2570

RIN 1210–0056

Proposed Rule Relating to Adjustment of Civil Monetary Penalties

Correction

In proposed rule document 97–10078, beginning on page 19078 in the issue of Friday, April 18, 1997, make the following corrections:

1. On page 19079, in the first column, in the second paragraph, in the sixth line, ''Construction'' should read ''Constitution''.

2. On page 19079, in the first column, in the second paragraph, in the eleventh line ''cmpad@jpwba.dol.gov'' should read ''cmpadj@pwba.dol.gov''.

BILLING CODE 1505-01-D

DEPARTMENT OF STATE

[Public Notice 2527]

Privacy Act of 1974; Altered System of Records

Correction

In notice document 97–10002, beginning on page 19155 in the issue of Friday, April 18, 1997, make the following correction:

On page 19155, in the first column, in the 14th line from the bottom, ''STATE-22'' should read ''STATE-23''.

BILLING CODE 1505-01-D

federal register

Wednesday
April 30, 1997

Part II

Department of Justice

Federal Prison Industries, Inc.

28 CFR Part 345

Federal Prison Industries (FPI) Inmate Work Programs; Eligibility; Proposed Rule

DEPARTMENT OF JUSTICE

Federal Prison Industries, Inc.

28 CFR Part 345

[BOP–1062–P]

RIN 1120–AA57

Federal Prison Industries (FPI) Inmate Work Programs: Eligibility

AGENCY: Federal Prison Industries, Inc., Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to limit from consideration for Federal Prison Industries (FPI) work assignments pretrial inmates or any inmate currently under an order for deportation or removal. In addition, any pretrial inmate or inmate in an FPI work assignment currently under a deportation or removal order shall be removed immediately and shall be reassigned to a non-FPI work assignment for which the inmate is eligible. This amendment is intended to help ensure that FPI work assignments ordinarily will be allocated to sentenced inmates who will be returning to the community within, rather than outside, the United States upon release.

DATES: Comments due by June 30, 1997.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on Federal Prison Industries (FPI) inmate work assignments. A final rule on this subject was published in the **Federal Register** on March 27, 1995 (60 FR 15826) and was amended on November 20, 1996 (61 FR 59168).

Pursuant to statutory authority, it is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work (104 Stat. 4914). FPI is further required by statute to provide work assignments for inmates (18 U.S.C. 4122). These work assignments are designed to allow inmates the opportunity to acquire the knowledge, skills, and work habits which will be useful when released from the institution (see 28 CFR 345.10).

In order to ensure that sentenced inmates releasing in the United States will be afforded opportunities to work in FPI assignments, FPI is proposing to restrict from consideration for FPI assignment pretrial inmates and inmates currently under an order for deportation or removal, and to remove from an FPI assignment any pretrial inmate or inmate currently under a deportation or removal order. In keeping with the policy that convicted inmates shall work, any inmate so removed would be reassigned to a non-FPI work assignment for which the inmate is eligible. While a pretrial inmate is not required to work in any assignment other than housekeeping tasks in the inmate's own cell and in the community living area, the pretrial inmate may be eligible for an institutional assignment if the inmate signs a waiver of his or her right not to work (see 28 CFR 551.106).

Section 345.11 is therefore amended by adding a new paragraph (g) to reference the definition of ''pretrial inmate.'' Sections 345.35 and 345.42 are amended to incorporate the above mentioned assignment and dismissal procedures.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant impact on a substantial number of small entities. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 345

Inventions and patents, Prisoners, Scholarships and fellowships, Wages.

Kathleen M. Hawk,

Director, Bureau of Prisons, and Commissioner of Federal Prison Industries.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons and the Board of Directors, Federal Prison Industries in 28 CFR 0.96(p) and 0.99, part 345 in chapter III of 28 CFR is proposed to be amended as set forth below.

PART 345—FEDERAL PRISON INDUSTRIES (FPI) INMATE WORK PROGRAMS

1. The authority citation for 28 CFR part 345 continues to read as follows:

Authority: 18 U.S.C. 4126, 28 CFR 0.99, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

2. In § 345.11, paragraph (g) is added to read as follows:

§ 354.11 Definitions.

* * * * *

(g) *Pretrial inmate*—The definition of pretrial inmate in 28 CFR 551.101(a) is applicable to this part.

3. In § 345.35, paragraph (a) is revised to read as follows:

§ 345.35 Assignments to FPI.

(a) An inmate may be considered for assignment with FPI unless the inmate is a pretrial inmate or is currently under an order for deportation or removal. Any request by an inmate for consideration must be made through the unit team. FPI does not discriminate on the bases of race, color, religion, ethnic origin, age, or disability.

* * * * *

4. In § 345.42, paragraph (d) is added to read as follows:

§ 345.42 Inmate worker dismissal.

* * * * *

(d) Any inmate who is a pretrial inmate or who is currently under an order for deportation or removal shall be removed from any FPI work assignment and reassigned to a non-FPI work assignment for which the inmate is eligible.

[FR Doc. 97–11101 Filed 4–29–97; 8:45 am]

BILLING CODE 4410–05–P

federal register

Wednesday
April 30, 1997

Part III

Environmental Protection Agency

40 CFR Part 8

Environmental Impact Assessment of Nongovernmental Activities in Antarctica; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 8

[FRL–5818–8]

Environmental Impact Assessment of Nongovernmental Activities in Antarctica

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Public Law 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996 (the Act), amends the Antarctic Conservation Act of 1978, 16 U.S.C. 2401 *et seq.*, to implement the Protocol on Environmental Protection (the Protocol) to the Antarctic Treaty of 1959 (the Treaty). The Act directs the Environmental Protection Agency (EPA) to promulgate regulations that provide for assessment of the environmental impacts of nongovernmental activities in Antarctica and for coordination of the review of information regarding environmental impact assessments received from other Parties under the Protocol. This interim final rule establishes requirements for assessments and coordination. This interim final rule applies only to nongovernmental activities that may occur through the 1998–99 austral summer, and will be replaced by a final rule.

DATES: Effective date: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Montgomery or Ms. Katherine Biggs, Office of Federal Activities (2252A), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone: (202) 564–7157 or (202) 564–7144, respectively.

SUPPLEMENTARY INFORMATION: This preamble is organized according to the following outline:

I. Introduction
A. Statutory Background
B. Background of the Rulemaking
II. Description of Program and Interim Final Regulations
A. The Antarctic Treaty and Protocol
B. The Purpose of These Interim Final Regulations
C. Summary of the Protocol
D. Activities Covered by These Interim Final Regulations
1. Persons Required to Carry Out an EIA
2. Differences Between Governmental and Nongovernmental Activities
3. Appropriate Level of Environmental Documentation
4. Criteria for a CEE While this Interim Final Rule is in Effect
5. Measures to Assess and Verify Environmental Impacts
E. Incorporation of Information, Consolidation of Environmental Documentation, and Waiver or Modification of Deadlines
F. Submission of Environmental Documents
G. Prohibited Acts, Enforcement and Penalties
III. Coordination of Review of Information Received from Other Parties to the Treaty
IV. Executive Order Clearance
V. Regulatory Flexibility Act
VI. Unfunded Mandates Reform Act
VII. Paperwork Reduction Act
VIII. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
IX. Submission to Congress and the General Accounting Office

I. Introduction

A. Statutory Background

On October 2, 1996, the President signed into law the Antarctic Science, Tourism, and Conservation Act of 1996 (the Act). The purpose of the Act is to implement the provisions of the Protocol on Environmental Protection (the Protocol) to the Antarctic Treaty of 1959 (the Treaty). The Act provides that: ''The [Environmental Protection Agency] shall, within 2 years after the date of * * * enactment * * * promulgate regulations to provide for * * * the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under Paragraph 5 of Article VII of the Treaty * * * and * * * coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.'' Regulations must be ''consistent with Annex I to the Protocol.''

B. Background of the Rulemaking

These interim final regulations are necessary so that the United States (the U.S.) will have the ability to implement its obligations under the Protocol, as soon as the Protocol enters into force. The Protocol enters into force on the thirtieth day following the date of deposit of instruments of ratification, acceptance, approval or accession by all States which were Antarctic Treaty Consultative Parties at the date on which the Protocol was adopted. Only two such States (the Russian Federation and Japan) have yet to deposit their instruments of ratification. The United States deposited its instrument on April 17, 1997, with the knowledge that these interim final regulations would be issued contemporaneously.

It is important for the Protocol to enter into force as soon as possible, because it provides important environmental protections for Antarctica. The next meeting of the Antarctic Treaty Consultative Parties will occur in Christchurch, New Zealand, in May of 1997. A major international effort is underway to promote entry into force of this important instrument on or close to the date of this meeting. In order to promote that objective, and to prompt the remaining other States to take the necessary steps, the United States views depositing its instrument of ratification thirty days before the May meeting as a foreign policy priority. Since these interim final regulations are necessary to ensure that the United States is able to comply with its obligations under the Protocol, the implementing regulations must be in place contemporaneous with the U.S. deposit of its instrument of ratification.

Although the Act gives the Environmental Protection Agency (EPA) two years to promulgate regulations, the United States sought immediate ratification of the Protocol which, in turn, required EPA to have regulations in effect contemporaneous with ratification since the regulations provide nongovernmental operators with the specific requirements they must meet in order to comply with the Protocol. Accordingly, immediate promulgation of this interim final rule is necessary so that the United States could ratify the Protocol and implement its obligations under the Protocol as soon as the Protocol enters into force.

Because of the importance of facilitating the Protocol's prompt entry into force, EPA believes it has good cause under 5 U.S.C. 553(b)(B) to find that implementation of notice and comment procedures for the interim final rule would be contrary to the public interest and unnecessary. For these reasons, these interim final regulations are being issued without notice and an opportunity to comment. In addition, for the same reasons, under 5 U.S.C. 553(d)(3), these interim final regulations take effect on April 30, 1997.

A comment period would be contrary to the public interest because, as stated above, the resulting delay would have prevented U.S. ratification of the Protocol and thus could have delayed its entry into force. Implementing interim final regulations is the most significant step the United States can take to facilitate the ratification of the Protocol. It is important that the Protocol enter into force as soon as possible to meet the important foreign policy objectives described above. The

prompt entry of the Protocol into force will also secure as quickly as possible the significant environmental protections afforded by its provisions and annexes. Without the Protocol, there are no obligations for any countries, or their nationals, to undertake environmental impact assessments of proposed activities in Antarctica. Thus, it is in the U.S. and global public interest for EPA to issue interim final regulations thereby securing immediate U.S. ratification and promoting rapid entry into force of the Protocol.

Further, public comment on the requirements for environmental documentation, including procedures and content, in these interim final regulations would also be unnecessary because these interim final regulations incorporate the environmental documentation requirements of the Protocol, which was signed by the U.S. in 1991 and received the advice and consent of the Senate in 1996. Specifically, language from the Protocol has been incorporated into these interim final regulations regarding the content of initial environmental evaluation (IEE) and comprehensive environmental evaluation (CEE) documentation as required by the Protocol, and the timing requirements of these interim final regulations have been set out to meet those established by Annex I to the Protocol.

Finally, these interim final regulations are limited in time and effect. They apply only to nongovernmental activities to be conducted in Antarctica through the 1998–99 austral summer, the next two Antarctic seasons, and are intended to provide for a transition period over those two seasons. They are not intended to set a precedent for final regulations which the EPA will develop prior to the statutory deadline of October 2, 1998.

EPA plans extensive opportunities for public comment in the development of the final regulations mentioned above. The regulations will be proposed and promulgated in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553) which requires notice to the public, description of the substance of the proposed rule and an opportunity for public comment. Further, EPA will prepare an Environmental Impact Statement (EIS) which will consider the environmental impacts of the proposed rule and alternatives, and which will address the environmental and regulatory issues raised by interested agencies, organizations, groups and individuals. The public may participate in the initial scoping process for the EIS, which will include a scoping meeting to be scheduled in June 1997. Thus the public will have an opportunity to comment on the proposed regulation as well as the draft EIS (DEIS), including participation in a public meeting on both the DEIS and the proposed regulation to be scheduled in early 1998.

II. Description of Program and Interim Final Regulations

A. The Antarctic Treaty and Protocol

The Antarctic Treaty of 1959 entered into force in 1961 and guarantees freedom of scientific research in Antarctica, reserves Antarctica exclusively for peaceful purposes, establishes regular meetings of the Parties to the Treaty (Parties) to develop measures to implement the Treaty and to deal with issues which may arise, and freezes territorial claims. Currently 26 countries participate in decision-making under the Treaty as Consultative Parties. Seventeen other countries are Parties, but may not block decisions taken by consensus of the Consultative Parties.

As human activities in Antarctica intensified, concern grew regarding the effects of such activities on the Antarctic environment and the potential consequences of the development of mineral resources. In 1990, the U.S. Congress responded by passing the Antarctic Protection Act, which prohibited persons subject to U.S. jurisdiction from engaging in Antarctic mineral resource activities and called for the negotiation of an environmental protection agreement.

Over the years, the Antarctic Treaty Parties have adopted a variety of measures to protect the Antarctic environment. In 1991, the Parties adopted the Protocol on Environmental Protection which builds upon the Treaty by extending and strengthening Antarctic environmental protection. The Protocol designates Antarctica as a natural reserve dedicated to peace and science, and bans non-scientific mineral activities. The Protocol requires prior assessment of the possible environmental impacts of all activities to be carried out in Antarctica. It establishes the Committee for Environmental Protection (the Committee) to provide expert scientific and technical advice to the Parties on measures necessary to effectively implement the Protocol. The Protocol requires that draft CEEs for activities likely to have more than a minor or transitory impact on Antarctica and its dependent and associated ecosystems be provided to the Parties and to the Committee. Because legislation was needed in order for the United States to be able to implement its obligations under the Protocol, the Antarctic Science, Tourism, and Conservation Act of 1996 was enacted by Congress. The Act directs EPA to issue regulations implementing the requirements for environmental impact assessments of nongovernmental activities, including tourism, for which the U.S. is required to give advance notice under the Treaty.

B. The Purpose of These Interim Final Regulations

The purpose of these interim final regulations is to provide for the evaluation of the potential environmental impact for the 1997–98 and 1998–99 Antarctic seasons of those nongovernmental activities in Antarctica, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty and which are proposed to take place at any time through the 1998–99 austral summer. The Treaty requires notice of, *inter alia*, ''all expeditions to Antarctica organized in or proceeding from'' the United States. In addition, these interim final regulations provide for coordination of reviews of draft CEEs received from other Parties, in accordance with the Protocol, for activities to be carried out in Antarctica during these two seasons. The Act states that these regulations are to be consistent with Annex I to the Protocol.

Among other things, these interim final regulations specify the procedures that must be followed by any person or persons organizing a nongovernmental expedition to or within Antarctica ('operator' or 'operators') in evaluating the potential environmental impacts of their activities. These interim final regulations include the required considerations and elements relevant to environmental documentation of the evaluation, as well as procedures for submission of environmental documentation to allow the EPA to review whether the evaluation meets the obligations set forth herein and the requirements of Annex I of the Protocol.

Operators currently provide information to the National Science Foundation prior to each Antarctic season and this information is transmitted to the Department of State to meet U.S. obligations for notification pursuant to Article VII of the Treaty which requires advance notice of expeditions to and within Antarctica. This information is also part of the basic information requirements for preparation of environmental documentation, as addressed in § 8.4(a) of these interim final regulations. While

operators are required to include this information in environmental documentation, they may also continue to provide this information directly to the National Science Foundation.

C. Summary of the Protocol

This interim final rule implements Annex I to the Protocol, which describes procedures to be used in conducting environmental impact assessments of effects of activities in Antarctica. Article 8 of the Protocol provides that Parties to the Protocol ensure that the assessment procedures of Annex I are applied in planning processes leading to decisions about any activities, including nongovernmental activities, including tourism, to be undertaken in the Antarctic Treaty area for which advance notice is required under paragraph 5 of Article VII of the Treaty.

The procedures set forth in Annex I require that all proposed activities by operators be assessed, through one or more stages of assessment. If an activity will have an impact that is less than minor or transitory, only a preliminary environmental assessment must be submitted in accordance with these interim final regulations before the activity proceeds. For an activity that will have no more than a minor or transitory impact, an initial environmental evaluation (IEE) must be submitted in accordance with these interim final regulations before the activity proceeds. Finally, if it is determined (through an IEE or otherwise) that an activity is likely to have more than a minor or transitory impact, a comprehensive environmental evaluation (CEE) must be submitted in accordance with these interim final regulations before the activity proceeds.

An IEE describes an activity's purpose, location, duration and intensity, and considers alternatives and assesses impacts, including cumulative impacts, in light of existing and known proposed activities. A CEE is a detailed analysis that comprehensively evaluates the activity, its impacts, alternatives, mitigation and the like. A draft CEE must be provided to the Parties and the Committee at least 120 days before the next consultative meeting where the draft CEE may be addressed. No final decision shall be taken to proceed with any activity for which a CEE is prepared unless there has been an opportunity for consideration of the draft CEE at an Antarctic Treaty Consultative Meeting (ATCM) on the advice of the Committee (unless the decision to proceed with the activity has already been delayed more than 15 months since the date of circulation of the draft CEE). A final CEE must be circulated at least 60 days before commencement of the proposed activity. Any decision by the operator on whether a proposed activity should proceed in either its original or modified form must be based upon the final CEE as well as other relevant considerations, and procedures must be put in place for monitoring the impact of any activity that proceeds following completion of a CEE.

Evaluations need to address Annex I to the Protocol. The information contained in an evaluation should allow the operator to make decisions based on a sound understanding of factors relevant to the likely impact of the proposed activity. An evaluation should, as appropriate, contain sufficient information to allow assessments of, and informed judgements about, the likely impacts of proposed activities on the Antarctic environment and on the value of the Antarctic environment for the conduct of scientific research. Depending on the specific circumstances surrounding the proposed activities, various factors may be relevant for consideration in the environmental impact assessment process such as the scope, duration and intensity of the activity proposed in Antarctica, cumulative impacts, impacts on other activities in the Antarctic Treaty area, and capacity to assess and verify adverse environmental impacts. Operators may also find it appropriate to consider the availability of technology and procedures for environmentally safe operations and whether there exists the capacity to respond promptly and effectively to accidents with environmental effects.

D. Activities Covered by These Interim Final Regulations

1. Persons Required to Carry Out an EIA

The requirements of these interim final regulations apply to operators of nongovernmental expeditions organized in or proceeding from the territory of the United States to Antarctica. The term ''expedition'' is taken from paragraph 5 of Article VII of the Treaty and encompasses all actions or activities undertaken by a nongovernmental expedition while it is in Antarctica. These interim final regulations do not apply to individual U.S. citizens or groups of citizens planning to travel to Antarctica on an expedition for which they are not acting as an operator.

For a commercial tour, typical functions of an operator would include, for example, acting as the primary person or group of persons responsible for acquiring use of vessels or aircraft, hiring expedition staff, planning itineraries, and other organizational responsibilities. Non-commercial expeditions covered by these interim final regulations include trips by yachts, skiing or mountaineering expeditions, privately funded research expeditions, and other nongovernmental or nongovernment-sponsored activities.

These interim final regulations do not apply to U.S. citizens who participate in tours organized in and proceeding from countries other than the United States. As provided in the Protocol, the requirements do not apply to activities undertaken in the Antarctic Treaty area that are governed by the Convention on the Conservation of Antarctic Marine Living Resources or the Convention for the Conservation of Antarctic Seals. Persons traveling to Antarctica are subject to the requirements of the Marine Mammal Protection Act, 16 U.S.C. 1371 *et seq.*

2. Differences Between Governmental and Nongovernmental Activities

These interim final regulations do not apply to governmental activities. c.f. 45 CFR 641.10 through 641.22 (National Science Foundation regulations for assessing impacts of governmental activities in Antarctica). However, EPA believes that, to the extent practicable, similar procedures should generally be used for assessing both governmental and nongovernmental activities. Consistent with this, these interim final regulations generally establish procedures for assessing the impacts of nongovernmental activities in Antarctica similar to those used for governmental activities under the National Science Foundation regulations.

However, EPA also recognizes that it will not always be appropriate to apply identical standards and procedures for governmental and nongovernmental activities. Specifically, numerous mechanisms and processes exist to ensure public scrutiny and accountability of governmental activities. In some instances, no comparable mechanisms or processes exist for nongovernmental activities. Thus, these interim final regulations provide for direct federal review of each nongovernmental environmental impact assessment by giving EPA authority to review, in consultation with other interested federal agencies, nongovernmental environmental impact assessments for compliance with the requirements of Annex I to the Protocol and these interim final regulations.

To promote consistency regarding environmental documentation, EPA intends to consult with the National Science Foundation and other U.S. government agencies with appropriate

expertise in the course of reviewing the assessments of proposed nongovernmental activities in the Antarctic. Further, following the final response from the operator to EPA's initial comments, EPA will obtain the concurrence of the National Science Foundation in making any determination that the environmental documentation submitted by an operator fails to meet the requirements under Article 8 and Annex I to the Protocol and the provisions of these interim final regulations.

3. Appropriate Level of Environmental Documentation

(a) *Preliminary Environmental Review Memorandum (PERM).* These interim final regulations provide that an operator who asserts that an expedition will have less than a minor or transitory impact must provide a Preliminary Environmental Review Memorandum (PERM) to the EPA no later than 180 days before the proposed departure of the expedition to Antarctica. The timing requirement has been established to provide sufficient time for the operator to prepare an IEE if one is needed. The EPA, in consultation with other interested federal agencies, will review the PERM to determine if it is sufficient to demonstrate that the activity will have less than a minor or transitory impact or whether additional environmental documentation, i.e., an IEE or CEE, is required to meet the obligations of Annex I. The EPA will provide its comments to the operator within fifteen (15) days of receipt of the PERM, and the operator will have seventy-five (75) days to prepare a revised PERM or an IEE, if necessary. Following the final response from the operator, EPA may make a finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these interim final regulations. This finding will be made with the concurrence of the National Science Foundation. If EPA does not provide such notice within thirty (30) days, the operator will be deemed to have met the requirements of these interim final regulations.

If EPA recommends an IEE and one is prepared and submitted within the seventy-five (75) day response period, the schedule for review will follow the time frames set out for an IEE in these interim final regulations. (See: Section II.D.3(b), below.) Should EPA recommend a CEE, timing requirements applicable to CEEs may necessitate a delay in plans to initiate a proposed activity. Operators are encouraged to consult with EPA on options in this regard.

(b) *Initial Environmental Evaluation (IEE).* Article 2 of Annex I to the Protocol requires that unless it has been determined that an activity will have less than a minor or transitory impact, or unless a CEE is being prepared in accordance with Article 3 of Annex I, an IEE must be prepared. Among the items to be included in an IEE to document that an activity will have no more than a minor or transitory impact are the cumulative impacts of the proposed activity in light of existing and known proposed activities. Expeditions, by their nature, involve the transport of persons to Antarctica which will result in physical impacts, which may include, but not be limited to: air emissions, discharges to the ocean, noise from engines, landings for sight-seeing, and activities by visitors near wildlife. Accordingly, it is EPA's view that, at minimum, an IEE is the appropriate level of environmental documentation for proposed activities where multiples of the activity over time are likely and may create a cumulative impact, unless an existing IEE or CEE supports a finding that the type of activity proposed results in a less than minor or transitory cumulative impact. However, as noted below, it is also EPA's view that the types of nongovernmental activities that are currently being carried out will typically be unlikely to have impacts that are more than minor or transitory assuming that activities will be carried out in accordance with the guidelines set forth in the ATCM Recommendation XVIII–1, Tourism and non-Governmental Activities, the relevant provisions of other U.S. statutes, and Annexes II–V to the Protocol. In the event that a determination is made that a CEE is needed to meet the requirements of Annex I to the Protocol and the provisions of these interim final regulations, timing requirements applicable to CEEs may necessitate a delay in plans to initiate a proposed activity, and operators are encouraged to consult with EPA on options. The EPA will consider the question of the appropriate level of review in more detail in developing the final rule, utilizing the experience gained during the implementation of this interim final rule and public comments provided in the final rule-making process.

Any operator who wishes to make an expedition to Antarctica during the time period covered by these interim final regulations is required to provide an IEE to EPA no less than ninety (90) days prior to the proposed departure of the expedition to Antarctica unless: (1) A decision has been made to prepare a CEE, or (2) the operator has submitted a PERM and there has not been a finding within the time limits of these interim final regulations that the PERM fails to meet the requirements under Annex I to the Protocol and the provisions of these interim final regulations.

The EPA will provide its comments to the operator within thirty (30) days of receipt of the IEE, and the operator will have forty-five (45) days to prepare a revised IEE, if necessary. Following the final response from the operator, EPA may make a finding that the documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these interim final regulations. This finding will be made with the concurrence of the National Science Foundation. If such a notice is required, EPA will provide it within fifteen (15) days of receiving the final IEE from the operator or, if the operator does not provide a final IEE, within sixty (60) days following EPA's comments on the original IEE. If EPA does not provide notice within these time limits, the operator will be deemed to have met the requirements of these interim final regulations, provided that procedures, which may include appropriate monitoring, are carried out to assess and verify the impact of the activity.

If a CEE is required, the operator must adhere to the time limits applicable to such documentation. (See: Section II.D.3.(c), below.) In the event that a determination is made that a CEE is required, EPA, at the operator's request, will consult with the operator regarding possible changes in the proposed activity which would allow preparation of an IEE.

The EPA, upon receipt of an IEE, will electronically publish notice of its receipt on the Office of Federal Activities' World Wide Web Site: http://es.inel.gov/oeca/ofa/. The Department of State will circulate to the Parties and make publicly available a copy of an annual list of IEEs prepared by U.S. operators in accordance with Article 2 and any decisions taken in consequence thereof. Any IEE prepared in accordance with these interim final regulations shall be made available by the EPA on request.

(c) *Comprehensive Environmental Evaluation (CEE).* Article 3(4), of Annex I of the Protocol requires that draft CEEs be distributed to all Parties and the Committee 120 days in advance of the next Antarctic Treaty Consultative Meeting at which the CEE may be addressed. Since the next ATCM is now scheduled for May 19–30, 1997, CEEs prepared for nongovernmental activities

in the 1997–1998 season would have to have been distributed by January 1997, should the Protocol enter into force before or during the 1997–1998 season. Because it is now impossible for a CEE to be submitted for the 1997–1998 season as required by the Protocol, modifications to the proposed expedition which would eliminate any impacts that might require a CEE, and thereby allow for an IEE, would be necessary in order to comply with these interim final regulations and the Protocol. Operators who are anticipating activities for the 1997–1998 season which would require a CEE are encouraged to consult with the EPA as soon as possible.

For the 1998–1999 season, any operator who plans an activity which would require a CEE must submit a draft of the CEE to EPA by December 1, 1997. Within fifteen (15) days of receipt of the draft CEE, EPA will send it to the Department of State for transmittal as a draft CEE to other Parties in January 1998 and EPA will publish notice of receipt of the CEE in the **Federal Register** and will provide copies to any person upon request. The EPA will accept public comments on the CEE for a period of ninety (90) days following notice in the **Federal Register**. The EPA will make these public comments available to the operator.

The EPA, in consultation with other interested federal agencies, will review the CEE to determine if it meets the requirements under Annex I to the Protocol and the provisions of these interim final regulations and transmit its comments to the operator within 120 days following publication of notice of availability in the **Federal Register** to allow for the inclusion of any additional information in the CEE. The operator shall prepare a final CEE that addresses and includes or summarizes any comments on the draft CEE received from EPA, the public and the Parties, including comments offered at the XXII Antarctic Treaty Consultative Meeting in 1998. The final CEE shall be sent to EPA at least seventy-five (75) days before proposed departure. Following the final response from the operator, the EPA will inform the operator if EPA, with the concurrence of the National Science Foundation, makes the finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these interim final regulations. This notification will occur within fifteen (15) days of submittal of the final CEE if the CEE is submitted by the operator within the time limits set out in these interim final regulations. If no final CEE is submitted by the operator, or if the operator fails to meet these time limits, EPA will provide such notification sixty (60) days prior to departure of the expedition. If, after receipt of such notification, the operator proceeds with the expedition without fulfilling the requirements of these interim final regulations, the operator is subject to enforcement proceedings pursuant to Sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672. If EPA does not provide notice, the operator will be deemed to have met the requirements of these interim final regulations provided that procedures, which include appropriate monitoring, are carried out to assess and verify the impact of the activity. The EPA will transmit the final CEE to the Department of State which shall circulate it to all Parties no later than sixty (60) days before proposed departure of the expedition, along with a notice of any decisions by the operator relating thereto. The EPA will publish a notice of availability of the final CEE in the **Federal Register**.

Operators are encouraged to consult with the EPA as early as possible if there are questions as to whether a CEE will be required for a proposed expedition.

4. Criteria for a CEE While this Interim Final Rule is in Effect

Article 3 of Annex I to the Protocol requires a CEE when it is determined that an activity is likely to have more than a minor or transitory impact. While the need for a CEE will be evaluated for each activity on a case-by-case basis, it is EPA's view that the type of nongovernmental activities that are currently being carried out will typically be unlikely to have impacts that are more than minor or transitory.

However, the need for a CEE could be triggered by a proposed activity which represents a major departure from current nongovernmental activities, resulting in a large increase in adverse environmental impact at a site. Similarly, a CEE may be required if an activity is likely to give rise to particularly complex, cumulative, large-scale or irreversible effects, such as perturbations in unique and very sensitive biological systems. An example of an activity which might require a CEE would be the construction and operation of a new crushed rock airstrip or runway.

In evaluating whether a CEE is the appropriate level of environmental documentation, the EPA will consider the impact in terms of the context of the Antarctic environment and the intensity of the activity. The Antarctic environment is for the most part unspoiled, has intrinsic value, and is of great value to science and to humankind's overall understanding of the global environment. In addition, because of the location and uniqueness of the ecosystem, there would likely be great difficulty responding to environmental threats and mitigating damage to the Antarctic ecosystem. The EPA believes a comparable threshold should be applied in determining whether an activity may have an impact that is more than minor or transitory under these interim final regulations as is used in determining if the activity will have a 'significant' effect for purposes of the National Environmental Policy Act. C.f. 40 CFR 1508.27

5. Measures to Assess and Verify Environmental Impacts

The Protocol and these interim final regulations require an operator to employ procedures to assess and provide a regular and verifiable record of the actual impacts of any activity which proceeds on the basis of an IEE or CEE. The record developed through these measures shall be designed to: (a) Enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and (b) provide information useful for minimizing and mitigating those impacts, and, where appropriate, on the need for suspension, cancellation, or modification of the activity. Moreover, an operator must monitor key environmental indicators for an activity proceeding on the basis of a CEE. An operator may also need to carry out monitoring in order to assess and verify the impact of an activity for which an IEE has been prepared.

For activities requiring an IEE, an operator should be able to use procedures currently being voluntarily utilized by operators to provide the required information. For example, such information could include, as appropriate and to the best of the operator's knowledge: identification of the number of tourists put ashore at each site, the number and location of each landing site, the total number of tourists at each site per ship and for the season; number of times the site has been visited in the past; the number of times the site is expected to be visited in the forthcoming season; the times of the year that visits are expected to occur (e.g., before, during, or after the penguin breeding season); the number of visitors expected to be put ashore at the site at any one time and over the course of a particular visit; what visitors are expected to do while at the site;

verification that guidelines for tourists are followed; description of any tourist exceptions to the landing guidelines; and description of any activity requiring mitigation, the mitigative actions undertaken, and the actual or projected outcome of the mitigation.

These interim final regulations do not set out detailed monitoring procedures for activities requiring a CEE because the Parties are still working to identify monitoring approaches which can best support the Protocol's implementation. Thus, should an activity require a CEE, the operator should consult with EPA to: (a) Identify the monitoring regime appropriate to that activity, and (b) determine whether and how the operator might utilize relevant monitoring data collected by the U.S. Antarctic Program. The EPA will consult with the National Science Foundation and other interested federal agencies regarding this monitoring regime.

The EPA, in consultation with the National Science Foundation and other interested federal agencies, will review the results of the measures employed pursuant to these interim final regulations and may provide additional guidance in the final rule.

E. Incorporation of Information, Consolidation of Environmental Documentation, and Waiver or Modification of Deadlines

The EPA is strongly committed to minimizing unnecessary paperwork and to implementation of these interim final regulations such that undue burden is not placed on operators, particularly in view of the time requirements associated with environmental documentation requirements. Therefore, provided that documentation complies with all applicable provisions of Annex I to the Protocol and these interim final regulations, and, provided that the environmental documentation is appropriate in light of the specific circumstances of each operator's expedition or expeditions, the EPA will allow the following approaches to documentation: (1) Material may be incorporated by referring to it in the environmental document with its content briefly described when the cited material is reasonably available to the EPA; (2) more than one proposed expedition by an operator may be included within one environmental document and may, if appropriate, include a single discussion of components of the environmental analysis which are applicable to some or all of the proposed expeditions; and (3) one environmental document may also be used to address expeditions being carried out by more than one operator, provided that the environmental documentation includes the names of each operator for which the environmental documentation is being submitted pursuant to obligations under these interim final regulations. Further, the EPA may waive or modify the deadlines of these interim final regulations if the Protocol has not yet entered into force or where EPA determines an operator is acting in good faith and that circumstances outside the control of the operator created delays, provided that environmental documentation fully meets deadlines under the Protocol.

F. Submission of Environmental Documents

The operator shall submit five copies of its environmental documentation, along with an electronic copy in HTML format, if available, to the EPA by mail to: U.S. Environmental Protection Agency, Office of Federal Activities, EIS Filing—Mail Code 2252–A, 401 M Street SW, Washington, DC 20460.

Environmental documents may also be sent by special delivery (Federal Express, United Parcel Service, etc.) or hand-carried to: U.S. Environmental Protection Agency, Office of Federal Activities, EIS Filing—Mail Code 2252–A, Room 7241, Ariel Rios Building (South Oval Lobby), 1200 Pennsylvania Avenue, NW, Washington, DC 20044.

An operator who wishes to may notify and submit environmental documentation at an earlier date than required for this interim final rule. The EPA review process, including notification for public review and comment, will commence with the submittal of environmental documentation and will follow deadlines for response indicated in the appropriate sections of this interim final rule.

G. Prohibited Acts, Enforcement and Penalties

It shall be unlawful for any operator to violate these interim final regulations. An operator who violates any of these interim final regulations is subject to enforcement, which may include civil and criminal enforcement proceedings, and penalties, pursuant to Sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672.

III. Coordination of Review of Information Received from Other Parties to the Treaty

Article 6 of Annex I to the Protocol provides that the following information shall be circulated to the Parties, forwarded to the Committee for Environmental Protection, and made publicly available: (1) A description of national procedures for considering the environmental impacts of proposed activities; (2) an annual list of any IEEs and any decisions taken in consequence thereof; (3) significant information obtained and any action taken in consequence thereof with regard to monitoring from IEEs and CEEs; and (4) information in a final CEE. In addition, Article 6 requires that any IEE be made available on request, and Article 3 requires that draft CEEs be circulated to all Parties, who shall make them publicly available. A period of ninety (90) days is allowed for the receipt of comments. To implement these requirements of the Protocol, this interim final rule sets out the process for circulation of this information within the United States.

Upon receipt of a CEE from another Party, the Department of State shall publish notice of receipt in the **Federal Register** and shall circulate a copy of the CEE to all interested federal agencies. The Department of State shall coordinate responses from federal agencies to the CEE and shall transmit the coordinated response, if any, to the Party which has circulated the CEE. The Department of State shall make a copy of the CEE available upon request to the public. Members of the U.S. public should comment directly to the operator who has drafted the CEE and provide a copy to the EPA for its consideration.

Upon receipt of the annual list from another Party of IEEs prepared in accordance with Article 2 of Annex I and any decisions taken in consequence thereof, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of any list of IEEs from other Parties prepared in accordance with Article 2 and any decisions taken in consequence thereof available upon request to the public.

Upon receipt of a description of appropriate national procedures for environmental impact statements from another Party, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make such descriptions available upon request to the public.

Upon receipt from another Party of significant information obtained, and any action taken in consequence therefrom from procedures put in place with regard to monitoring pursuant to Articles 2(2) and 5 of Annex I to the Protocol, the Department of State shall circulate a copy to all interested federal agencies. Notification of receipt of significant information regarding

monitoring will be published electronically on the EPA Office of Federal Activities' World Wide Web Site at: http://es.inel.gov/oeca/ofa/. The Department of State shall make a copy of this information available upon request to the public.

Upon receipt of a final CEE from another Party, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy available upon request to the public.

IV. Executive Order Clearance

Under Executive Order 12866, [58 FR 51735 (October 4, 1993)] the EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

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

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this interim final rule is a ''significant regulatory action.'' Although none of the first three criteria apply, this interim final rule raises novel legal or policy issues arising out of legal mandates under P.L. 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996 and the Protocol on Environmental Protection to the Antarctic Treaty of 1959. Accordingly, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

V. Regulatory Flexibility Act

The EPA has determined that this interim final rule being issued today is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the interim final rule will have on a substantial number of small entities. By its terms, the RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. Today's interim final rule is not subject to notice and comment requirements under the APA or any other statute. The interim final rule is subject to the APA, but the EPA has invoked the ''good cause'' exemption under APA, 5 U.S.C. 553(b)(B), from the APA notice and comment requirements.

The EPA nonetheless believes that because this interim final rule only requires assessment of environmental impacts the effects on small businesses will be limited primarily to the cost of preparing such an analysis and that the requirements are no greater than necessary to ensure that the United States will be in compliance with its international obligations under the Protocol and the Treaty. Further, EPA has included a number of provisions, e.g., incorporation of information and consolidation of documentation, in this interim final rule which should minimize the cost of such an analysis.

VI. 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 their regulatory actions on State, local, and tribal governments and the private sector. The UMRA does not apply to this interim final rule because it is necessary for the ratification and implementation of international treaty obligations. Thus, today's interim final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In any event, EPA has determined that this interim final rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or for the private sector. The EPA has also determined that this interim final rule contains no regulatory requirements that might significantly or uniquely affect small governments under section 203 of the UMRA.

VII. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Under Section 1320.13 of this Act, EPA has requested OMB to authorize emergency processing. The OMB's approval was requested by April 17, 1997. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1808.01) and a copy may be obtained from Ms. Sandy Farmer, Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone: (202) 260–2740.

This emergency request for ICR approval along with the Interim Final Rule are necessary so that implementing regulations will be in place contemporaneously with the United States' ratification of the Protocol and in order to implement its obligations under the Protocol as soon as the Protocol enters into force. The Interim Final Rule provides nongovernmental operators with the specific environmental documentation requirements they must meet in order to comply with the Protocol.

Nongovernmental operators, including tour operators, conducting expeditions to Antarctica are required to submit environmental documentation to EPA that evaluates the potential environmental impact of their proposed activities. If EPA has no comments, or if the documentation is satisfactorily revised in response to EPA's comments, and the operator does not receive a notice from EPA that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of these interim final regulations, the operator will have no further obligations pursuant to the applicable requirements of these interim final regulations provided that any appropriate measures, which may include monitoring, are put in place to assess and verify the impact of the activity. The type of environmental document required depends upon the nature and intensity of the environmental impacts that could result from the activity under consideration. The interim final rule provides for incorporation of material into an environmental document by referring to it in the document when the effect will be to reduce paperwork. Further, an operator may include more than one proposed expedition within one environmental document and one environmental document may also be used to address expeditions being carried out by more than one operator further reducing burden. For the limited time the Interim Final Rule will be in effect, the EPA anticipates that operators will make one submittal per year for all of their expeditions for that year. No capital costs or operational and maintenance costs are anticipated to be incurred as a result of this ICR.

Frequency of Reporting: Once per year.

Affected Public: Businesses, other nongovernmental entities including for profit entities, and not for profit institutions.

Number of Respondents: 8.

Estimated Average Time Per Respondent: 120 Hours.

Total Annual Burden Hours: 960.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

VIII. Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The provisions of Executive Order 12898 do not apply to this regulatory action.

IX. 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 interim final 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 interim final rule in today's **Federal Register**. This interim final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 8

Environmental protection, Antarctica, Enforcement, Environmental documentation, Environmental impact assessment, Prohibited acts, Penalties.

Dated: April 23, 1997.

Carol M. Browner,

Administrator.

Therefore, for the reasons set out in the Preamble, Title 40 Chapter 1 of the Code of Federal Regulations is amended by adding a new Part 8 as follows:

PART 8—ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Sec.

8.1 Purpose.
8.2 Applicability and effect.
8.3 Definitions.
8.4 Preparation of environmental documents, generally.
8.5 Submission of environmental documents.
8.6 Preliminary environmental review.
8.7 Initial environmental evaluation.
8.8 Comprehensive environmental evaluation.
8.9 Measures to assess and verify environmental impacts.
8.10 Cases of emergency.
8.11 Prohibited acts, enforcement and penalties.
8.12 Coordination of reviews from other Parties.

Authority: 16 U.S.C. 2401 *et seq.*, as amended, 16 U.S.C. 2403a.

§ 8.1 Purpose.

(a) This part is issued pursuant to the Antarctic Science, Tourism, and Conservation Act of 1996. As provided in that Act, this part implements the requirements of Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty of 1959 and provides for:

(1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959; and

(2) coordination of the review of information regarding environmental impact assessment received by the United States from other Parties under the Protocol.

(b) The procedures in this part are designed to: Ensure that nongovernmental operators identify and assess the potential impacts of their proposed activities, including tourism, on the Antarctic environment; that operators consider these impacts in deciding whether or how to proceed with proposed activities; and that operators provide environmental documentation pursuant to the Act and Annex I of the Protocol. These procedures are consistent with and implement the environmental impact assessment provisions of Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty.

§ 8.2 Applicability and effect.

(a) This part is intended to ensure that potential environmental effects of nongovernmental activities undertaken in Antarctica are appropriately identified and considered by the operator during the planning process and that to the extent practicable, appropriate environmental safeguards which would mitigate or prevent adverse impacts on the Antarctic environment are identified by the operator.

(b) The requirements set forth in this part apply to nongovernmental activities for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959: All nongovernmental expeditions to and within Antarctica organized in or proceeding from its territory.

(c) This part does not apply to activities undertaken in the Antarctic Treaty area that are governed by the Convention on the Conservation of Antarctic Marine Living Resources or the Convention for the Conservation of Antarctic Seals. Persons traveling to Antarctica are subject to the requirements of the Marine Mammal Protection Act, 16 U.S.C. 1371 *et seq.*

(d) This part is effective on April 30, 1997. This part will expire upon the earlier of the end of the 1998–99 austral summer season or upon issuance of a final regulation.

§ 8.3 Definitions.

As used in this part:

Act means 16 U.S.C. 2401 *et seq.*, Public Law 104–227, the Antarctic Science, Tourism, and Conservation Act of 1996.

Annex I refers to Annex I, Environmental Impact Assessment, of the Protocol.

Antarctica means the Antarctic Treaty area; i.e., the area south of 60 degrees south latitude.

Antarctic environment means the natural and physical environment of Antarctica and its dependent and associated ecosystems, but excludes social, economic, and other environments.

Antarctic Treaty area means the area south of 60 degrees south latitude.

Antarctic Treaty Consultative Meeting (ATCM) means a meeting of the Parties to the Antarctic Treaty, held pursuant to Article IX(1) of the Treaty.

Comprehensive Environmental Evaluation (CEE) means a study of the reasonably foreseeable potential effects

of a proposed activity on the Antarctic environment, prepared in accordance with the provisions of this part and includes all comments received thereon. (See: 40 CFR 8.8.)

Environmental document or environmental documentation (Document) means a preliminary environmental review memorandum, an initial environmental evaluation, or a comprehensive environmental evaluation.

Environmental impact assessment (EIA) means the environmental review process required by the provisions of this part and by Annex I of the Protocol, and includes preparation by the operator and U.S. government review of an environmental document, and public access to and circulation of environmental documents to other Parties and the Committee on Environmental Protection as required by Annex I of the Protocol.

EPA means the Environmental Protection Agency.

Expedition means any activity undertaken by one or more nongovernmental persons organized within or proceeding from the United States to or within the Antarctic Treaty area for which advance notification is required under Paragraph 5 of Article VII of the Treaty.

Impact means impact on the Antarctic environment and dependent and associated ecosystems.

Initial Environmental Evaluation (IEE) means a study of the reasonably foreseeable potential effects of a proposed activity on the Antarctic environment prepared in accordance with 40 CFR 8.7.

Operator or operators means any person or persons organizing a nongovernmental expedition to or within Antarctica.

Person has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States except that the term does not include any department, agency, or other instrumentality of the Federal Government.

Preliminary environmental review means the environmental review described under that term in 40 CFR 8.6.

Preliminary Environmental Review Memorandum (PERM) means the documentation supporting the conclusion of the preliminary environmental review that the impact of a proposed activity will be less than minor or transitory on the Antarctic environment.

Protocol means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid, October 4, 1991, and all annexes thereto which are in force for the United States.

This part means 40 CFR part 8.

§ 8.4 Preparation of environmental documents, generally.

(a) *Basic information requirements.* In addition to the information required pursuant to other sections of this part, all environmental documents shall contain the following:

(1) The name, mailing address, and phone number of the operator;

(2) The anticipated date(s) of departure of each expedition to Antarctica;

(3) An estimate of the number of persons in each expedition;

(4) The means of conveyance of expedition(s) to and within Antarctica;

(5) Estimated length of stay of each expedition in Antarctica;

(6) Information on proposed landing sites in Antarctica; and

(7) Information concerning training of staff, supervision of expedition members, and what other measures, if any, that will be taken to avoid or minimize possible environmental impacts.

(b) *Preparation of an environmental document.* Unless an operator determines and documents that a proposed activity will have less than a minor or transitory impact on the Antarctic environment, the operator will prepare an IEE or CEE in accordance with this part. In making the determination what level of environmental documentation is appropriate, the operator should consider, as applicable, whether and to what degree the proposed activity:

(1) Has the potential to adversely affect the Antarctic environment;

(2) May adversely affect climate or weather patterns;

(3) May adversely affect air or water quality;

(4) May affect atmospheric, terrestrial (including aquatic), glacial, or marine environments;

(5) May detrimentally affect the distribution, abundance, or productivity of species, or populations of species of fauna and flora;

(6) May further jeopardize endangered or threatened species or populations of such species;

(7) May degrade, or pose substantial risk to, areas of biological, scientific, historic, aesthetic, or wilderness significance;

(8) Has highly uncertain environmental effects, or involves unique or unknown environmental risks; or

(9) Together with other activities, the effects of any one of which is individually insignificant, may have at least minor or transitory cumulative environmental effects.

(c) *Type of environmental document.* The type of environmental document required under this part depends upon the nature and intensity of the environmental impacts that could result from the activity under consideration. A PERM must be prepared by the operator to document the conclusion of the operator's preliminary environmental review that the impact of a proposed activity on the Antarctic environment will be less than minor or transitory. (See: 40 CFR 8.6.) An IEE must be prepared by the operator for proposed activities which may have at least (but no more than) a minor or transitory impact on the Antarctic environment. (See: 40 CFR 8.7.) A CEE must be prepared by the operator if an IEE indicates, or if it is otherwise determined, that a proposed activity is likely to have more than a minor or transitory impact on the Antarctic environment (See: 40 CFR 8.8.)

(d) *Incorporation of information and consolidation of environmental documentation* (1) An operator may incorporate material into an environmental document by referring to it in the document when the effect will be to reduce paperwork without impeding the review of the environmental document by EPA and other Federal agencies. The incorporated material shall be cited and its content briefly described. No material may be incorporated by referring to it in the document unless it is reasonably available to the EPA.

(2) Provided that environmental documentation complies with all applicable provisions of Annex I to the Protocol and this part and is appropriate in light of the specific circumstances of the operator's proposed expedition or expeditions, an operator may include more than one proposed expedition within one environmental document and one environmental document may also be used to address expeditions being carried out by more than one operator provided that the environmental document indicates the names of each operator for which the environmental documentation is being submitted pursuant to obligations under this part.

§ 8.5 Submission of environmental documents.

(a) An operator shall submit environmental documentation to the EPA for review. The EPA, in consultation with other interested federal agencies, will carry out a review to determine if the submitted

environmental documentation meets the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. The EPA will provide its comments, if any, on the environmental documentation to the operator and will consult with the operator regarding any suggested revisions. If EPA has no comments, or if the documentation is satisfactorily revised in response to EPA's comments, and the operator does not receive a notice from EPA that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part, the operator will have no further obligations pursuant to the applicable requirements of this part provided that any appropriate measures, which may include monitoring, are put in place to assess and verify the impact of the activity. Alternatively, following final response from the operator, the EPA, in consultation with other federal agencies and with the concurrence of the National Science Foundation, will inform the operator that EPA finds that the environmental documentation does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. If the operator then proceeds with the expedition without fulfilling the requirements of this part, the operator is subject to enforcement proceedings pursuant to sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR Part 672.

(b) The EPA may waive or modify deadlines pursuant to this part where EPA determines an operator is acting in good faith and that circumstances outside the control of the operator created delays, provided that the environmental documentation fully meets deadlines under the Protocol.

§ 8.6 Preliminary environmental review.

(a) Unless an operator has determined to prepare an IEE or CEE, the operator shall conduct a preliminary environmental review that assesses the potential direct and reasonably foreseeable indirect impacts on the Antarctic environment of the proposed expedition. A Preliminary Environmental Review Memorandum (PERM) shall contain sufficient detail to assess whether the proposed activity may have less than a minor or transitory impact, and shall be submitted to the EPA for review no less than 180 days before the proposed departure of the expedition. The EPA, in consultation with other interested federal agencies, will review the PERM to determine if it is sufficient to demonstrate that the activity will have less than a minor or transitory impact or whether additional environmental documentation, i.e., an IEE or CEE, is required to meet the obligations of Article 8 and Annex I of the Protocol. The EPA will provide its comments to the operator within fifteen (15) days of receipt of the PERM, and the operator shall have seventy-five (75) days to prepare a revised PERM or an IEE, if necessary. Following the final response from the operator, EPA may make a finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This finding will be made with the concurrence of the National Science Foundation. If EPA does not provide such notice within thirty (30) days, the operator will be deemed to have met the requirements of this part provided that any required procedures, which may include appropriate monitoring, are put in place to assess and verify the impact of the activity.

(b) If EPA recommends an IEE and one is prepared and submitted within the seventy-five (75) day response period, it will be reviewed under the time frames set out for an IEE in 40 CFR 8.7. If EPA recommends a CEE and one is prepared, it will be reviewed under the time frames set out for a CEE in 40 CFR 8.8.

§ 8.7 Initial environmental evaluation.

(a) *Submission of IEE to the EPA.* Unless a PERM has been submitted pursuant to 40 CFR 8.6 which meets the environmental documentation requirements under Article 8 and Annex I to the Protocol and the provisions of this part or a CEE is being prepared, an IEE shall be submitted by the operator to the EPA no fewer than ninety (90) days before the proposed departure of the expedition.

(b) *Contents.* An IEE shall contain sufficient detail to assess whether a proposed activity may have more than a minor or transitory impact on the Antarctic environment and shall include the following information:

(1) A description of the proposed activity, including its purpose, location, duration, and intensity; and

(2) Consideration of alternatives to the proposed activity and any impacts that the proposed activity may have on the Antarctic environment, including consideration of cumulative impacts in light of existing and known proposed activities.

(c) *Further environmental review.* (1) The EPA, in consultation with other interested federal agencies, will review an IEE to determine whether the IEE meets the requirements under Annex I to the Protocol and the provisions of this part. The EPA will provide its comments to the operator within thirty (30) days of receipt of the IEE, and the operator will have forty-five (45) days to prepare a revised IEE, if necessary. Following the final response from the operator, EPA may make a finding that the documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This finding will be made with the concurrence of the National Science Foundation. If such a notice is required, EPA will provide it within fifteen (15) days of receiving the final IEE from the operator or, if the operator does not provide a final IEE, within sixty (60) days following EPA's comments on the original IEE. If EPA does not provide notice within these time limits, the operator will be deemed to have met the requirements of this part provided that any required procedures, which may include appropriate monitoring, are put in place to assess and verify the impact of the activity.

(2) If a CEE is required, the operator must adhere to the time limits applicable to such documentation. (See: 40 CFR 8.8.) In this event EPA, at the operator's request, will consult with the operator regarding possible changes in the proposed activity which would allow preparation of an IEE.

§ 8.8 Comprehensive environmental evaluation.

(a) *Preparation of a CEE.* Unless a PERM or an IEE has been submitted and determined to meet the environmental documentation requirements of this part, the operator shall prepare a CEE. A CEE shall contain sufficient information to enable informed consideration of the reasonably foreseeable potential environmental effects of a proposed activity and possible alternatives to that proposed activity. A CEE shall include the following:

(1) A description of the proposed activity, including its purpose, location, duration and intensity, and possible alternatives to the activity, including the alternative of not proceeding, and the consequences of those alternatives;

(2) A description of the initial environmental reference state with which predicted changes are to be compared and a prediction of the future environmental reference state in the absence of the proposed activity;

(3) A description of the methods and data used to forecast the impacts of the proposed activity;

(4) Estimation of the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;

(5) A consideration of possible indirect or second order impacts from the proposed activity;

(6) A consideration of cumulative impacts of the proposed activity in light of existing activities and other known planned activities;

(7) Identification of measures, including monitoring programs, that could be taken to minimize or mitigate impacts of the proposed activity and to detect unforeseen impacts and that could provide early warning of any adverse effects of the activity as well as to deal promptly and effectively with accidents;

(8) Identification of unavoidable impacts of the proposed activity;

(9) Consideration of the effects of the proposed activity on the conduct of scientific research and on other existing uses and values;

(10) An identification of gaps in knowledge and uncertainties encountered in compiling the information required under this section;

(11) A non-technical summary of the information provided under this section; and

(12) The name and address of the person or organization which prepared the CEE and the address to which comments thereon should be directed.

(b) *Submission of Draft CEE to the EPA and Circulation to Other Parties.* (1) For the 1998–1999 season, any operator who plans a nongovernmental expedition which would require a CEE must submit a draft of the CEE by December 1, 1997. Within fifteen (15) days of receipt of the draft CEE, EPA will: send it to the Department of State which will circulate it to all Parties to the Protocol and forward it to the Committee for Environmental Protection established by the Protocol, and publish notice of receipt of the CEE and request for comments on the CEE in the **Federal Register**, and will provide copies to any person upon request. The EPA will accept public comments on the CEE for a period of ninety (90) days following notice in the **Federal Register**. The EPA, in consultation with other interested federal agencies, will evaluate the CEE to determine if the CEE meets the requirements under Article 8 and Annex I to the Protocol and the provisions of this part and will transmit its comments to the operator within 120 days following publication in the **Federal Register** of the notice of availability of the CEE.

(2) The operator shall send a final CEE to EPA at least seventy-five (75) days before commencement of the proposed activity in the Antarctic Treaty area. The CEE must include (or summarize) any comments on the draft CEE received from EPA, the public, and the Parties, including comments offered at the XXII Antarctic Treaty Consultative Meeting in 1998. Following the final response from the operator, the EPA will inform the operator if EPA, with the concurrence of the National Science Foundation, makes the finding that the environmental documentation submitted does not meet the requirements of Article 8 and Annex I of the Protocol and the provisions of this part. This notification will occur within fifteen (15) days of submittal of the final CEE by the operator if the final CEE is submitted by the operator within the time limits set out in this section. If no final CEE is submitted or the operator fails to meet these time limits, EPA will provide such notification sixty (60) days prior to departure of the expedition. If EPA does not provide such notice, the operator will be deemed to have met the requirements of this part provided that procedures, which include appropriate monitoring, are put in place to assess and verify the impact of the activity. The EPA will transmit the CEE, along with a notice of any decisions by the operator relating thereto, to the Department of State which shall circulate it to all Parties no later than sixty (60) days before commencement of the proposed activity in the Antarctic Treaty area. The EPA will also publish a notice of availability of the final CEE in the **Federal Register**.

(3) No final decision shall be taken to proceed with any activity for which a CEE is prepared unless there has been an opportunity for consideration of the draft CEE by the Antarctic Treaty Consultative Meeting on the advice of the Committee for Environmental Protection, provided that no expedition need be delayed through the operation of paragraph 5 of Article 3 to Annex I of the Protocol for longer than 15 months from the date of circulation of the draft CEE.

(c) *Decisions based on CEE.* The decision to proceed, based on environmental documentation that meets the requirements under Article 8 and Annex I to the Protocol and the provisions of this part, rests with the operator. Any decision by an operator on whether to proceed with or modify a proposed activity for which a CEE was required shall be based on the CEE and other relevant considerations.

§ 8.9 Measures to assess and verify environmental impacts.

(a) The operator shall conduct appropriate monitoring of key environmental indicators as proposed in the CEE to assess and verify the potential environmental impacts of activities which are the subject of a CEE. The operator may also need to carry out monitoring in order to assess and verify the impact of an activity for which an IEE has been prepared.

(b) All proposed activities for which an IEE or CEE has been prepared shall include procedures designed to provide a regular and verifiable record of the impacts of these activities, in order, *inter alia*, to:

(1) Enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and

(2) Provide information useful for minimizing and mitigating those impacts, and, where appropriate, information on the need for suspension, cancellation, or modification of the activity.

§ 8.10 Cases of emergency.

This part shall not apply to activities taken in cases of emergency relating to the safety of human life or of ships, aircraft, equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without completion of the procedures set out in this part. Notice of any such activities which would have otherwise required the preparation of a CEE shall be provided within fifteen (15) days to the Department of State, as provided below, for circulation to all Parties to the Protocol and to the Committee on Environmental Protection, and a full explanation of the activities carried out shall be provided within forty-five (45) days of those activities. Notification shall be provided to: The Director, The Office of Oceans Affairs, OES/OA, Room 5805, Department of State, 2201 C Street, NW, Washington, DC 20520–7818.

§ 8.11 Prohibited acts, enforcement and penalties.

(a) It shall be unlawful for any operator to violate this part.

(b) An operator who violates any of this part is subject to enforcement, which may include civil and criminal enforcement proceedings, and penalties, pursuant to sections 7, 8, and 9 of the Antarctic Conservation Act, as amended by the Act; 16 U.S.C. 2407, 2408, 2409, and 45 CFR part 672.

§ 8.12 Coordination of reviews from other Parties.

(a) Upon receipt of a draft CEE from another Party, the Department of State shall publish notice in the **Federal Register** and shall circulate a copy of the CEE to all interested federal agencies. The Department of State shall coordinate responses from federal

agencies to the CEE and shall transmit the coordinated response to the Party which has circulated the CEE. The Department of State shall make a copy of the CEE available upon request to the public.

(b) Upon receipt of the annual list of IEEs from another Party prepared in accordance with Article 2 of Annex I and any decisions taken in consequence thereof, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of the list of IEEs prepared in accordance with Article 2 and any decisions taken in consequence thereof available upon request to the public.

(c) Upon receipt of a description of appropriate national procedures for environmental impact statements from another Party, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of these descriptions available upon request to the public.

(d) Upon receipt from another Party of significant information obtained, and any action taken in consequence therefrom from procedures put in place with regard to monitoring pursuant to Articles 2(2) and 5 of Annex I to the Protocol, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy of this information available upon request to the public.

(e) Upon receipt from another Party of a final CEE, the Department of State shall circulate a copy to all interested federal agencies. The Department of State shall make a copy available upon request to the public.

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April 30, 1997

Part IV

Department of Housing and Urban Development

24 CFR Part 888

Fair Market Rents for the Section 8 Housing Assistance Payments Program, FY 1998; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4232–N–01]

Fair Market Rents for the Section 8 Housing Assistance Payments Program; Fiscal Year 1998

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Proposed Fiscal Year (FY) 1998 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use. Today's notice provides proposed FY 1998 FMRs for all areas.

DATES: Comments due date: June 30, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding HUD's estimates of the FMRs as published in this Notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' section. To ensure that the information is fully considered by all of the reviewers, each commenter is requested to submit two copies of its comments, one to the Rules Docket Clerk and the other to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Operations Division, Office of Rental Assistance, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Alan Fox, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0590, Extension 328 (e-mail: alan—fox@hud.gov.). Hearing-or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by FMRs established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Publication of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment and, after evaluating the public comments, publish the final FMRs (see 24 CFR 888.115). Schedule B of the proposed FY 1998 FMR schedules at the end of this document lists the FMR levels for Section 8 existing housing. Schedule D lists FMRs for the rental of manufactured home spaces in the Section 8 certificate program in areas where modifications based on public comments have been approved for FMRs greater than 30 percent of the 2-bedroom FMR.

Method Used To Develop FMRs

FMR Standard

FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

Data Sources

HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) The 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) The Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 99 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

State Minimum FMRs

In response to numerous public concerns that FMRs in rural area were too low to operate the program successfully, HUD implemented a minimum FMR policy starting with the FY 1996 FMRs. FMRs are now established at the higher of the local 40th percentile rent level or the Statewide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

FY 1998 FMRs

This document proposes revised FMRs that reflect estimated 40th percentile rent levels trended to April 1, 1998. FMRs have been calculated separately for each bedroom size

category. For areas whose FMRs are based on the State minimums, the rents for each bedroom size are the higher of the rent for the area or the Statewide average of nonmetropolitan counties for that bedroom size. For all other FMR areas, the bedroom intervals are based on data for the specific area. Exceptions have been made for some areas with local bedroom size rent intervals below an acceptable range. For those areas the intervals selected were the minimums determined after outliers had been excluded from the distribution of bedroom intervals for all metropolitan areas. Higher ratios continue to be used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units.

RDD Surveys

RDD surveys are used to obtain statistically-reliable FMR estimates for selected FMR areas. This survey technique involves drawing random samples of renter units occupied by recent movers. RDD surveys exclude public housing units, units built in the past two years, seasonal units, non-cash rental units, and those owned by relatives. A HUD analysis has shown that the slight downward RDD survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slight upward bias that results from surveying only units with telephones.

Approximately 8,000–12,000 telephone numbers need to be contacted to achieve the target survey sample level of 200 eligible recent mover responses. RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the estimates are within 5 percent of the actual value.

Today's notice proposes FMRs based on RDD surveys conducted in late-1996 and early-1997 for the following areas:

Proposed FMR Increase Above Normal Update Factor

1996 RDD:
San Jose, CA
1997 RDD:
Mobile, AL
Colorado Springs, CO
Peoria-Pekin, IL
Rockford, IL
Bloomington, IN
Saline County, KS
Flint, MI
Blue Earth County, MN
Rice County, MN
Steele County, MN
Waseca County, MN
Haywood County, NC
Henderson County, NC
Iredell County, NC
Transylvania County, NC
Wilmington, NC
Adams County, NE
Buffalo County, NE
Taos County, NM
Las Vegas, NV–AZ
Benton County, OR
Clatsop County, OR
Linn County, OR
Bradford County, PA
Chattanooga, TN–GA
Dallas, TX

Proposed FMR Decrease

1996 RDD:
New Haven-Meriden, CT
Des Moines, IA
Pittsfield, MA
Worcester, MA–CT
1997 RDD:
Bakersfield, CA
Los Angeles-Long Beach, CA
Stockton-Lodi, CA
Daytona Beach, FL
Fort Myers-Cape Coral, FL
Lakeland-Winter Haven, FL
Melbourne-Titusville-Palm Bay, FL
Brockton, MA
Lawrence, MA–NH
St Cloud, MN
Salem, OR
Harrisburg-Lebanon-Carlisle, PA
Spokane, WA
Tacoma, WA

Proposed FMR Increase by Normal Update Factor

1997 RDD:
Montgomery, AL
Visalia-Tulare-Porterville, CA
Orlando, FL
Knox County, IL
Ft Wayne, IN
Baton Rouge, LA
Baltimore, MD
Saginaw-Bay City-Midland, MI
Douglas County, MN
Otter Tail County, MN
Duluth-Superior, MN–WI
Merrimack County, NH
Manchester, NH
Canton-Massillon, OH
Tioga County, PA
Lancaster, PA
State College, PA
Beaumont-Port Arthur, TX
Fort Worth-Arlington, TX
Trempealeau County, WI
Madison, WI

AHS Areas

AHSs cover the largest metropolitan areas on a four-year cycle. The 40th percentile rents for these areas are calculated from the distributions of two-bedroom units occupied by recent movers. Public housing units, newly constructed units, and units that fail a housing quality test are excluded from the rental housing distributions before the FMRs are calculated. The proposed FY 1998 FMRs incorporate the results of the 1995 AHSs, as follows:

Proposed FMR Increase Above Normal Update Factor

Columbus, OH

Proposed FMR Decrease

Fort Lauderdale, FL
Miami, FL

Proposed FMR Increase by Normal Update Factor

Denver, CO
New Orleans, LA
Kansas City, MO-KS
Charlotte-Gastonia-Rock Hill, NC
Portland-Vancouver, OR-WA
Pittsburgh, PA
San Antonio, TX

FMR Area Definition Changes

In response to a recent comment, HUD has re-evaluated the definition of the Atlanta, GA FMR area and proposes to add Carroll, Pickens, and Walton Counties. These three counties, which previously had been excluded from the FMR area, are being added back because recent growth trends indicate that they are now part of the housing market area.

In addition, the Office of Management and Budget (OMB) has expanded the definition of the Jackson, TN MSA to include Chester County, TN, and HUD proposes to use the expanded definition as the FMR area.

OMB also has defined Jonesboro, AR (consisting of Craighead County) and Pocatello, ID (Bannock County) as new Metropolitan Statistical Areas. They will now be shown as metropolitan FMR areas within the respective State listings.

Manufactured Home Space FMRs

FMRs for the rental of manufactured home spaces are 30 percent of the applicable Section 8 existing housing program FMR for a two-bedroom unit. HUD accepts public comments requesting modifications of these FMRs where the 30 percent FMRs are thought to be inadequate. In order to be accepted as a basis for revising the FMRs, comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the entire FMR area. HUD uses the same FMR area definitions for manufactured home space rental in the Section 8 certificate

program as are used to develop the FMRs for Section 8 existing housing (Schedule B.) Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the Rental Certificate program FMRs.

FMRs for Federal Disaster Areas

Under the authority granted in 24 CFR part 899, the Secretary finds good cause to waive and hereby waives the regulatory requirements that govern requests for geographic area exception rents for areas that are declared disaster areas by the Federal Emergency Management Agency (FEMA). HUD is prepared to grant disaster-related exceptions up to 10 percent above the applicable FMRs in those areas. HUD field offices are authorized to approve such exceptions for: (1) Single-county FMR areas and for individual county parts of multi-county FMR areas that qualify as disaster areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; if (2) the PHA certifies that damage to the rental housing stock as a result of the disaster is so substantial that it has increased the prevailing rent levels in the affected area. Such exception rents must be requested in writing by the responsible PHAs. Exception rents approved by HUD during FY 1998 will remain in effect until superseded by the publication of the final FY 2000 FMRs.

Request for Comments

HUD seeks public comments on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the rental housing survey methodology used) to justify any proposed changes. Changes may be proposed in all or any one or more of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

HUD recommends use of professionally-conducted Random Digit Dialing (RDD) telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000-$12,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if actual two-bedroom rents are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resultant FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on the relationship of rents in the individual FMR area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that counties whose FMRs are based on the State minimum will not have their FMRs revised unless the grouped survey results show a revised FMR above the State minimum level.

PHAs that plan to use the RDD survey technique should obtain a copy of the appropriate survey guide. Larger PHAs should request HUD's survey guide entitled ''Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller PHAs should obtain a guide entitled ''Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.'' These guides are available from HUD USER on 1–800–245–2691, or from HUD's Worldwide Web site, in WordPerfect format, at the following address: http://www.huduser.org/data.html.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the survey guide intended for small PHAs along with the simplified RDD methodology. Other survey methodologies are acceptable as long as the surveys submitted provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock.

Local rental housing surveys conducted with alternative methods must include the following documentation:

—Identification of the 40th percentile gross rent (gross rent is rent including the cost of utilities) and the actual distribution (or distributions if more than one bedroom size is surveyed) of the surveyed units, rank-ordered by gross rent.

—An explanation of how the rental housing sample was drawn and a copy of the survey questionnaire, transmittal letter, and any publicity materials.

—An explanation of how the contract rents of the individual units surveyed were converted to gross rents. (For RDD-type surveys HUD requires use of the Section 8 utility allowance schedule.)

—An explanation of how the survey excluded units built within two years prior to the survey date.

—The date the rent data were collected so that HUD can apply a trending factor to update the estimate to the midpoint of the applicable fiscal year. If the survey has already been trended to this date, the date the survey was conducted and a description of the trending factor used.

—Copies of all survey sheets.

Since FMRs are based on standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, HUD will accept surveys of all rental units and apply appropriate adjustments.

Most surveys cover only one-and two-bedroom units, in which case HUD will make the adjustments for other size units consistent with the differentials established on the basis of the 1990 Census data for the FMR area. When three-and four-bedroom units are surveyed separately to determine FMRs for these unit size categories, the commenter should multiply the 40th percentile survey rents by 1.087 and by 1.077, respectively, to determine the FMRs. The use of these factors will produce the same upward adjustments in the rent differentials as those used in the HUD methodology.

Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.19(c)(d).

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C.

605(b)), hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

The General Counsel, as the Designated Official under Executive Order No. 12606, *The Family*, has determined that this Notice will not have a significant impact on family formation, maintenance, or well-being. The Notice amends Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, *Federalism*, has determined that this Notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will be codified in 24 CFR part 888, are amended as follows:

Dated: April 23, 1997.

Andrew Cuomo,

Secretary.

Fair Market Rents for the Section 8 Housing Assistance Payments Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. *Metropolitan Areas.*—FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition. The FMRs shown in Schedule B are determined for the same areas as the Office of Management and Budget's (OMB) most current definitions of metropolitan areas, with the exceptions discussed in paragraph b. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions.

b. *Exceptions to OMB Definitions.*—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Chicago, IL:
DeKalb, Grundy and Kendall Counties
Cincinnati-Hamilton, OH-KY-IN:
Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana
Dallas, TX:
Henderson County
Flagstaff, AZ-UT:
Kane County, UT
New Orleans, LA:
St. James Parish
Washington, DC:
Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia

c. *Non-Metropolitan Area FMRs.*—FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands, and the Pacific Islands.

d. *Virginia Independent Cities.*—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan county. The complete definitions of these areas including the independent cities are as follows:

Virginia Nonmetropolitan County FMR Area and Independent Cities Included

County	Cities
Alleghany	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery ..	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham ..	Harrisonburg.
Southhampton	Franklin.
Wise	Norton.

e. *FMRs for Manufactured Home Spaces.*—FMRs for Section 8 manufactured home spaces in the Section 8 certificate program are 30 percent of the two-bedroom Section 8 existing housing program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the Section 8 existing housing FMRs. The FMR area definitions used for the rental of manufactured home spaces in the Section 8 certificate program are the same as the area definitions used for Section 8 existing FMRs.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

BILLING CODE 4210–32–P

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	253	299	374	522	591	Calhoun
Birmingham, AL MSA	359	405	472	640	710	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	341	380	455	595	645	Russell
Decatur, AL MSA	335	339	428	553	661	Lawrence, Morgan
Dothan, AL MSA	304	311	386	532	539	Dale, Houston
Florence, AL MSA	284	327	421	525	588	Colbert, Lauderdale
Gadsden, AL MSA	253	309	357	463	570	Etowah
Huntsville, AL MSA	352	413	508	677	806	Limestone, Madison
Mobile, AL MSA	370	413	473	637	747	Baldwin, Mobile
Montgomery, AL MSA	385	412	486	662	797	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	332	356	473	650	688	Tuscaloosa

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	242	287	343	444	509
Bullock	242	287	343	444	509
Chambers	242	287	343	444	510
Chilton	250	287	343	444	509
Clarke	242	287	343	444	509
Cleburne	242	287	343	444	509
Conecuh	242	287	343	444	509
Covington	242	287	343	444	509
Cullman	242	287	343	455	553
Dekalb	242	287	343	444	509
Fayette	242	287	343	444	509
Geneva	242	287	343	444	509
Hale	242	287	343	444	509
Jackson	261	287	343	444	545
Lee	255	356	457	594	751
Macon	264	296	395	495	554
Marion	242	287	343	444	509
Monroe	242	287	343	444	509
Pickens	242	287	343	444	509
Randolph	242	287	343	444	509
Talladega	242	287	343	444	509
Walker	242	298	351	454	578
Wilcox	242	287	343	444	509

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bibb	242	287	343	462	554
Butler	242	287	343	444	509
Cherokee	242	287	343	444	509
Choctaw	242	287	343	444	509
Clay	242	287	343	444	509
Coffee	242	340	441	614	689
Coosa	242	287	343	444	509
Crenshaw	242	287	343	444	509
Dallas	242	287	343	444	509
Escambia	242	287	343	444	509
Franklin	242	287	343	444	509
Greene	242	287	343	444	509
Henry	242	287	343	444	509
Lamar	242	287	343	444	509
Lowndes	242	287	343	444	509
Marengo	242	287	343	444	509
Marshall	277	287	349	484	573
Perry	242	287	343	444	509
Pike	247	287	343	444	517
Sumter	242	287	343	444	509
Tallapoosa	243	287	343	444	509
Washington	242	287	343	444	509
Winston	242	287	343	444	509

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 2

A L A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	487	575	763	1061	1253	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	512	577	651	812	1064
Bethel	661	827	1047	1311	1467
Dillingham	638	649	864	1081	1210
Haines	476	590	672	914	941
Kenai Peninsula	433	552	665	924	1091
Kodiak Island	681	748	971	1215	1576
Matanuska-Susitna	457	619	697	946	1117
North Slope	764	783	967	1346	1568
Pr.Wales-Outer Ketchikan	357	568	653	906	958
Skagway-Yakutat-Angoon	437	445	576	721	809
Valdez-Cordova	535	655	727	929	1106
Wrangell-Petersburg	389	574	698	888	975
Aleutian West	439	496	556	698	781
Bristol Bay	531	612	688	957	1041
Fairbanks North Star	403	548	719	989	1166
Juneau	711	822	1046	1392	1447
Ketchikan Gateway	523	639	856	1192	1254
Lake & Peninsula	409	662	744	929	1042
Nome	673	833	935	1301	1468
Northwest Arctic	809	911	1022	1423	1678
Sitka	563	669	750	1044	1232
Southeast Fairbanks	449	470	568	710	797
Wade Hampton	382	576	649	811	909
Yukon-Koyukuk	510	575	648	810	938

A R I Z O N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	415	450	583	783	940	Coconino
Las Vegas, NV-AZ MSA	482	572	681	948	1119	Mohave
Phoenix-Mesa, AZ MSA	382	462	580	807	951	Maricopa, Pinal
Tucson, AZ MSA	359	430	572	796	939	Pima
Yuma, AZ MSA	359	415	553	768	774	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	355	373	474	619	735
Gila	355	373	474	619	735
Greenlee	355	373	474	619	735
Navajo	355	373	474	619	735
Yavapai	377	393	524	731	805
Cochise	355	373	474	619	735
Graham	355	373	474	619	735
La Paz	355	373	474	619	735
Santa Cruz	355	393	487	619	735

A R K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	301	378	497	672	696	Benton, Washington
Fort Smith, AR-OK MSA	298	302	397	531	557	Crawford, Sebastian
Jonesboro, AR MSA	305	331	390	538	568	Craighead
Little Rock-North Little Rock, AR MSA	371	411	489	676	789	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	340	395	465	646	679	Crittenden

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	283	336	442	558	725	Jefferson
Texarkana, TX-Texarkana, AR MSA	302	369	450	594	630	Miller

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Arkansas	257	278	356	487	528
Baxter	234	298	396	509	620
Bradley	234	278	356	472	528
Carroll	275	301	356	472	564
Clark	257	278	361	472	570
Cleburne	265	278	356	472	535
Columbia	234	278	356	472	528
Cross	243	308	356	479	565
Desha	234	278	356	472	528
Franklin	245	278	356	472	528
Garland	234	298	399	557	657
Greene	251	278	356	472	528
Hot Spring	234	278	356	472	528
Independence	246	285	356	472	528
Jackson	242	278	356	472	528
Lafayette	245	278	356	472	528
Lee	258	278	356	472	528
Little River	234	278	362	502	592
Madison	267	278	362	472	528
Mississippi	266	289	387	510	572
Montgomery	234	278	356	472	528
Newton	234	278	356	472	528
Perry	234	278	356	472	528
Pike	234	278	356	472	528
Polk	234	278	356	472	528
Prairie	234	278	356	472	528
St. Francis	234	284	356	482	567
Searcy	234	278	356	472	528
Sharp	234	278	356	472	528
Union	293	310	372	499	611
White	234	278	356	488	528
Yell	243	278	356	472	528

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashley	234	278	356	472	559
Boone	277	282	374	521	615
Calhoun	234	278	356	472	528
Chicot	234	278	356	472	528
Clay	234	278	356	472	528
Cleveland	234	278	356	472	528
Conway	234	289	387	483	542
Dallas	234	278	356	472	528
Drew	234	303	405	560	569
Fulton	242	278	356	472	528
Grant	243	289	356	472	533
Hempstead	234	278	356	472	528
Howard	234	278	356	472	528
Izard	234	278	356	472	528
Johnson	234	278	356	472	528
Lawrence	234	278	356	472	528
Lincoln	253	278	362	484	528
Logan	245	278	356	472	528
Marion	234	278	356	472	528
Monroe	238	278	356	472	528
Nevada	234	278	356	488	528
Ouachita	273	278	356	491	580
Phillips	234	278	356	472	528
Poinsett	234	278	356	472	528
Pope	234	306	387	537	619
Randolph	234	278	356	472	528
Scott	234	278	356	472	528
Sevier	256	278	356	472	528
Stone	234	278	356	472	528
Van Buren	234	278	356	472	583
Woodruff	234	278	356	472	528

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	354	398	499	693	767	Kern
Chico-Paradise, CA MSA	324	416	554	759	908	Butte
Fresno, CA MSA	399	447	533	741	855	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	486	583	737	995	1187	Los Angeles
Merced, CA MSA	386	435	528	730	862	Merced
Modesto, CA MSA	427	460	562	783	922	Stanislaus
Oakland, CA PMSA	535	647	812	1113	1330	Alameda, Contra Costa
Orange County, CA PMSA	618	675	835	1161	1293	Orange
Redding, CA MSA	367	408	510	709	835	Shasta
Riverside-San Bernardino, CA PMSA	432	481	587	816	964	Riverside, San Bernardino
Sacramento, CA PMSA	459	518	648	899	1059	El Dorado, Placer, Sacramento
Salinas, CA MSA	520	608	733	1020	1070	Monterey
San Diego, CA MSA	483	552	691	960	1133	San Diego
San Francisco, CA PMSA	603	781	987	1354	1432	Marin, San Francisco, San Mateo
San Jose, CA PMSA	700	799	987	1353	1519	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA	498	563	714	991	1171	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	605	672	852	1186	1338	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	619	737	985	1369	1604	Santa Cruz
Santa Rosa, CA PMSA	532	604	782	1088	1284	Sonoma
Stockton-Lodi, CA MSA	394	446	572	796	939	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	512	582	711	986	1165	Napa, Solano
Ventura, CA PMSA	537	617	781	1039	1209	Ventura
Visalia-Tulare-Porterville, CA MSA	359	381	497	693	792	Tulare
Yolo, CA PMSA	462	527	652	904	1069	Yolo
Yuba City, CA MSA	319	372	479	668	772	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	301	451	510	709	764
Calaveras	364	421	561	780	920
Del Norte	308	422	561	781	922
Humboldt	310	430	564	786	930
Inyo	311	421	540	708	764
Lake	339	431	575	725	943
Mariposa	325	413	531	696	821
Modoc	329	368	474	661	764
Nevada	377	515	686	954	1105
San Benito	451	531	665	927	1085
Siskiyou	315	368	474	661	764
Trinity	338	368	474	661	764

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	415	457	611	850	947
Colusa	329	368	474	661	764
Glenn	301	368	474	661	764
Imperial	340	425	523	729	764
Kings	349	405	506	704	830
Lassen	368	373	485	661	764
Mendocino	416	501	616	857	863
Mono	459	551	732	1018	1203
Plumas	332	368	474	661	764
Sierra	301	403	497	690	815
Tehama	314	368	474	661	764
Tuolumne	333	454	606	843	994

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	478	573	734	1023	1206	Boulder
Colorado Springs, CO MSA	424	455	607	845	998	El Paso
Denver, CO PMSA	401	478	637	884	1043	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	419	517	639	887	1048	Larimer
Grand Junction, CO MSA	386	400	501	675	803	Mesa
Greeley, CO PMSA	401	443	558	774	916	Weld
Pueblo, CO MSA	406	421	526	708	844	Pueblo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alamosa	374	388	485	654	779
Baca	374	388	485	654	779
Chaffee	374	388	485	654	779
Clear Creek	374	436	494	687	810
Costilla	374	388	485	654	779
Custer	374	388	485	654	779
Dolores	374	388	485	654	779
Elbert	413	458	523	654	858
Garfield	434	466	588	734	962
Grand	444	448	568	711	860
Hinsdale	374	395	485	654	779
Jackson	374	388	485	654	779
Kit Carson	374	388	485	654	779
La Plata	489	540	713	992	1170
Lincoln	374	388	485	654	779
Mineral	374	388	485	654	779
Montezuma	374	388	485	654	779
Morgan	374	388	485	654	779
Ouray	374	388	491	654	794
Phillips	374	388	485	654	779
Prowers	374	388	485	654	779
Rio Grande	374	388	485	654	779
Saguache	374	388	485	654	779
San Miguel	688	994	1092	1365	1761
Summit	482	577	739	1029	1267
Washington	374	388	485	654	779

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Archuleta	447	490	579	781	929
Bent	374	388	485	654	779
Cheyenne	374	388	485	654	779
Conejos	374	388	485	654	779
Crowley	374	388	485	654	779
Delta	374	388	485	654	779
Eagle	503	548	731	1018	1199
Fremont	374	388	485	654	779
Gilpin	374	497	631	834	922
Gunnison	374	388	485	654	779
Huerfano	374	388	485	654	779
Kiowa	374	388	485	654	779
Lake	374	388	485	654	779
Las Animas	374	399	485	654	779
Logan	374	388	485	654	779
Moffat	374	388	485	654	779
Montrose	374	388	491	680	802
Otero	374	388	485	654	779
Park	374	414	539	748	851
Pitkin	561	768	1023	1349	1533
Rio Blanco	374	388	485	654	779
Routt	374	452	598	830	978
San Juan	374	388	485	654	779
Sedgwick	374	388	485	654	779
Teller	374	443	591	821	828
Yuma	374	388	485	654	779

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	468	609	734	917	1144	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	586	702	876	1156	1332	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT PMSA	430	535	684	858	1042	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	500	614	760	973	1127	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	486	587	715	895	1023	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	749	877	1070	1434	1584	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT MSA	425	575	711	888	994	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT	403	488	610	761	853	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	356	575	649	902	1063	Hartland town
Litchfield	413	563	751	938	1067	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	613	694	927	1288	1519	Chester town, Deep River town, Essex town Westbrook town
New London	519	635	721	932	1182	Lyme town, Voluntown town
Tolland	356	576	649	902	908	Union town
Windham	409	501	649	812	1020	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	477	529	602	781	888	Kent
Wilmington-Newark, DE-MD PMSA	425	562	654	889	1073	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	421	447	571	750	800

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	609	692	812	1106	1333	District of Columbia

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 8

F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	380	444	569	755	801	Flagler, Volusia
Fort Lauderdale, FL PMSA	470	553	684	952	1121	Broward
Fort Myers-Cape Coral, FL MSA	408	470	567	791	826	Lee
Fort Pierce-Port Lucie, FL MSA	453	497	644	838	903	Martin, St. Lucie
Fort Walton Beach, FL MSA	396	432	490	665	784	Okaloosa
Gainesville, FL MSA	396	432	526	720	850	Alachua
Jacksonville, FL MSA	414	463	558	738	820	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	380	416	470	583	636	Polk
Melbourne-Titusville-Palm Bay, FL MSA	380	443	555	743	866	Brevard
Miami, FL PMSA	440	552	688	946	1096	Dade
Naples, FL MSA	424	597	718	998	1113	Collier
Ocala, FL MSA	396	432	490	644	756	Marion
Orlando, FL MSA	491	558	665	874	1066	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	396	432	490	626	671	Bay
Pensacola, FL MSA	396	432	490	656	774	Escambia, Santa Rosa
Punta Gorda, FL MSA	396	454	604	839	990	Charlotte
Sarasota-Bradenton, FL MSA	397	504	641	825	897	Manatee, Sarasota
Tallahassee, FL MSA	405	448	591	773	931	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	386	460	569	757	917	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	485	567	701	932	1152	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	380	416	470	583	634
Calhoun	380	416	470	583	634
Columbia	380	416	470	583	634
Dixie	380	416	470	583	634
Gilchrist	380	416	470	583	634
Gulf	380	416	470	583	634
Hardee	380	416	470	583	634
Highlands	380	416	470	585	654
Indian River	380	475	611	764	855
Jefferson	380	416	470	583	634
Levy	380	416	470	583	634
Madison	380	416	470	583	634
Okeechobee	380	416	470	583	640
Sumter	380	416	470	583	634
Taylor	380	416	470	583	635
Wakulla	380	416	470	583	634
Washington	380	416	470	583	634

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	380	416	470	583	634
Citrus	380	416	470	583	634
Desoto	380	416	470	583	634
Franklin	380	416	470	583	634
Glades	380	416	470	583	634
Hamilton	380	416	470	583	634
Hendry	380	416	484	607	680
Holmes	380	416	470	583	634
Jackson	380	416	470	583	634
Lafayette	380	416	470	583	634
Liberty	380	416	470	583	634
Monroe	544	614	789	1087	1293
Putnam	380	416	470	583	634
Suwannee	380	416	470	583	634
Union	380	416	470	583	634
Walton	380	416	470	605	756

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	295	346	423	577	624	Dougherty, Lee
Athens, GA MSA	364	392	507	692	834	Clarke, Madison, Oconee
Atlanta, GA MSA	512	570	665	885	1072	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA	350	419	493	670	792	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	357	417	500	646	737	Catoosa, Dade, Walker
Columbus, GA-AL MSA	341	380	455	595	645	Chattahoochee, Harris, Muscogee
Macon, GA MSA	382	426	494	682	701	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA	356	441	514	693	721	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	276	333	407	527	599
Bacon	276	333	407	527	599
Baldwin	276	353	431	552	603
Ben Hill	276	333	407	527	607
Bleckley	276	333	407	527	599
Brooks	276	333	407	527	599
Burke	276	333	407	527	599
Calhoun	276	333	407	527	599
Candler	276	333	407	527	599
Chattooga	276	333	407	527	599
Clinch	276	333	407	527	599
Colquitt	276	333	407	527	599
Crawford	276	333	407	527	599
Dawson	276	359	478	598	737
Dodge	276	333	407	527	599
Early	276	333	407	527	599
Elbert	276	333	407	527	599
Evans	276	333	407	527	599
Floyd	276	333	408	538	599
Gilmer	276	333	407	527	599
Glynn	385	431	488	655	803
Grady	281	333	407	527	599
Habersham	296	333	407	527	604
Hancock	276	333	407	527	599
Hart	276	333	407	527	599
Irwin	276	333	407	527	599
Jasper	276	333	412	559	599
Jefferson	276	333	407	527	607

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atkinson	276	333	407	527	599
Baker	276	333	407	527	599
Banks	276	333	407	527	599
Berrien	276	333	407	527	599
Brantley	276	333	407	527	599
Bulloch	333	338	434	559	710
Butts	276	365	485	649	680
Camden	386	437	489	680	804
Charlton	276	333	407	527	599
Clay	276	333	407	527	599
Coffee	276	333	407	527	607
Cook	276	333	407	527	599
Crisp	279	333	407	527	599
Decatur	276	333	407	527	599
Dooly	276	333	407	527	599
Echols	276	333	407	527	599
Emanuel	276	333	407	527	599
Fannin	276	333	407	527	599
Franklin	276	333	407	527	599
Glascock	276	333	407	527	599
Gordon	328	333	415	535	683
Greene	276	333	407	527	599
Hall	292	444	522	654	730
Haralson	276	333	407	527	599
Heard	276	333	407	527	599
Jackson	307	333	418	527	687
Jeff Davis	276	333	407	527	599
Jenkins	276	333	407	527	599

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 10

G E O R G I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Johnson	276	333	407	527	599
Lanier	276	333	407	527	599
Liberty	344	383	436	606	611
Long	276	359	407	527	599
Lumpkin	276	372	419	560	687
Macon	276	333	407	527	599
Meriwether	276	333	407	527	599
Mitchell	276	333	407	527	599
Montgomery	276	333	407	527	599
Murray	276	333	407	527	599
Pierce	276	333	407	527	599
Polk	276	333	407	550	599
Putnam	276	333	407	527	607
Rabun	276	333	407	527	599
Schley	276	333	407	527	599
Seminole	276	333	407	527	599
Stewart	276	333	407	527	599
Talbot	276	333	407	527	599
Tattnall	276	333	407	527	599
Telfair	276	333	407	527	599
Thomas	276	343	407	527	599
Toombs	276	333	407	527	599
Treutlen	276	333	407	527	599
Turner	276	333	407	527	599
Upson	285	333	407	527	599
Warren	276	333	407	527	599
Wayne	285	333	407	527	599
Wheeler	276	333	407	527	599
Whitfield	276	362	436	557	657
Wilkes	276	333	407	527	599
Worth	276	333	407	527	599

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Lamar	276	342	407	527	645
Laurens	282	333	407	527	599
Lincoln	276	333	407	527	599
Lowndes	309	374	452	635	702
Mcintosh	276	333	407	527	599
Marion	276	333	407	527	599
Miller	276	333	407	527	599
Monroe	276	333	407	536	599
Morgan	276	333	422	527	599
Oglethorpe	276	333	407	527	599
Pike	321	348	440	613	617
Pulaski	276	333	407	527	599
Quitman	276	333	407	527	599
Randolph	276	333	407	527	599
Screven	276	333	407	527	599
Stephens	276	333	407	527	599
Sumter	276	338	407	527	599
Taliaferro	276	333	407	527	599
Taylor	276	333	407	527	599
Terrell	276	333	407	527	599
Tift	276	333	407	527	599
Towns	276	333	407	527	599
Troup	276	376	424	529	599
Union	276	333	425	532	599
Ware	305	343	407	527	633
Washington	276	333	407	527	599
Webster	276	333	407	527	599
White	276	333	407	527	613
Wilcox	276	333	407	527	599
Wilkinson	276	333	407	527	599

H A W A I I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	700	838	986	1333	1442	Honolulu

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 11

H A W A I I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	470	613	704	936	1153
Maui	759	941	1148	1483	1679
Kauai	600	897	1092	1444	1562

I D A H O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	384	439	532	739	874	Ada, Canyon
Pocatello, ID MSA	275	319	411	560	661	Bannock

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	275	319	411	544	644
Benewah	275	319	411	544	644
Blaine	425	467	623	869	1023
Bonner	316	391	484	671	772
Boundary	275	319	411	544	644
Camas	275	319	411	544	644
Cassia	275	319	411	544	644
Clearwater	275	319	411	544	644
Elmore	275	319	411	544	644
Fremont	275	319	411	544	644
Gooding	275	319	411	544	644
Jefferson	283	319	411	544	644
Kootenai	349	411	538	748	884
Lemhi	275	319	411	544	644
Lincoln	275	319	411	544	644
Minidoka	275	319	411	544	644
Oneida	276	319	411	544	644
Payette	275	319	411	544	644
Shoshone	275	319	411	544	644
Twin Falls	275	319	416	548	644
Washington	275	319	411	544	644
Bear Lake	275	319	411	544	644
Bingham	292	319	411	544	644
Boise	275	354	411	544	644
Bonneville	280	352	484	651	794
Butte	275	319	411	544	644
Caribou	275	319	411	544	644
Clark	275	319	411	544	644
Custer	275	319	411	544	644
Franklin	275	319	411	544	644
Gem	275	319	411	544	644
Idaho	275	319	411	544	644
Jerome	275	319	411	544	644
Latah	275	319	411	544	653
Lewis	275	319	411	544	644
Madison	275	319	411	544	644
Nez Perce	280	319	411	544	644
Owyhee	275	319	411	544	644
Power	275	319	411	544	644
Teton	299	319	411	556	658
Valley	286	319	411	544	644

I L L I N O I S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	331	404	541	751	793	Mclean
Champaign-Urbana, IL MSA	339	416	538	738	884	Champaign
Chicago, IL	529	635	756	946	1058	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	275	379	469	607	657	Henry, Rock Island

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 12

I L L I N O I S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Decatur, IL MSA	263	341	439	593	615	Macon
De Kalb County, IL	409	477	604	839	973	Dekalb
Grundy County, IL	358	413	549	725	771	Grundy
Kankakee, IL PMSA	325	393	525	670	735	Kankakee
Kendall County, Il	494	563	679	945	950	Kendall
Peoria-Pekin, IL MSA	367	405	543	722	887	Peoria, Tazewell, Woodford
Rockford, IL MSA	352	451	549	691	805	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	310	378	491	638	706	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	304	376	501	667	759	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	255	286	368	483	586	Alexander	255	286	368	483	542
Bond	255	286	368	483	542	Brown	255	286	368	483	542
Bureau	255	321	377	483	542	Calhoun	255	286	368	483	542
Carroll	255	286	368	483	542	Cass	256	286	368	483	542
Christian	274	286	370	485	542	Clark	255	286	368	483	542
Clay	255	286	368	483	542	Coles	269	320	426	565	669
Crawford	255	286	368	483	542	Cumberland	255	286	368	483	542
De Witt	259	286	368	487	542	Douglas	272	286	368	483	542
Edgar	255	286	368	483	542	Edwards	255	286	368	483	542
Effingham	255	295	368	483	542	Fayette	255	286	368	483	542
Ford	242	340	442	567	620	Franklin	255	286	368	483	542
Fulton	255	286	368	483	542	Gallatin	255	286	368	483	542
Greene	255	286	368	483	542	Hamilton	255	287	368	483	542
Hancock	255	286	368	483	542	Hardin	255	286	368	483	542
Henderson	255	286	368	483	542	Iroquois	255	286	368	483	542
Jackson	309	310	391	555	621	Jasper	255	288	368	483	542
Jefferson	256	300	375	511	542	Jo Daviess	282	305	368	483	542
Johnson	255	286	368	483	542	Knox	255	286	368	483	559
La Salle	255	298	398	538	603	Lawrence	255	286	368	483	542
Lee	284	292	390	488	548	Livingston	255	314	419	540	589
Logan	285	303	403	505	633	Mcdonough	255	291	368	483	580
Macoupin	255	286	368	483	542	Marion	260	286	368	483	542
Marshall	255	286	368	483	542	Mason	255	286	368	483	549
Massac	256	286	368	483	542	Mercer	255	286	368	483	542
Montgomery	255	286	368	483	542	Morgan	255	322	429	571	602
Moultrie	255	286	368	496	542	Perry	256	286	368	483	542
Piatt	255	310	402	549	563	Pike	255	286	368	483	542
Pope	255	286	368	483	542	Pulaski	255	286	368	483	542
Putnam	255	286	368	483	542	Randolph	255	286	368	483	542

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Richland	255	286	368	483	542
Schuyler	255	286	368	483	542
Shelby	255	286	368	483	542
Stephenson	269	308	389	487	546
Vermilion	255	324	405	507	567
Warren	269	286	368	483	542
Wayne	255	286	368	483	542
Whiteside	269	306	407	510	574

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Saline	255	286	368	483	542
Scott	255	286	368	483	542
Stark	255	286	368	483	542
Union	255	286	368	483	542
Wabash	255	286	368	483	572
Washington	255	305	406	509	661
White	255	286	368	483	542
Williamson	255	286	370	514	542

I N D I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	360	466	620	861	1017	Monroe
Cincinnati, OH-KY-IN	303	390	521	699	755	Dearborn
Elkhart-Goshen, IN MSA	363	414	524	670	769	Elkhart
Evansville-Henderson, IN-KY MSA	275	327	424	531	594	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	311	397	492	635	690	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	363	478	596	748	836	Lake, Porter
Indianapolis, IN MSA	355	445	535	670	751	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	334	396	516	663	722	Howard, Tipton
Lafayette, IN MSA	338	430	573	797	941	Clinton, Tippecanoe
Louisville, KY-IN MSA	310	398	488	674	711	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	289	360	426	578	683	Delaware
Ohio County, IN	281	316	404	521	573	Ohio
South Bend, IN MSA	312	415	546	682	765	St. Joseph
Terre Haute, IN MSA	281	329	419	524	584	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	390	420	507	633	833
Blackford	275	310	408	511	572
Carroll	275	310	396	510	560
Crawford	275	310	396	510	560
Decatur	275	335	429	555	604
Fayette	275	310	397	510	601
Franklin	275	310	396	510	627
Gibson	275	310	396	510	560
Greene	275	310	396	510	560
Jackson	337	353	437	577	620
Jay	275	310	396	510	560

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	275	310	396	510	560
Brown	275	365	481	668	691
Cass	275	310	396	510	560
Daviess	275	310	396	510	560
Dubois	275	310	396	510	578
Fountain	275	310	396	510	560
Fulton	303	317	396	533	560
Grant	290	310	396	512	560
Henry	275	310	396	510	560
Jasper	275	333	396	510	560
Jefferson	275	310	396	510	560

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 14

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jennings	287	310	396	510	560
Kosciusko	275	364	439	569	615
La Porte	280	338	453	580	634
Marshall	325	330	439	553	615
Miami	275	310	396	510	560
Newton	287	310	396	510	560
Orange	275	310	396	510	560
Parke	275	310	396	510	586
Pike	275	310	396	510	560
Putnam	299	348	428	574	579
Ripley	275	310	396	518	587
Spencer	275	310	396	510	560
Steuben	336	380	454	567	634
Switzerland	275	310	396	510	560
Wabash	275	310	396	510	560
Washington	275	310	396	510	560
White	275	310	396	510	619

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	280	310	401	510	561
Lagrange	280	322	411	535	622
Lawrence	275	310	396	514	560
Martin	275	310	396	510	560
Montgomery	321	337	421	534	591
Noble	317	323	402	519	574
Owen	275	310	396	510	587
Perry	275	310	396	510	560
Pulaski	275	310	396	510	560
Randolph	275	310	396	510	560
Rush	283	310	396	510	587
Starke	275	310	396	510	560
Sullivan	275	310	396	510	560
Union	275	310	396	510	560
Warren	275	310	396	510	560
Wayne	275	310	396	510	560

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	268	378	486	677	726	Linn
Davenport-Moline-Rock Island, IA-IL MSA	275	379	469	607	657	Scott
Des Moines, IA MSA	346	438	538	698	733	Dallas, Polk, Warren
Dubuque, IA MSA	285	348	448	572	698	Dubuque
Iowa City, IA MSA	337	434	558	775	915	Johnson
Omaha, NE-IA MSA	291	399	503	660	740	Pottawattamie
Sioux City, IA-NE MSA	335	402	501	625	714	Woodbury
Waterloo-Cedar Falls, IA MSA	265	339	423	564	662	Black Hawk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	260	321	403	511	564
Allamakee	260	321	403	517	592
Audubon	260	321	403	511	564
Boone	260	341	403	517	612
Buchanan	274	321	403	511	564
Butler	277	321	403	511	564
Carroll	260	321	403	511	564
Cedar	260	325	403	511	564
Cherokee	260	321	403	511	564

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	260	321	403	511	564
Appanoose	260	321	403	511	568
Benton	267	321	403	511	564
Bremer	260	321	403	511	600
Buena Vista	275	321	403	511	564
Calhoun	260	321	403	511	564
Cass	260	321	403	511	564
Cerro Gordo	260	340	421	561	589
Chickasaw	260	321	403	511	564

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clarke	267	321	403	511	564
Clayton	260	321	403	511	564
Crawford	260	321	403	511	564
Decatur	260	321	403	511	564
Des Moines	260	331	426	534	596
Emmet	260	321	403	511	596
Floyd	283	321	403	511	564
Fremont	286	321	403	511	594
Grundy	260	321	403	511	580
Hamilton	296	336	408	511	571
Hardin	260	321	403	511	564
Henry	260	329	418	523	592
Humboldt	260	321	403	511	564
Iowa	260	321	403	511	564
Jasper	260	329	417	521	584
Jones	269	321	403	511	564
Kossuth	260	321	403	511	564
Louisa	260	321	403	511	564
Lyon	260	321	403	511	564
Mahaska	260	321	403	511	564
Marshall	260	321	403	511	564
Mitchell	260	321	403	511	564
Monroe	260	338	403	511	594
Muscatine	260	321	426	567	596
Osceola	260	321	403	511	564
Palo Alto	260	321	403	511	564
Pocahontas	260	321	403	511	564
Ringgold	260	321	403	511	564
Shelby	260	321	403	511	564
Story	338	411	484	671	768
Taylor	260	321	403	511	565
Van Buren	260	321	403	511	564
Washington	260	321	403	511	594
Webster	260	321	409	514	573
Winneshiek	260	321	403	511	564
Wright	260	321	403	511	564

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clay	260	321	403	511	564
Clinton	260	321	409	511	572
Davis	260	321	403	511	564
Delaware	260	321	403	511	564
Dickinson	260	321	403	511	564
Fayette	260	321	403	511	564
Franklin	267	321	403	511	564
Greene	260	321	403	511	564
Guthrie	260	321	403	511	593
Hancock	260	321	403	511	564
Harrison	260	321	403	511	564
Howard	260	321	403	511	589
Ida	267	321	403	511	564
Jackson	260	321	406	511	568
Jefferson	260	328	437	569	718
Keokuk	260	321	403	511	564
Lee	260	321	416	520	583
Lucas	260	321	403	511	564
Madison	260	321	419	537	588
Marion	260	356	437	546	612
Mills	260	347	410	514	574
Monona	260	321	403	511	564
Montgomery	286	322	403	511	564
O'Brien	260	321	403	511	564
Page	260	321	403	511	564
Plymouth	260	321	421	526	589
Poweshiek	275	341	437	546	612
Sac	260	321	403	511	564
Sioux	260	321	403	511	564
Tama	260	321	403	511	564
Union	260	321	403	511	594
Wapello	260	321	407	511	569
Wayne	260	321	403	511	564
Winnebago	260	326	403	511	564
Worth	260	321	403	511	573

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	341	429	516	714	791	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	346	414	532	740	852	Douglas
Topeka, KS MSA	325	374	486	657	741	Shawnee
Wichita, KS MSA	319	383	513	693	749	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	265	300	385	496	552	Anderson	265	300	385	496	552
Atchison	265	300	385	496	592	Barber	265	300	385	496	552
Barton	265	300	385	496	552	Bourbon	265	300	385	496	552
Brown	265	300	385	496	552	Chase	265	300	385	496	552
Chautauqua	265	300	385	496	552	Cherokee	265	300	385	496	552
Cheyenne	265	300	385	496	552	Clark	265	300	385	496	552
Clay	265	300	385	496	552	Cloud	265	300	385	496	552
Coffey	274	300	385	496	577	Comanche	265	300	385	496	552
Cowley	283	300	385	508	552	Crawford	265	300	392	496	552
Decatur	265	300	385	496	552	Dickinson	265	300	385	496	552
Doniphan	265	300	385	496	552	Edwards	265	300	385	496	552
Elk	265	300	385	496	552	Ellis	265	300	385	496	552
Ellsworth	265	300	385	496	552	Finney	326	349	447	582	736
Ford	284	335	418	526	593	Franklin	287	300	388	496	606
Geary	325	342	428	552	599	Gove	265	300	385	496	552
Graham	265	300	385	496	552	Grant	265	336	385	527	574
Gray	265	300	385	496	552	Greeley	265	300	385	496	552
Greenwood	265	300	385	496	552	Hamilton	265	300	385	496	552
Harper	265	300	385	496	552	Haskell	265	307	385	496	552
Hodgeman	265	300	385	496	552	Jackson	265	300	385	496	552
Jefferson	265	300	392	520	552	Jewell	265	300	385	496	552
Kearny	294	300	396	533	585	Kingman	265	300	385	496	552
Kiowa	265	300	385	496	552	Labette	265	300	385	496	552
Lane	265	300	385	496	552	Lincoln	265	300	385	496	552
Linn	265	300	385	496	552	Logan	265	300	385	496	552
Lyon	265	300	385	496	589	Mcpherson	267	300	385	496	552
Marion	265	300	385	496	552	Marshall	265	300	385	496	552
Meade	265	300	385	496	552	Mitchell	265	300	385	496	552
Montgomery	265	300	385	496	552	Morris	265	300	385	496	552
Morton	265	322	385	496	552	Nemaha	265	300	385	496	552
Neosho	265	300	385	496	552	Ness	265	300	385	496	552
Norton	265	300	385	496	552	Osage	265	300	385	496	552
Osborne	265	300	385	496	553	Ottawa	265	300	385	496	552
Pawnee	265	300	385	496	552	Phillips	265	300	385	496	552

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie	265	300	385	496	565
Rawlins	265	300	385	496	552
Republic	265	300	385	496	552
Riley	328	361	481	601	730
Rush	265	300	385	496	552
Saline	346	357	472	652	660
Seward	298	324	432	541	604
Sherman	265	300	385	496	552
Stafford	265	300	385	496	552
Stevens	265	301	385	496	568
Thomas	265	300	385	496	552
Wabaunsee	265	300	385	496	552
Washington	265	300	385	496	552
Wilson	265	300	385	496	552

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pratt	265	300	385	506	552
Reno	265	300	385	496	600
Rice	265	300	385	496	552
Rooks	265	300	385	496	552
Russell	265	300	385	496	552
Scott	265	300	385	506	582
Sheridan	265	300	385	496	552
Smith	265	300	385	496	552
Stanton	265	300	385	496	552
Sumner	265	300	385	520	552
Trego	265	300	385	496	552
Wallace	265	300	385	496	552
Wichita	265	300	396	496	616
Woodson	265	300	385	496	552

K E N T U C K Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	303	390	521	699	755	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	331	371	434	593	609	Christian
Evansville-Henderson, IN-KY MSA	275	327	424	531	594	Henderson
Gallatin County, KY	252	344	421	527	689	Gallatin
Grant County, KY	251	299	396	553	654	Grant
Huntington-Ashland, WV-KY-OH MSA	297	348	429	547	602	Boyd, Carter, Greenup
Lexington, KY MSA	335	418	511	697	787	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	310	398	488	674	711	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	292	303	398	535	559	Daviess
Pendleton County, KY	253	293	391	491	549	Pendleton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	246	300	354	469	515
Anderson	271	286	371	463	520
Barren	246	297	354	458	515
Bell	246	286	357	458	515
Bracken	246	286	354	458	515
Breckinridge	246	286	354	458	515
Caldwell	246	286	354	458	515
Carlisle	246	286	354	458	515
Casey	246	286	354	458	515
Clinton	246	286	354	458	515

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	246	286	354	458	515
Ballard	246	286	354	458	515
Bath	246	286	354	458	515
Boyle	292	296	395	495	554
Breathitt	246	286	354	458	515
Butler	246	286	354	458	515
Calloway	246	286	354	458	515
Carroll	246	286	354	458	515
Clay	246	286	354	458	515
Crittenden	246	286	354	458	515

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cumberland	246	286	354	458	515
Elliott	246	286	354	458	515
Fleming	246	286	354	458	515
Franklin	246	361	443	572	723
Garrard	246	286	354	458	515
Grayson	246	286	354	458	515
Hancock	246	286	354	462	548
Harlan	246	373	426	555	655
Hart	246	286	354	458	515
Hickman	246	286	354	458	515
Jackson	246	286	354	458	515
Knott	246	286	354	458	515
Larue	246	286	354	458	515
Lawrence	246	286	354	458	515
Leslie	246	286	354	458	515
Lewis	246	286	354	458	515
Livingston	283	286	382	531	535
Lyon	246	286	354	458	515
Mccreary	246	286	354	458	515
Magoffin	246	286	354	458	515
Marshall	246	292	354	458	551
Mason	246	286	354	458	515
Menifee	246	286	354	458	515
Metcalfe	246	286	354	458	515
Montgomery	246	286	354	458	515
Muhlenberg	246	286	354	458	515
Nicholas	246	286	354	458	515
Owen	246	286	354	458	528
Perry	275	286	369	461	517
Powell	246	286	354	458	515
Robertson	246	286	354	458	515
Rowan	246	286	354	458	535
Shelby	247	325	363	507	515
Spencer	246	292	354	458	515
Todd	246	286	354	458	515
Trimble	246	286	354	458	515
Warren	246	318	425	530	613
Wayne	246	286	354	458	515
Whitley	246	286	354	458	515

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Edmonson	246	286	354	458	515
Estill	246	286	354	458	515
Floyd	259	315	354	492	565
Fulton	246	286	354	458	515
Graves	246	286	354	458	515
Green	246	286	354	458	515
Hardin	305	314	392	528	626
Harrison	246	287	363	458	561
Henry	246	286	354	458	515
Hopkins	246	286	354	458	520
Johnson	246	286	354	458	515
Knox	246	340	435	545	669
Laurel	321	362	430	580	601
Lee	246	286	354	458	515
Letcher	246	286	354	458	515
Lincoln	246	286	354	458	515
Logan	246	286	354	467	515
Mccracken	278	299	374	479	615
Mclean	246	286	354	458	515
Marion	246	286	354	458	515
Martin	246	286	354	458	515
Meade	254	316	363	480	598
Mercer	246	286	354	467	515
Monroe	246	286	354	458	515
Morgan	246	286	354	458	515
Nelson	270	286	365	458	515
Ohio	246	286	354	458	515
Owsley	246	286	354	458	515
Pike	264	301	365	458	541
Pulaski	270	286	363	459	515
Rockcastle	246	286	354	458	515
Russell	246	286	354	458	515
Simpson	246	307	359	459	515
Taylor	296	350	392	525	593
Trigg	246	286	354	458	515
Union	246	286	354	458	515
Washington	246	290	354	458	515
Webster	246	286	354	458	515
Wolfe	246	286	354	458	515

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	274	343	431	597	607	Rapides
Baton Rouge, LA MSA	298	370	459	637	752	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	270	317	406	564	668	Lafourche, Terrebonne
Lafayette, LA MSA	284	327	390	537	635	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA	369	429	544	713	893	Calcasieu
Monroe, LA MSA	297	332	443	598	621	Ouachita
New Orleans, LA	352	403	503	685	828	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	266	301	401	500	561	St. James
Shreveport-Bossier City, LA MSA	334	380	478	639	784	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	264	287	353	463	516	Assumption	289	311	368	463	516
Avoyelles	264	287	353	463	518	Beauregard	322	350	415	543	597
Bienville	264	287	353	469	555	Caldwell	264	287	353	463	516
Cameron	264	287	353	463	516	Catahoula	264	287	353	463	516
Claiborne	264	287	353	463	516	Concordia	264	287	353	463	516
De Soto	264	287	353	463	520	East Carroll	264	287	353	463	516
East Feliciana	264	287	353	463	516	Evangeline	264	287	353	463	516
Franklin	264	287	353	463	520	Grant	264	287	353	463	516
Iberia	279	291	361	463	516	Iberville	264	287	353	463	532
Jackson	264	287	353	463	516	Jefferson Davis	264	287	353	463	524
La Salle	264	287	353	463	520	Lincoln	311	313	390	535	641
Madison	264	287	353	463	516	Morehouse	264	287	353	463	516
Natchitoches	282	289	373	517	520	Pointe Coupee	264	287	353	463	561
Red River	264	287	353	463	520	Richland	264	287	353	463	520
Sabine	264	294	353	463	545	St. Helena	264	287	353	463	516
St. Mary	289	310	389	530	553	Tangipahoa	283	294	378	495	528
Tensas	264	287	353	463	516	Union	264	287	353	463	520
Vermilion	264	287	353	463	516	Vernon	303	338	385	498	588
Washington	264	287	353	463	516	West Carroll	264	287	353	463	516
West Feliciana	264	343	460	575	645	Winn	264	287	353	463	516

M A I N E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	343	419	537	701	753	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Lewiston-Auburn, ME MSA	309	381	490	613	687	Waldo county towns of Winterport town Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	374	482	634	793	889	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	442	529	680	871	1069	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	315	389	517	646	723	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	315	369	474	604	695	
Cumberland	461	470	626	852	977	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	322	369	474	604	695	
Hancock	340	416	515	649	720	
Kennebec	328	409	492	617	695	
Knox	315	406	527	702	740	
Lincoln	410	456	519	721	852	
Oxford	315	369	474	604	695	
Penobscot	315	369	474	604	695	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Piscataquis	315	369	474	604	695	
Sagadahoc	444	508	626	833	1028	
Somerset	330	376	474	604	712	
Waldo	315	369	474	604	695	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	315	369	474	604	695	
York	389	446	597	747	835	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	414	507	618	818	936	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	556	747	869	1149	1436	Columbia
Cumberland, MD-WV MSA	328	395	488	645	737	Allegany
Hagerstown, MD PMSA	326	393	488	642	733	Washington
Washington, DC-MD-VA	609	692	812	1106	1333	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	425	562	654	889	1073	Cecil

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Caroline	362	390	488	640	726
Garrett	323	434	488	636	801
St. Mary's	494	586	676	942	1077
Talbot	428	453	604	757	991
Worcester	323	390	489	679	726
Dorchester	323	418	488	636	726
Kent	327	403	538	672	810
Somerset	385	433	488	677	800
Wicomico	364	421	543	690	760

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	460	616	822	1029	1152	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 22

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA.....	620	697	874	1092	1282	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA.....	415	547	671	835	951	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS *	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA.....	325	456	592	762	828	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA.....	417	504	633	791	974	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA.....	455	589	711	891	997	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA MSA.....	436	533	606	757	850	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA.....	316	449	554	694	860	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA PMSA.....	401	545	655	822	1013	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA.....	411	508	642	802	986	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT.....	403	488	610	761	853	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 24

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	444	609	811	1014	1135	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	373	454	535	735	880	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	600	610	812	1015	1138	
Franklin	403	500	639	800	966	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	407	554	740	984	1214	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	570	577	771	965	1081	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	720	965	1287	1609	1802	
Worcester	453	473	630	789	882	Athol town, Hardwick town, Hubbardston town New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	456	552	681	893	1001	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	368	372	488	611	686	Berrien
Detroit, MI PMSA	357	486	586	733	822	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	357	406	508	649	711	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	385	450	549	689	770	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	290	390	493	617	692	Jackson
Kalamazoo-Battle Creek, MI MSA	342	413	521	652	728	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	386	454	586	766	885	Clinton, Eaton, Ingham

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 25

M I C H I G A N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	336	371	493	617	692	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	284	323	410	533	608	Alger	284	323	410	533	608
Alpena	284	323	410	533	612	Antrim	284	340	410	533	608
Arenac	284	323	410	533	608	Baraga	284	323	410	533	608
Barry	284	350	466	584	654	Benzie	297	323	410	551	608
Branch	328	336	413	564	608	Cass	284	323	412	562	608
Charlevoix	345	349	442	601	622	Cheboygan	299	323	410	533	623
Chippewa	284	323	410	533	608	Clare	295	323	410	533	608
Crawford	311	323	419	572	608	Delta	284	323	410	533	608
Dickinson	284	349	431	538	608	Emmet	317	380	449	589	627
Gladwin	284	323	410	533	608	Gogebic	284	323	410	533	608
Grand Traverse	376	402	537	672	753	Gratiot	297	323	410	533	608
Hillsdale	284	323	410	533	608	Houghton	284	323	410	533	608
Huron	284	323	410	533	608	Ionia	348	352	441	550	618
Iosco	284	323	410	533	643	Iron	284	323	410	533	608
Isabella	317	338	453	612	742	Kalkaska	284	323	411	535	676
Keweenaw	284	323	410	533	608	Lake	287	323	410	533	608
Leelanau	384	416	487	636	798	Luce	284	323	410	533	608
Mackinac	284	323	410	533	608	Manistee	284	323	410	533	608
Marquette	284	323	410	533	608	Mason	284	323	410	533	608
Mecosta	284	323	410	555	659	Menominee	284	323	410	533	608
Missaukee	299	323	410	533	608	Montcalm	288	323	410	533	608
Montmorency	284	323	410	533	608	Newaygo	326	350	411	533	608
Oceana	303	323	410	533	608	Ogemaw	296	324	410	533	608
Ontonagon	284	323	410	533	608	Osceola	284	323	410	533	608
Oscoda	284	323	410	533	608	Otsego	291	352	444	617	716
Presque Isle	284	323	410	533	608	Roscommon	314	323	410	533	608
St. Joseph	284	330	410	535	608	Sanilac	284	333	410	535	608
Schoolcraft	284	323	410	533	608	Shiawassee	284	356	429	597	639
Tuscola	309	336	449	560	627	Wexford	284	327	425	556	659

M I N N E S O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	267	351	451	602	701	St. Louis
Fargo-Moorhead, ND-MN MSA	322	444	536	743	796	Clay
Grand Forks, ND-MN MSA	333	397	522	720	803	Polk

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 26

M I N N E S O T A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	276	356	453	606	734	Houston
Minneapolis-St. Paul, MN-WI MSA	392	504	644	872	987	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	305	427	559	774	868	Olmsted
St. Cloud, MN MSA	316	408	482	610	777	Benton, Stearns

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aitkin	264	342	456	571	638	Becker	261	374	420	525	589
Beltrami	261	333	446	584	624	Big Stone	261	317	402	504	576
Blue Earth	355	429	534	684	868	Brown	261	336	402	504	576
Carlton	261	317	402	504	576	Cass	261	317	402	504	576
Chippewa	261	317	402	504	576	Clearwater	261	317	402	504	576
Cook	309	317	414	565	589	Cottonwood	261	317	402	504	576
Crow Wing	261	317	423	529	665	Dodge	261	317	402	504	576
Douglas	261	317	402	504	576	Faribault	261	317	402	504	576
Fillmore	261	317	402	504	576	Freeborn	261	317	410	540	578
Goodhue	261	335	448	571	627	Grant	261	317	402	504	576
Hubbard	266	317	402	504	576	Itasca	333	337	440	550	616
Jackson	261	317	402	504	576	Kanabec	261	327	425	531	595
Kandiyohi	261	330	402	504	606	Kittson	261	317	402	504	576
Koochiching	315	321	427	533	699	Lac qui Parle	261	317	402	504	576
Lake	261	317	402	504	576	Lake of the Woods	261	317	402	504	576
Le Sueur	261	317	402	504	621	Lincoln	261	317	402	504	576
Lyon	261	317	402	504	597	Mcleod	261	336	448	557	625
Mahnomen	261	317	402	504	576	Marshall	261	317	402	504	576
Martin	261	317	402	504	576	Meeker	270	317	402	504	576
Mille Lacs	277	317	403	561	662	Morrison	289	317	402	504	576
Mower	261	317	402	504	576	Murray	261	317	402	504	576
Nicollet	326	349	465	616	652	Nobles	261	317	402	504	576
Norman	261	317	402	504	576	Otter Tail	261	317	402	504	576
Pennington	261	317	402	538	576	Pine	288	317	402	507	576
Pipestone	261	317	402	504	576	Pope	261	317	402	504	576
Red Lake	261	328	402	504	576	Redwood	261	317	402	504	576
Renville	261	317	402	504	576	Rice	309	422	562	702	786
Rock	261	317	402	504	576	Roseau	315	321	421	543	591
Sibley	261	317	402	504	576	Steele	309	358	477	596	668
Stevens	297	375	423	529	593	Swift	261	317	402	504	576
Todd	261	317	402	504	576	Traverse	261	317	402	504	576
Wabasha	261	317	402	504	576	Wadena	261	317	402	504	576
Waseca	339	373	473	593	678	Watonwan	261	317	402	504	576

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 27

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wilkin	261	317	402	504	576
Yellow Medicine	261	317	402	504	576
Winona	266	346	439	548	615

M I S S I S S I P P I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	348	409	470	655	773	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	257	316	386	519	619	Forrest, Lamar
Jackson, MS MSA	354	404	494	657	693	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	340	395	465	646	679	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	245	290	361	462	589
Amite	245	290	359	462	520
Benton	245	290	359	462	520
Calhoun	245	290	359	462	520
Chickasaw	245	290	359	462	520
Claiborne	245	290	359	462	520
Clay	245	290	359	462	525
Copiah	245	290	359	462	520
Franklin	248	290	359	462	520
Greene	245	290	359	462	520
Holmes	245	290	359	462	520
Issaquena	257	353	469	587	658
Jasper	245	290	359	462	520
Jefferson Davis	245	290	359	462	520
Kemper	247	290	359	462	520
Lauderdale	245	316	397	515	557
Leake	245	290	359	462	520
Leflore	245	290	359	463	556
Lowndes	302	326	386	484	546
Marshall	245	290	359	462	528
Montgomery	245	290	359	462	520
Newton	245	290	359	462	520
Oktibbeha	300	313	382	531	627
Pearl River	257	290	359	464	520
Pike	249	290	359	462	520
Prentiss	248	290	359	462	520
Scott	245	290	359	462	520
Simpson	248	290	359	462	520
Alcorn	245	290	359	462	520
Attala	245	290	359	462	520
Bolivar	278	290	374	467	534
Carroll	245	290	359	462	520
Choctaw	245	290	359	462	520
Clarke	245	290	359	462	520
Coahoma	284	290	383	481	538
Covington	245	290	359	462	520
George	245	290	359	462	520
Grenada	245	291	359	491	520
Humphreys	245	290	359	462	520
Itawamba	245	290	359	462	520
Jefferson	245	290	359	462	520
Jones	245	290	359	462	520
Lafayette	248	340	452	567	634
Lawrence	245	290	359	462	520
Lee	306	330	397	497	557
Lincoln	245	290	359	462	520
Marion	245	290	359	462	520
Monroe	245	290	359	462	520
Neshoba	245	290	359	462	520
Noxubee	249	290	359	462	520
Panola	253	290	359	462	520
Perry	245	290	359	462	520
Pontotoc	245	290	359	462	520
Quitman	245	290	359	462	520
Sharkey	249	290	359	462	520
Smith	245	290	359	462	520

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 28

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Stone	245	290	359	462	520
Tallahatchie	245	290	359	462	520
Tippah	245	290	359	462	520
Tunica	245	290	359	462	520
Walthall	245	290	359	462	520
Washington	265	315	421	543	598
Webster	247	290	359	462	520
Winston	245	290	359	462	520
Yazoo	249	290	359	462	520

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sunflower	271	294	359	462	552
Tate	245	331	382	479	629
Tishomingo	245	290	359	462	520
Union	245	290	359	462	520
Warren	245	320	399	551	660
Wayne	245	290	359	462	520
Wilkinson	245	290	359	462	520
Yalobusha	247	290	359	462	520

M I S S O U R I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	255	359	467	650	766	Boone
Joplin, MO MSA	249	288	382	503	541	Jasper, Newton
Kansas City, MO-KS MSA	341	429	516	714	791	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	239	290	387	488	542	Andrew, Buchanan
St. Louis, MO-IL MSA	310	378	491	638	706	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	261	331	428	591	616	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	234	292	388	488	586
Audrain	250	270	347	469	542
Barton	234	270	347	451	517
Benton	264	270	358	451	517
Butler	234	270	347	451	517
Callaway	277	281	373	474	613
Cape Girardeau	241	296	394	525	644
Carter	234	270	347	451	517
Chariton	234	270	347	451	517
Cole	234	309	412	549	576
Crawford	257	309	348	459	517
Dallas	234	270	347	451	517
Dekalb	242	270	347	456	517
Douglas	234	270	347	451	517
Gasconade	234	270	347	451	517
Grundy	234	270	347	451	517
Henry	267	272	362	454	596
Holt	234	270	347	451	517
Howell	234	270	347	451	517

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	234	270	347	451	517
Barry	234	279	347	451	517
Bates	234	270	347	451	527
Bollinger	234	270	347	451	517
Caldwell	234	272	365	457	517
Camden	308	311	416	577	678
Carroll	234	270	347	451	517
Cedar	234	270	347	451	517
Clark	234	270	347	451	517
Cooper	234	270	347	451	517
Dade	234	270	347	451	517
Daviess	234	270	347	451	517
Dent	234	270	347	451	517
Dunklin	234	270	347	451	517
Gentry	234	270	347	451	517
Harrison	234	270	347	451	517
Hickory	234	270	347	451	517
Howard	234	270	347	451	519
Iron	234	270	347	451	517

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Johnson	282	314	410	543	642
Laclede	234	270	347	454	517
Lewis	234	270	347	451	517
Livingston	234	270	348	451	517
Macon	234	270	347	451	517
Maries	234	270	347	451	517
Mercer	234	270	347	451	517
Mississippi	234	270	347	451	517
Monroe	234	270	347	451	517
Morgan	234	270	347	451	517
Nodaway	247	299	368	468	564
Osage	234	270	347	451	517
Pemiscot	234	270	347	451	517
Pettis	251	294	394	495	593
Pike	234	270	347	451	544
Pulaski	234	328	368	487	544
Ralls	234	270	347	451	517
Reynolds	234	270	347	451	517
St. Clair	234	270	347	451	517
St. Francois	247	311	394	494	648
Schuyler	234	270	347	451	517
Scott	282	284	379	511	589
Shelby	234	270	347	451	517
Stone	272	289	359	459	517
Taney	265	292	383	517	608
Vernon	234	270	347	462	517
Wayne	234	270	347	451	517
Wright	234	270	347	451	517

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	234	270	347	451	517
Lawrence	248	277	347	451	517
Linn	234	270	347	451	517
Mcdonald	234	270	347	451	517
Madison	234	270	347	451	517
Marion	234	270	347	451	517
Miller	257	309	347	454	537
Moniteau	234	270	347	451	517
Montgomery	234	270	347	451	517
New Madrid	234	270	347	451	517
Oregon	234	270	347	451	517
Ozark	234	270	347	451	517
Perry	272	277	369	491	517
Phelps	242	290	372	505	548
Polk	234	271	347	451	542
Putnam	234	270	347	451	517
Randolph	234	270	347	451	517
Ripley	234	270	347	451	517
Ste. Genevieve	234	279	358	459	581
Saline	234	270	356	451	517
Scotland	234	270	347	451	517
Shannon	234	270	347	451	517
Stoddard	234	270	347	451	517
Sullivan	234	270	347	451	517
Texas	234	270	347	451	517
Washington	274	331	371	464	520
Worth	234	270	347	451	517

M O N T A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	314	364	488	655	795	Yellowstone
Great Falls, MT MSA	314	362	478	622	741	Cascade

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M O N T A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	289	334	441	573	670
Blaine	289	334	441	573	670
Carbon	289	339	441	573	670
Chouteau	289	334	441	573	670
Daniels	289	355	441	573	670
Deer Lodge	289	334	441	573	670
Fergus	289	334	441	573	670
Gallatin	357	416	558	717	917
Glacier	289	334	441	573	670
Granite	289	334	441	573	670
Jefferson	305	334	441	573	670
Lake	315	334	441	573	670
Liberty	289	334	441	573	670
Mccone	289	353	441	573	670
Meagher	289	355	441	573	670
Missoula	316	371	494	636	809
Park	289	334	441	573	677
Phillips	289	334	441	573	670
Powder River	289	339	441	573	670
Prairie	289	334	441	573	670
Richland	289	362	441	573	670
Rosebud	289	334	441	573	670
Sheridan	297	334	441	573	670
Stillwater	295	334	441	573	670
Teton	289	334	441	573	670
Treasure	289	334	441	573	670
Wheatland	289	334	441	573	670

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	289	334	441	573	670
Broadwater	289	334	441	573	715
Carter	289	355	441	573	670
Custer	289	334	441	573	670
Dawson	289	334	441	573	670
Fallon	289	334	441	573	670
Flathead	289	335	448	624	735
Garfield	289	334	441	573	670
Golden Valley	289	354	441	573	670
Hill	298	334	441	573	670
Judith Basin	289	355	441	573	670
Lewis and Clark	322	377	501	697	825
Lincoln	315	334	441	573	670
Madison	295	334	441	573	670
Mineral	289	334	441	573	684
Musselshell	294	334	441	573	670
Petroleum	289	334	441	573	670
Pondera	289	354	441	573	670
Powell	294	334	441	573	670
Ravalli	289	334	441	573	670
Roosevelt	302	334	441	573	670
Sanders	289	334	441	573	670
Silver Bow	289	334	441	573	670
Sweet Grass	312	334	441	573	670
Toole	295	334	441	573	670
Valley	289	334	441	573	670
Wibaux	289	355	441	573	670

N E B R A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	305	392	517	686	800	Lancaster
Omaha, NE-IA MSA	291	399	503	660	740	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	335	402	501	625	714	Dakota

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 31

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	243	325	430	539	646
Arthur	233	300	383	489	557
Blaine	233	300	383	489	557
Box Butte	253	300	383	490	579
Brown	233	300	383	489	569
Burt	233	300	383	489	557
Cedar	233	300	383	489	557
Cherry	233	315	383	492	580
Clay	233	300	383	489	557
Cuming	233	316	383	489	557
Dawes	249	300	383	493	582
Deuel	233	300	383	489	557
Dodge	233	300	395	520	557
Fillmore	233	300	383	489	557
Frontier	262	300	383	489	557
Gage	233	301	390	496	557
Garfield	233	300	383	489	557
Grant	233	300	383	489	557
Hall	280	368	490	646	723
Harlan	233	300	383	490	557
Hitchcock	233	300	383	489	557
Hooker	233	314	383	490	557
Jefferson	233	300	383	489	557
Kearney	233	300	383	489	582
Keya Paha	233	300	383	489	557
Knox	233	311	383	489	557
Logan	233	300	383	489	583
Mcpherson	233	300	383	490	557
Merrick	233	300	383	489	557
Nance	233	300	383	489	557
Nuckolls	233	300	383	489	557
Pawnee	233	300	383	493	557
Phelps	261	300	383	490	582
Platte	233	300	383	535	557
Red Willow	233	300	383	489	567
Rock	233	307	383	489	557
Saunders	233	300	383	489	557
Seward	289	300	391	489	557
Sherman	233	302	383	489	583
Stanton	233	300	383	489	557

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Antelope	233	315	383	492	557
Banner	233	300	383	490	557
Boone	233	300	383	489	580
Boyd	233	313	383	489	557
Buffalo	251	363	456	569	687
Butler	233	300	383	489	557
Chase	233	316	383	489	584
Cheyenne	261	300	383	489	557
Colfax	254	312	383	489	557
Custer	261	302	383	489	579
Dawson	256	312	383	493	557
Dixon	260	300	383	489	557
Dundy	233	300	383	489	557
Franklin	233	300	383	494	557
Furnas	233	300	383	489	580
Garden	233	312	383	492	582
Gosper	233	300	383	489	564
Greeley	233	300	383	489	567
Hamilton	233	300	383	493	557
Hayes	233	314	383	489	580
Holt	233	300	383	489	557
Howard	233	300	383	489	557
Johnson	233	304	383	489	557
Keith	233	300	383	489	557
Kimball	233	300	383	490	582
Lincoln	239	312	383	489	557
Loup	233	300	383	489	581
Madison	239	314	416	538	656
Morrill	233	302	383	489	580
Nemaha	233	300	383	489	557
Otoe	233	300	383	489	583
Perkins	233	300	383	489	557
Pierce	233	300	383	489	557
Polk	233	300	383	489	557
Richardson	233	300	383	489	557
Saline	233	313	383	489	557
Scotts Bluff	237	311	395	489	580
Sheridan	233	300	383	489	558
Sioux	233	300	383	489	582
Thayer	233	315	383	489	557

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Thomas	233	300	383	489	557
Valley	233	300	383	489	557
Webster	233	300	383	489	557
York	233	300	388	489	557
Thurston	233	300	383	489	557
Wayne	267	300	383	489	580
Wheeler	233	300	383	490	557

N E V A D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	482	572	681	948	1119	Clark, Nye
Reno, NV MSA	467	541	695	968	1144	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	432	438	586	808	959
Elko	393	448	598	789	982
Eureka	318	519	585	728	815
Lander	321	498	585	731	958
Lyon	381	455	585	814	959
Pershing	442	448	598	748	855
White Pine	319	439	585	789	830
Douglas	388	566	709	984	1096
Esmeralda	416	519	585	729	818
Humboldt	468	491	592	776	831
Lincoln	319	480	585	732	819
Mineral	323	441	588	770	964
Storey	448	454	598	833	982
Carson City	336	459	614	853	1007

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	620	697	874	1092	1282	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	417	504	633	791	974	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	455	589	711	891	997	Hillsborough county towns of Pelham town
Manchester, NH PMSA	367	523	653	816	915	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	432	602	747	1016	1209	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	442	529	680	871	1069	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	423	489	643	868	1056	
Carroll	354	485	646	809	1010	
Cheshire	439	521	666	867	1028	
Coos	302	369	474	618	732	
Grafton	389	470	626	809	1023	
Hillsborough	415	519	692	915	1101	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	437	522	651	834	932	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	453	531	710	985	1137	Deerfield town, Northwood town, Nottingham town
Strafford	401	544	726	911	1021	Middleton town, New Durham town, Strafford town
Sullivan	422	429	556	731	779	

N E W J E R S E Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	476	541	721	903	1032	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	637	776	910	1213	1496	Bergen, Passaic
Jersey City, NJ PMSA	582	687	800	1016	1119	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	679	744	929	1262	1457	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	560	671	851	1131	1326	Monmouth, Ocean
Newark, NJ PMSA	539	688	829	1044	1320	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	463	570	704	881	1104	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	462	644	784	1062	1282	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	459	559	675	841	945	Cumberland

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

NEW MEXICO

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	385	459	574	791	934	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	287	361	429	588	693	Dona Ana
Santa Fe, NM MSA	415	589	727	976	1105	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	267	313	388	521	588
Cibola	278	304	388	521	588
Curry	267	311	407	521	588
Eddy	274	303	388	521	606
Guadalupe	267	303	388	521	592
Hidalgo	267	303	388	521	588
Lincoln	303	311	410	540	675
Mckinley	267	336	427	532	596
Otero	267	303	388	541	588
Rio Arriba	313	320	393	521	588
San Juan	302	324	404	561	664
Sierra	267	303	388	521	588
Taos	459	465	620	775	1020
Union	267	326	388	521	588

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	267	304	401	552	588
Colfax	267	311	388	521	588
Debaca	267	304	388	521	588
Grant	317	361	462	620	700
Harding	267	303	388	521	588
Lea	267	303	388	521	588
Luna	294	324	414	556	627
Mora	267	303	388	521	588
Quay	267	387	436	546	610
Roosevelt	267	303	388	521	588
San Miguel	296	303	400	521	588
Socorro	267	303	388	521	604
Torrance	293	317	388	521	588

NEW YORK

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	393	483	595	746	834	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	352	396	493	627	703	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	358	436	525	656	735	Erie, Niagara
Dutchess County, NY PMSA	541	687	849	1103	1289	Dutchess
Elmira, NY MSA	352	396	485	615	732	Chemung
Glens Falls, NY MSA	352	459	559	700	783	Warren, Washington
Jamestown, NY MSA	352	396	475	615	703	Chautauqua
Nassau-Suffolk, NY PMSA	728	877	1070	1488	1594	Nassau, Suffolk
New York, NY PMSA	681	759	862	1078	1208	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	654	852	1038	1350	1611	Westchester
Newburgh, NY-PA PMSA	533	693	848	1075	1227	Orange
Rochester, NY MSA	379	493	600	769	840	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	377	455	563	719	798	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	352	396	484	615	703	Herkimer, Oneida

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	352	396	475	615	703
Chenango	375	396	475	615	703
Columbia	440	462	593	777	831
Delaware	352	396	475	615	755
Franklin	352	396	475	615	703
Greene	352	456	548	707	862
Jefferson	379	447	526	659	737
Otsego	352	417	479	619	786
Schuyler	381	406	482	672	791
Steuben	364	415	475	622	703
Tompkins	459	495	636	887	1046
Wyoming	352	396	475	615	703

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	352	396	475	615	703
Clinton	352	396	512	640	717
Cortland	352	421	527	659	779
Essex	352	401	503	630	703
Fulton	352	396	475	615	703
Hamilton	352	424	487	615	703
Lewis	352	396	475	615	703
St. Lawrence	352	396	475	615	703
Seneca	376	404	488	631	703
Sullivan	456	512	624	862	874
Ulster	433	601	723	941	1186
Yates	352	396	475	615	703

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	300	363	473	616	665	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	426	480	540	712	853	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	367	417	467	646	769	Cumberland
Goldsboro, NC MSA	300	346	421	541	632	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	378	430	513	707	719	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	392	397	515	694	849	Pitt
Hickory-Morganton, NC MSA	379	413	479	603	716	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	342	399	451	626	740	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	425	478	566	789	927	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	444	539	633	849	1001	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	320	346	421	557	614	Edgecombe, Nash
Wilmington, NC MSA	438	482	590	807	962	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	288	338	404	520	616
Ashe	288	333	404	520	590
Beaufort	288	333	404	520	590
Bladen	288	333	404	520	590
Carteret	327	357	436	606	674
Cherokee	288	333	404	520	590
Clay	288	333	404	520	590
Columbus	288	333	404	520	590
Dare	299	474	546	748	765
Gates	288	333	404	520	590

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	288	333	404	520	590
Avery	322	362	441	553	618
Bertie	288	333	404	520	590
Camden	288	368	491	614	689
Caswell	288	333	404	520	590
Chowan	288	333	404	520	590
Cleveland	288	339	404	535	590
Craven	288	360	434	568	608
Duplin	288	333	404	520	590
Graham	288	333	404	520	590

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Granville	304	333	404	535	605
Halifax	288	333	404	520	590
Haywood	300	342	416	558	607
Hertford	288	333	404	520	590
Hyde	288	333	404	520	590
Jackson	288	333	404	565	738
Lee	288	368	436	565	612
Mcdowell	288	351	422	576	682
Martin	288	333	404	520	590
Montgomery	288	333	404	520	590
Northampton	288	333	404	520	590
Pasquotank	333	355	443	616	622
Perquimans	288	333	404	520	590
Polk	288	365	410	520	590
Robeson	288	340	404	520	590
Rutherford	291	333	404	520	590
Scotland	288	333	404	520	590
Surry	288	333	404	520	590
Transylvania	334	356	451	598	640
Vance	305	346	404	520	590
Washington	288	333	404	520	590
Wilkes	328	369	416	575	646
Yancey	288	339	404	520	609

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Greene	288	333	404	520	590
Harnett	288	333	404	522	590
Henderson	373	384	475	632	728
Hoke	288	333	404	520	590
Iredell	389	399	526	658	736
Jones	288	333	404	520	590
Lenoir	288	333	404	520	590
Macon	288	345	404	520	590
Mitchell	288	377	433	591	618
Moore	288	348	415	567	680
Pamlico	288	333	404	520	590
Pender	288	349	404	520	636
Person	288	333	433	565	661
Richmond	288	333	404	520	590
Rockingham	288	333	404	520	590
Sampson	288	333	404	520	590
Stanly	288	333	410	553	590
Swain	288	333	404	520	590
Tyrrell	288	333	404	520	590
Warren	288	333	404	520	590
Watauga	376	451	571	777	937
Wilson	301	333	409	520	590

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	328	367	490	682	806	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	322	444	536	743	796	Cass
Grand Forks, ND-MN MSA	333	397	522	720	803	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	223	279	361	469	547
Benson	253	279	361	469	547
Bottineau	223	279	361	469	547
Burke	242	279	361	469	547
Dickey	242	279	361	469	547
Dunn	223	279	361	469	547
Emmons	223	279	361	469	547
Golden Valley	223	286	381	476	547

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barnes	223	281	373	487	547
Billings	242	279	361	469	547
Bowman	223	279	361	469	547
Cavalier	223	287	383	477	589
Divide	223	279	361	469	547
Eddy	223	279	361	469	547
Foster	223	279	363	469	547
Grant	223	279	361	469	547

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Griggs	223	279	361	469	547
Kidder	223	279	361	469	547
Logan	223	279	361	469	547
Mcintosh	223	279	361	469	547
Mclean	236	279	361	469	547
Mountrail	246	279	361	469	547
Oliver	223	279	361	469	547
Pierce	223	279	361	483	547
Ransom	227	279	361	469	547
Richland	234	279	368	469	547
Sargent	223	279	361	469	547
Sioux	223	279	361	469	547
Stark	223	279	361	469	547
Stutsman	267	279	365	508	599
Traill	234	297	361	469	547
Ward	223	306	408	552	658
Williams	223	279	361	469	547

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hettinger	223	279	361	469	547
Lamoure	242	279	361	469	547
Mchenry	223	279	361	469	547
Mckenzie	223	279	361	469	547
Mercer	223	279	361	469	547
Nelson	223	279	361	469	547
Pembina	223	279	361	475	565
Ramsey	229	306	408	511	668
Renville	258	279	361	472	557
Rolette	241	307	371	469	547
Sheridan	223	279	361	469	547
Slope	223	279	361	469	547
Steele	223	279	361	469	547
Towner	255	286	381	476	626
Walsh	296	317	393	493	551
Wells	237	279	361	469	547

O H I O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	344	418	536	670	752	Portage, Summit
Brown County, OH	280	329	411	532	587	Brown
Canton-Massillon, OH MSA	279	363	464	580	651	Carroll, Stark
Cincinnati, OH-KY-IN	303	390	521	699	755	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	345	434	537	683	770	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	358	423	543	690	793	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	344	385	492	635	713	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	305	434	556	695	778	Butler
Huntington-Ashland, WV-KY-OH MSA	297	348	429	547	602	Lawrence
Lima, OH MSA	279	334	440	561	616	Allen, Auglaize
Mansfield, OH MSA	279	334	425	531	595	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	299	358	410	531	576	Washington
Steubenville-Weirton, OH-WV MSA	279	329	412	526	586	Jefferson
Toledo, OH MSA	349	424	519	668	725	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	305	333	412	526	586	Belmont
Youngstown-Warren, OH MSA	292	344	431	542	617	Columbiana, Mahoning, Trumbull

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 38

O H I O continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	273	323	403	515	576
Athens	322	365	429	561	690
Clinton	273	350	421	586	591
Darke	300	323	406	515	576
Erie	273	364	454	613	742
Gallia	273	323	403	515	576
Hancock	346	350	443	565	619
Harrison	273	323	403	515	576
Highland	273	323	403	515	576
Holmes	273	323	403	515	576
Jackson	273	323	403	515	576
Logan	320	324	419	563	587
Meigs	273	323	403	515	576
Monroe	273	323	403	515	576
Morrow	273	323	403	515	576
Noble	273	323	403	515	584
Paulding	273	323	403	515	576
Pike	287	341	424	543	606
Putnam	283	323	403	515	576
Sandusky	273	354	454	572	633
Seneca	274	323	403	519	576
Tuscarawas	273	323	423	529	593
Van Wert	273	327	403	515	576
Wayne	273	361	444	563	621
Wyandot	273	323	403	515	576

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	273	323	426	532	596
Champaign	273	332	433	540	605
Coshocton	273	323	403	515	576
Defiance	285	323	427	538	598
Fayette	297	323	403	515	576
Guernsey	273	323	403	515	576
Hardin	273	323	403	515	576
Henry	295	326	407	525	598
Hocking	273	323	403	515	576
Huron	316	344	429	565	602
Knox	321	353	453	585	647
Marion	273	323	403	515	576
Mercer	273	323	403	515	593
Morgan	273	328	403	515	576
Muskingum	273	323	403	515	576
Ottawa	273	403	464	631	674
Perry	273	323	403	515	576
Preble	280	331	413	529	591
Ross	316	329	403	515	576
Scioto	273	323	403	515	576
Shelby	273	332	444	554	621
Union	273	378	498	623	722
Vinton	273	323	403	515	576
Williams	290	323	403	515	576

O K L A H O M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	291	295	391	545	623	Garfield
Fort Smith, AR-OK MSA	298	302	397	531	557	Sequoyah
Lawton, OK MSA	360	362	461	640	701	Comanche
Oklahoma City, OK MSA	309	337	437	608	680	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	326	390	511	712	839	Creek, Osage, Rogers, Tulsa, Wagoner

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	244	280	349	465	533
Atoka	244	280	349	465	533
Beckham	248	280	349	465	533
Bryan	244	280	349	465	533
Carter	244	282	352	490	533
Choctaw	244	280	349	465	533
Coal	244	280	349	465	533
Craig	244	280	349	477	564
Delaware	244	280	349	465	543
Ellis	244	280	349	465	533
Grady	267	280	362	492	594
Greer	244	280	349	465	533
Harper	244	280	349	465	533
Hughes	244	280	349	465	533
Jefferson	244	280	349	465	533
Kay	270	286	376	524	614
Kiowa	244	280	349	465	533
Le Flore	244	280	349	465	533
Love	244	280	353	465	533
Mcintosh	244	280	349	465	533
Marshall	244	280	349	465	533
Murray	244	280	349	465	533
Noble	244	280	349	465	533
Okfuskee	244	280	349	465	533
Ottawa	263	280	349	465	533
Payne	282	333	426	588	660
Pontotoc	244	280	349	465	533
Roger Mills	244	280	349	465	533
Stephens	248	280	349	465	555
Tillman	244	280	349	465	533
Washita	244	280	349	465	533
Woodward	244	280	349	465	533

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	244	280	349	465	533
Beaver	244	284	349	465	533
Blaine	244	280	349	465	533
Caddo	244	280	349	465	533
Cherokee	256	289	349	465	541
Cimarron	244	280	349	465	533
Cotton	244	280	349	465	533
Custer	244	280	358	498	575
Dewey	244	280	349	465	533
Garvin	244	280	349	465	537
Grant	244	280	349	465	533
Harmon	244	280	349	465	533
Haskell	244	280	349	465	533
Jackson	244	317	386	507	572
Johnston	244	280	349	465	533
Kingfisher	244	288	357	468	533
Latimer	244	280	349	465	533
Lincoln	262	280	349	465	533
Mccurtain	244	280	349	465	533
Major	244	293	349	485	533
Mayes	244	284	378	477	533
Muskogee	264	297	349	483	533
Nowata	244	280	349	465	533
Okmulgee	248	280	349	465	533
Pawnee	275	280	362	466	533
Pittsburg	244	280	349	465	533
Pushmataha	244	280	349	465	533
Seminole	244	280	349	465	533
Texas	244	290	349	466	533
Washington	244	335	408	541	632
Woods	244	280	349	465	533

O R E G O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	329	451	588	821	949	Lane
Medford-Ashland, OR MSA	338	444	592	823	918	Jackson
Portland-Vancouver, OR-WA PMSA	409	504	621	864	938	Clackamas, Columbia, Multnomah, Washington, Yamhill

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 40

O R E G O N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Salem, OR PMSA	363	427	548	754	790	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	307	364	471	649	723
Clatsop	354	420	549	749	841
Crook	307	364	471	649	723
Deschutes	379	436	583	812	940
Gilliam	307	387	471	649	723
Harney	307	364	471	649	723
Jefferson	307	364	471	649	723
Klamath	307	364	471	649	768
Lincoln	373	378	504	702	762
Malheur	307	364	471	649	723
Sherman	307	364	471	649	723
Umatilla	307	364	471	649	723
Wallowa	307	364	471	649	723
Wheeler	307	364	471	649	723

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	367	475	603	907	963
Coos	307	375	497	693	723
Curry	307	418	554	709	873
Douglas	307	364	471	649	773
Grant	307	364	471	649	723
Hood River	338	380	517	672	794
Josephine	307	373	479	649	757
Lake	307	364	471	649	723
Linn	369	438	568	781	871
Morrow	307	364	471	649	723
Tillamook	307	364	471	649	723
Union	307	364	471	649	723
Wasco	374	462	518	706	792

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	407	552	657	856	962	Carbon, Lehigh, Northampton
Altoona, PA MSA	278	353	423	552	617	Blair
Erie, PA MSA	282	367	433	559	625	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	334	428	549	692	770	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	282	358	431	559	625	Cambria, Somerset
Lancaster, PA MSA	370	454	566	739	795	Lancaster
Newburgh, NY-PA PMSA	533	693	848	1075	1227	Pike
Philadelphia, PA-NJ PMSA	463	570	704	881	1104	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	329	404	487	610	681	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	293	433	534	667	753	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	282	394	472	588	711	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	309	358	431	559	625	Mercer
State College, PA MSA	405	495	613	804	860	Centre
Williamsport, PA MSA	282	360	433	559	625	Lycoming
York, PA MSA	314	431	534	666	746	York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	278	373	496	642	813
Bedford	278	353	423	552	617
Cameron	278	353	423	552	617
Clearfield	278	353	423	552	617
Crawford	278	353	423	552	617
Forest	278	353	423	552	617
Fulton	278	353	423	552	617
Huntingdon	278	353	423	552	617
Jefferson	278	353	423	552	617
Lawrence	278	353	423	552	617
Mifflin	308	353	423	552	617
Montour	328	353	444	617	728
Potter	278	353	423	552	617
Snyder	334	353	424	552	617
Susquehanna	332	353	423	552	655
Union	335	445	556	696	777
Warren	278	353	423	552	617

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	282	372	423	552	694
Bradford	282	357	436	570	624
Clarion	278	353	423	552	617
Clinton	278	353	423	552	617
Elk	278	353	423	552	617
Franklin	278	353	429	590	617
Greene	278	353	423	552	617
Indiana	318	355	423	552	617
Juniata	278	353	423	552	617
Mc Kean	278	355	423	552	617
Monroe	444	529	654	894	998
Northumberland	294	371	453	602	670
Schuylkill	278	353	440	552	617
Sullivan	278	353	423	552	617
Tioga	278	353	423	552	617
Venango	278	353	423	552	617
Wayne	279	431	507	646	831

R H O D E I S L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	486	587	715	895	1023	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA PMSA	401	545	655	822	1013	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

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R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	547	638	819	1025	1147	Middletown town, Newport city, Portsmouth town
Washington	647	728	818	1056	1163	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	350	419	493	670	792	Aiken, Edgefield
Charleston-North Charleston, SC MSA	393	456	524	696	811	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	426	480	540	712	853	York
Columbia, SC MSA	422	464	534	705	811	Lexington, Richland
Florence, SC MSA	319	355	461	576	645	Florence
Greenville-Spartanburg-Anderson, SC MSA	347	420	474	597	702	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	414	421	538	673	754	Horry
Sumter, SC MSA	337	374	425	581	689	Sumter

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Abbeville	283	331	402	516	590	Allendale	283	331	402	516	590
Bamberg	283	331	402	516	590	Barnwell	298	331	404	516	590
Beaufort	405	497	572	714	800	Calhoun	283	331	402	516	590
Chester	283	331	402	516	590	Chesterfield	283	331	402	516	590
Clarendon	283	331	402	516	590	Colleton	283	331	402	516	590
Darlington	283	331	402	516	590	Dillon	283	331	402	516	590
Fairfield	283	380	433	540	605	Georgetown	283	360	405	516	615
Greenwood	284	331	402	516	590	Hampton	283	331	402	516	590
Jasper	283	331	402	516	590	Kershaw	283	331	402	516	590
Lancaster	297	332	402	516	590	Laurens	283	331	402	516	590
Lee	283	331	402	516	590	Mccormick	283	331	402	516	629
Marion	283	331	402	516	590	Marlboro	283	331	402	516	590
Newberry	283	331	402	516	590	Oconee	283	331	402	516	590
Orangeburg	283	331	402	516	590	Saluda	283	331	402	516	590
Union	283	331	402	516	590	Williamsburg	283	331	402	516	590

S O U T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	340	404	538	732	885	Pennington
Sioux Falls, SD MSA	328	454	575	728	836	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aurora	247	330	411	544	629
Bennett	247	327	411	544	629
Brookings	265	419	465	627	740
Brule	247	327	411	544	629
Butte	284	388	516	674	795
Charles Mix	247	327	411	544	629
Clay	247	327	411	544	675
Corson	247	327	411	544	629
Davison	259	327	411	551	629
Deuel	247	327	411	544	629
Douglas	274	327	411	544	629
Fall River	281	327	411	544	629
Grant	247	327	411	544	629
Haakon	247	335	411	544	629
Hand	247	327	411	544	629
Harding	247	335	411	544	629
Hutchinson	247	327	411	544	629
Jackson	247	332	411	544	629
Jones	247	327	411	544	629
Lake	247	332	411	544	629
Lyman	247	327	411	544	629
Mcpherson	247	327	411	544	629
Meade	347	391	522	683	807
Miner	247	332	411	544	629
Perkins	247	327	411	544	629
Roberts	247	327	411	544	629
Shannon	247	332	411	544	629
Stanley	247	335	411	544	629
Todd	273	327	411	544	629
Turner	247	327	411	544	629
Walworth	247	335	411	544	629
Ziebach	247	327	411	544	629

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	247	327	411	544	629
Bon Homme	274	327	411	544	629
Brown	247	327	411	544	629
Buffalo	247	327	411	544	635
Campbell	247	327	411	544	629
Clark	247	327	411	544	629
Codington	247	327	411	544	629
Custer	247	327	411	544	629
Day	275	327	411	544	629
Dewey	247	327	411	544	629
Edmunds	247	327	411	544	629
Faulk	247	327	433	544	629
Gregory	248	327	411	544	629
Hamlin	247	327	411	544	629
Hanson	251	343	457	574	642
Hughes	272	327	433	571	675
Hyde	247	333	411	544	629
Jerauld	247	330	411	544	629
Kingsbury	270	327	411	544	629
Lawrence	282	407	512	702	794
Mccook	247	327	411	544	629
Marshall	291	327	411	544	629
Mellette	294	332	411	544	629
Moody	247	327	411	544	629
Potter	247	327	411	544	629
Sanborn	247	327	411	544	629
Spink	269	327	418	544	629
Sully	247	327	411	544	629
Tripp	247	327	411	544	629
Union	260	327	411	544	629
Yankton	247	327	411	544	629

T E N N E S S E E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	357	417	500	646	737	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	331	371	434	593	609	Montgomery
Jackson, TN MSA	257	338	453	627	631	Madison, Chester

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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T E N N E S S E E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	297	355	438	570	675	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	297	366	459	612	736	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	340	395	465	646	679	Fayette, Shelby, Tipton
Nashville, TN MSA	417	498	614	837	940	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford	235	302	369	465	517	Benton	253	288	348	457	512
Bledsoe	235	275	348	457	512	Bradley	235	296	395	535	650
Campbell	237	275	348	457	512	Cannon	235	275	348	457	512
Carroll	235	285	348	457	512	Claiborne	235	275	348	457	512
Clay	239	275	348	457	512	Cocke	235	275	348	457	512
Coffee	235	328	368	512	583	Crockett	235	275	348	457	512
Cumberland	248	275	360	503	512	Decatur	235	275	348	457	512
Dekalb	235	275	348	457	512	Dyer	293	297	396	496	618
Fentress	235	275	348	457	512	Franklin	246	275	348	478	562
Gibson	235	275	348	457	512	Giles	235	299	370	463	518
Grainger	239	275	348	457	512	Greene	235	275	348	457	512
Grundy	235	275	348	457	512	Hamblen	235	276	362	482	512
Hancock	235	275	348	457	512	Hardeman	235	275	348	457	512
Hardin	235	275	348	457	512	Haywood	247	286	382	478	535
Henderson	235	275	348	457	512	Henry	235	275	348	457	512
Hickman	277	281	373	492	522	Houston	235	275	348	457	512
Humphreys	235	286	348	457	512	Jackson	235	275	348	457	512
Jefferson	256	275	356	457	567	Johnson	235	275	348	457	512
Lake	235	275	348	457	512	Lauderdale	235	275	350	457	512
Lawrence	235	275	348	457	512	Lewis	235	275	348	457	512
Lincoln	235	275	351	457	512	Mcminn	235	275	348	459	512
Mcnairy	235	275	348	457	512	Macon	235	275	348	457	512
Marshall	276	301	392	496	551	Maury	337	344	457	573	639
Meigs	235	275	348	457	512	Monroe	235	275	348	457	512
Moore	235	275	348	457	512	Morgan	235	275	348	457	512
Obion	272	276	353	468	512	Overton	235	275	348	457	512
Perry	235	277	348	457	512	Pickett	235	275	348	457	512
Polk	235	275	348	457	512	Putnam	285	288	370	509	548
Rhea	235	293	348	462	512	Roane	253	275	348	467	562
Scott	235	275	348	457	512	Sequatchie	235	275	348	457	512
Smith	235	275	348	457	512	Stewart	235	275	348	457	512
Trousdale	235	288	383	481	630	Van Buren	235	275	348	457	512
Warren	261	275	355	457	512	Wayne	235	275	348	457	512

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Weakley	254	275	348	457	512
White	239	275	348	457	512

T E X A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	327	365	471	635	772	Taylor
Amarillo, TX MSA	277	350	436	608	717	Potter, Randall
Austin-San Marcos, TX MSA	427	516	687	954	1128	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	316	382	466	617	654	Hardin, Jefferson, Orange
Brazoria, TX PMSA	434	484	605	843	992	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	332	419	523	655	817	Cameron
Bryan-College Station, TX MSA	370	430	544	758	894	Brazos
Corpus Christi, TX MSA	346	425	543	739	873	Nueces, San Patricio
Dallas, TX	471	541	694	961	1136	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	390	437	518	718	850	El Paso
Fort Worth-Arlington, TX PMSA	403	438	569	793	936	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	426	438	550	763	900	Galveston
Henderson County, TX	287	341	417	569	683	Henderson
Houston, TX PMSA	404	454	588	818	964	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	389	405	513	714	784	Bell, Coryell
Laredo, TX MSA	315	363	477	596	670	Webb
Longview-Marshall, TX MSA	312	352	432	589	643	Gregg, Harrison, Upshur
Lubbock, TX MSA	299	378	491	683	757	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	277	379	434	542	608	Hidalgo
Odessa-Midland, TX MSA	299	345	461	641	743	Ector, Midland
San Angelo, TX MSA	277	354	430	590	696	Tom Green
San Antonio, TX MSA	365	421	545	758	896	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	277	379	458	585	700	Grayson
Texarkana, TX-Texarkana, AR MSA	302	369	450	594	630	Bowie
Tyler, TX MSA	347	383	468	649	686	Smith
Victoria, TX MSA	343	347	438	609	686	Victoria
Waco, TX MSA	302	370	487	648	682	Mclennan
Wichita Falls, TX MSA	332	372	448	597	704	Archer, Wichita

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 46

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	326	367	412	573	579
Angelina	296	343	387	537	633
Armstrong	271	314	410	514	579
Austin	271	314	378	518	579
Bandera	291	314	378	514	579
Bee	271	314	378	507	579
Borden	271	314	378	507	579
Brewster	271	314	378	511	612
Brooks	271	314	378	507	579
Burleson	271	314	397	537	654
Calhoun	290	314	378	523	619
Camp	367	372	465	582	650
Cass	271	314	378	507	579
Cherokee	303	315	385	507	579
Clay	271	320	378	507	590
Coke	271	314	378	507	579
Collingsworth	271	314	378	507	579
Comanche	271	314	378	507	579
Cooke	294	314	398	541	600
Crane	271	314	378	507	579
Crosby	271	314	378	507	579
Dallam	271	314	378	507	579
Deaf Smith	271	314	378	507	588
Dewitt	271	314	378	507	579
Dimmit	271	314	378	507	579
Duval	271	314	378	507	579
Edwards	271	314	378	507	579
Falls	271	314	378	507	579
Fayette	271	314	378	507	579
Floyd	271	314	378	507	579
Franklin	271	314	378	523	579
Frio	271	314	378	507	579
Garza	271	314	378	507	579
Glasscock	271	314	378	507	579
Gonzales	271	314	378	507	579
Grimes	271	314	378	511	603
Hall	271	314	378	507	579
Hansford	271	314	378	507	594
Hartley	271	314	378	507	579
Hemphill	271	349	391	546	579

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	271	314	378	507	579
Aransas	271	334	445	619	623
Atascosa	271	314	378	507	579
Bailey	271	314	378	507	579
Baylor	271	314	378	507	579
Blanco	271	314	400	558	587
Bosque	271	314	378	507	579
Briscoe	271	314	378	507	579
Brown	271	314	379	509	622
Burnet	271	314	386	536	627
Callahan	271	314	378	507	579
Carson	271	314	378	507	579
Castro	273	314	378	507	579
Childress	271	314	378	507	579
Cochran	271	314	378	507	579
Coleman	271	314	378	507	579
Colorado	271	314	378	507	579
Concho	271	314	378	507	579
Cottle	271	314	378	507	579
Crockett	271	314	378	507	579
Culberson	271	314	378	507	579
Dawson	271	314	378	507	579
Delta	271	325	378	507	579
Dickens	271	314	378	507	579
Donley	271	314	378	507	579
Eastland	271	314	378	507	579
Erath	281	319	412	533	579
Fannin	275	314	378	509	579
Fisher	271	314	378	507	579
Foard	271	314	378	507	579
Freestone	271	314	378	507	579
Gaines	277	314	378	507	579
Gillespie	271	341	443	609	621
Goliad	271	314	378	507	579
Gray	297	314	403	507	598
Hale	271	314	378	507	579
Hamilton	271	314	378	507	579
Hardeman	271	314	378	507	579
Haskell	271	314	378	507	579
Hill	271	314	378	507	579

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 47

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	277	324	378	512	579
Houston	271	314	378	507	579
Hudspeth	327	369	412	517	679
Irion	271	314	378	507	579
Jackson	271	315	378	507	579
Jeff Davis	271	314	378	507	579
Jim Wells	271	314	378	507	586
Karnes	271	314	378	507	579
Kenedy	271	314	378	507	579
Kerr	271	351	439	611	720
King	271	314	378	507	579
Kleberg	330	341	416	582	685
Lamar	271	337	396	554	654
Lampasas	271	314	378	514	607
Lavaca	271	314	378	507	579
Leon	271	348	390	507	642
Lipscomb	271	314	378	507	579
Llano	271	349	465	583	764
Lynn	271	314	378	507	579
Mcmullen	271	314	378	507	579
Marion	271	314	378	507	600
Mason	271	314	378	507	579
Maverick	271	314	378	507	579
Menard	271	314	378	507	579
Mills	271	314	378	507	579
Montague	271	314	378	507	579
Morris	271	314	378	507	579
Nacogdoches	286	345	448	560	661
Newton	271	314	378	507	579
Ochiltree	271	314	378	507	579
Palo Pinto	271	314	378	507	602
Parmer	271	314	378	507	579
Polk	303	331	385	518	629
Rains	271	351	425	589	594
Real	271	314	378	507	579
Reeves	271	314	378	507	579
Roberts	271	317	378	507	579
Runnels	271	314	378	507	579
Sabine	271	314	378	507	579
San Jacinto	284	321	378	507	592

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	317	340	400	558	600
Howard	289	314	378	511	579
Hutchinson	271	314	391	546	644
Jack	271	314	378	507	579
Jasper	271	314	386	514	631
Jim Hogg	271	314	378	507	579
Jones	271	314	378	507	579
Kendall	271	396	445	619	731
Kent	271	314	378	507	579
Kimble	271	314	412	516	579
Kinney	271	314	378	507	579
Knox	271	314	378	507	579
Lamb	271	314	378	507	579
La Salle	271	314	378	507	579
Lee	308	345	388	542	608
Limestone	271	314	378	507	579
Live Oak	271	314	378	507	579
Loving	271	314	378	507	579
Mcculloch	279	314	378	507	579
Madison	271	323	378	507	596
Martin	271	314	378	507	579
Matagorda	314	342	425	589	594
Medina	271	314	378	507	579
Milam	271	314	378	507	579
Mitchell	271	314	378	507	579
Moore	271	319	378	507	588
Motley	271	314	378	507	579
Navarro	325	341	411	521	579
Nolan	279	314	378	507	579
Oldham	271	314	410	514	601
Panola	271	320	378	507	579
Pecos	271	314	378	511	603
Presidio	271	314	378	507	579
Reagan	345	351	467	586	767
Red River	271	349	391	507	579
Refugio	271	314	378	507	579
Robertson	271	359	401	507	579
Rusk	283	314	378	507	579
San Augustine	271	314	378	507	579
San Saba	271	314	378	507	579

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 48

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Schleicher	271	314	378	507	579
Shackelford	271	314	378	507	579
Sherman	271	314	378	507	579
Starr	271	314	378	507	579
Sterling	271	314	378	507	579
Sutton	271	314	378	507	579
Terrell	271	314	378	507	579
Throckmorton	271	314	378	507	579
Trinity	282	319	378	507	579
Upton	271	314	378	507	579
Val Verde	271	360	424	529	624
Walker	366	389	476	632	667
Washington	337	343	459	573	753
Wheeler	271	314	378	507	579
Willacy	271	314	378	507	579
Wise	271	317	380	530	579
Yoakum	271	357	439	549	720
Zapata	271	314	378	507	579

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Scurry	271	314	392	548	646
Shelby	271	314	378	507	579
Somervell	311	349	391	537	579
Stephens	271	314	378	507	579
Stonewall	271	314	378	507	579
Swisher	271	314	378	507	579
Terry	271	314	378	507	579
Titus	288	358	406	561	579
Tyler	271	314	404	507	665
Uvalde	271	314	378	507	579
Van Zandt	290	314	392	535	646
Ward	271	314	378	507	579
Wharton	271	314	378	507	579
Wilbarger	271	314	378	507	597
Winkler	271	314	378	507	579
Wood	271	314	391	546	644
Young	271	314	378	507	586
Zavala	271	314	378	507	579

U T A H

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	298	366	458	613	739	Kane
Provo-Orem, UT MSA	412	435	538	746	882	Utah
Salt Lake City-Ogden, UT MSA	358	415	526	732	858	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	289	355	444	595	716
Cache	323	396	497	665	800
Daggett	315	430	572	717	803
Emery	289	355	444	595	716
Grand	289	355	444	595	716
Juab	289	355	444	595	716
Morgan	289	355	444	595	716
Rich	289	355	444	595	716
Sanpete	289	355	444	595	716
Summit	428	528	660	890	1082
Uintah	289	355	444	595	716
Washington	357	439	583	779	954

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Box Elder	323	358	448	600	722
Carbon	311	355	444	595	716
Duchesne	289	355	444	595	716
Garfield	289	355	444	595	716
Iron	295	402	501	626	736
Millard	289	355	444	595	716
Piute	289	355	444	595	716
San Juan	289	355	444	595	716
Sevier	293	355	444	595	716
Tooele	289	369	444	595	716
Wasatch	289	369	444	595	716
Wayne	289	355	444	595	716

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V E R M O N T

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	398	488	650	887	1070	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	385	465	541	754	846	
Bennington	358	450	580	737	858	
Caledonia	325	388	474	598	686	
Chittenden	332	538	606	841	991	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	318	382	474	598	686	
Franklin	342	386	474	602	692	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	318	382	474	598	686	Alburg town, Isle La Motte town, North Hero town
Lamoille	318	441	526	722	828	
Orange	318	417	513	678	760	
Orleans	318	382	474	598	686	
Rutland	357	465	568	712	797	
Washington	342	427	572	715	802	
Windham	384	445	590	749	824	
Windsor	411	464	581	745	884	

V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	419	495	634	842	944	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	302	425	550	755	771	Clarke
Culpeper County, VA	371	542	630	833	997	Culpeper
Danville, VA MSA	286	360	423	568	685	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	297	355	438	570	675	Scott, Washington, Bristol city
King George County, VA	365	485	545	757	763	King George
Lynchburg, VA MSA	340	374	432	568	685	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	425	478	566	789	927	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	462	524	609	848	1000	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	288	360	467	599	747	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	295	403	538	705	881	Warren
Washington, DC-MD-VA	609	692	812	1106	1333	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Accomack	334	361	422	560	675	Alleghany	294	355	417	560	675
Amelia	282	355	417	560	675	Appomattox	282	355	417	560	675
Augusta	282	365	443	583	710	Bath	282	355	417	560	675
Bland	282	355	417	560	675	Brunswick	282	355	417	560	675
Buchanan	282	355	417	560	675	Buckingham	282	355	417	560	675
Caroline	399	404	540	717	756	Carroll	282	355	417	560	675
Charlotte	282	355	417	560	675	Craig	282	355	417	560	675
Cumberland	282	386	448	560	675	Dickenson	282	355	417	560	675
Essex	282	396	468	651	768	Floyd	282	355	417	560	675
Franklin	282	355	417	560	675	Frederick	382	441	530	726	870
Giles	282	355	417	560	675	Grayson	282	355	417	560	675
Greensville	282	365	417	560	675	Halifax	282	355	417	560	675
Henry	282	355	417	560	675	Highland	282	355	417	560	675
King and Queen	282	404	455	569	675	King William	282	386	433	560	675
Lancaster	352	395	446	594	723	Lee	282	355	417	560	675
Louisa	282	367	452	628	675	Lunenburg	282	355	417	560	675
Madison	283	420	473	592	775	Mecklenburg	282	355	417	560	675
Middlesex	282	357	417	560	675	Montgomery	290	380	447	621	734
Nelson	282	355	417	560	675	Northampton	282	355	417	560	675
Northumberland	282	355	417	560	675	Nottoway	282	355	417	560	675
Orange	312	425	569	791	928	Page	327	369	417	560	675
Patrick	282	355	417	560	675	Prince Edward	315	357	417	560	675
Pulaski	282	355	417	560	675	Rappahannock	286	463	520	722	852
Richmond	282	375	421	560	692	Rockbridge	282	355	417	560	675
Rockingham	282	390	494	677	793	Russell	282	355	417	560	675
Shenandoah	371	380	469	649	737	Smyth	282	355	417	560	675
Southampton	282	355	417	560	675	Surry	293	355	417	560	675
Sussex	282	355	417	560	675	Tazewell	282	355	417	560	675

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	282	380	506	636	823
Wythe	295	355	417	560	675
Wise	282	355	417	560	675

W A S H I N G T O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	389	505	672	928	1101	Whatcom
Bremerton, WA PMSA	401	462	599	809	984	Kitsap
Olympia, WA PMSA	412	506	632	870	1025	Thurston
Portland-Vancouver, OR-WA PMSA	409	504	621	864	938	Clark
Richland-Kennewick-Pasco, WA MSA	485	556	665	926	1087	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	461	561	710	986	1165	Island, King, Snohomish
Spokane, WA MSA	311	424	512	695	779	Spokane
Tacoma, WA PMSA	356	425	566	787	889	Pierce
Yakima, WA MSA	351	432	535	718	749	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	311	373	484	639	709
Chelan	311	373	484	639	709
Columbia	311	373	484	639	709
Douglas	364	384	484	639	709
Garfield	311	373	484	639	709
Grays Harbor	318	373	489	660	761
Kittitas	311	373	484	639	709
Lewis	311	373	484	639	709
Mason	353	438	539	708	761
Pacific	311	373	484	639	709
San Juan	384	525	700	922	1097
Skamania	311	373	484	639	709
Wahkiakum	311	373	484	639	709
Whitman	335	381	508	706	835
Asotin	311	373	484	639	709
Clallam	363	449	571	734	802
Cowlitz	349	390	503	699	709
Ferry	311	373	484	639	709
Grant	334	373	484	639	709
Jefferson	311	402	494	670	709
Klickitat	311	373	484	639	709
Lincoln	311	373	484	639	709
Okanogan	311	373	484	639	709
Pend Oreille	311	373	484	639	851
Skagit	424	518	611	763	853
Stevens	311	373	484	639	709
Walla Walla	311	373	484	648	766

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	362	386	459	574	643	Berkeley
Charleston, WV MSA	252	342	434	596	652	Kanawha, Putnam
Cumberland, MD-WV MSA	328	395	488	645	737	Mineral
Huntington-Ashland, WV-KY-OH MSA	297	348	429	547	602	Cabell, Wayne
Jefferson County, WV	366	405	501	651	738	Jefferson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 52

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	299	358	410	531	576	Wood
Steubenville-Weirton, OH-WV MSA	279	329	412	526	586	Brooke, Hancock
Wheeling, WV-OH MSA	305	333	412	526	586	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	250	317	355	457	531
Braxton	250	305	355	457	531
Clay	250	305	355	457	531
Fayette	250	305	355	457	531
Grant	250	305	355	457	531
Hampshire	250	305	357	470	531
Harrison	275	338	390	487	584
Lewis	250	334	355	457	531
Logan	256	305	355	460	544
Marion	250	315	389	499	575
Mercer	250	305	355	457	531
Monongalia	314	348	424	584	691
Morgan	308	347	390	489	546
Pendleton	250	305	355	457	531
Pocahontas	250	305	355	457	531
Raleigh	259	305	355	457	535
Ritchie	250	305	355	457	531
Summers	250	305	355	457	531
Tucker	250	305	355	457	531
Upshur	250	305	357	457	531
Wetzel	283	305	383	479	604
Wyoming	250	305	355	457	531

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	250	305	355	457	531
Calhoun	250	305	355	457	531
Doddridge	259	305	355	457	531
Gilmer	275	305	355	457	531
Greenbrier	250	345	368	459	531
Hardy	250	305	355	457	531
Jackson	250	312	355	486	531
Lincoln	250	305	355	457	531
Mcdowell	250	305	355	457	531
Mason	250	305	355	457	546
Mingo	250	305	355	457	538
Monroe	250	305	355	457	531
Nicholas	250	305	355	457	531
Pleasants	258	305	355	457	545
Preston	250	320	355	457	531
Randolph	250	305	355	457	531
Roane	250	305	355	457	531
Taylor	306	330	361	457	531
Tyler	250	305	373	468	531
Webster	250	305	355	457	531
Wirt	250	305	355	457	531

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	311	383	486	614	707	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	272	351	451	602	701	Douglas
Eau Claire, WI MSA	335	365	479	615	693	Chippewa, Eau Claire
Green Bay, WI MSA	340	375	481	668	672	Brown
Janesville-Beloit, WI MSA	342	432	535	670	751	Rock
Kenosha, WI PMSA	364	452	555	763	858	Kenosha
La Crosse, WI-MN MSA	276	356	453	606	734	La Crosse
Madison, WI MSA	425	535	646	898	1059	Dane

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	361	472	593	743	830	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	392	504	644	872	987	Pierce, St. Croix
Racine, WI PMSA	320	397	524	677	741	Racine
Sheboygan, WI MSA	297	382	467	583	723	Sheboygan
Wausau, WI MSA	364	377	472	642	712	Marathon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	270	315	401	512	577
Barron	270	315	401	512	577
Buffalo	270	315	401	512	577
Clark	270	315	401	512	577
Crawford	270	315	401	512	577
Door	270	334	415	534	648
Florence	270	315	401	512	577
Forest	270	315	401	512	577
Green	275	315	401	540	577
Iowa	280	315	401	527	577
Jackson	270	315	401	512	577
Juneau	276	315	401	512	577
Lafayette	275	315	401	512	577
Lincoln	270	315	401	512	577
Marinette	270	315	401	512	577
Menominee	270	315	401	512	577
Oconto	270	315	401	512	577
Pepin	270	315	401	512	577
Portage	328	347	450	561	695
Richland	270	315	401	512	577
Sauk	316	326	436	543	609
Shawano	275	315	401	512	577
Trempealeau	270	315	401	512	577
Vilas	270	315	401	512	577
Washburn	270	315	401	512	577
Waushara	270	315	401	512	577

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	295	326	401	512	577
Bayfield	270	315	401	512	577
Burnett	270	315	401	512	577
Columbia	270	321	422	553	620
Dodge	342	347	456	571	638
Dunn	270	315	412	551	680
Fond du Lac	314	425	503	684	706
Grant	274	315	401	512	577
Green Lake	270	315	401	512	577
Iron	270	315	401	512	577
Jefferson	270	358	465	601	657
Kewaunee	270	315	401	512	577
Langlade	270	315	401	512	577
Manitowoc	273	315	401	512	577
Marquette	270	315	401	512	577
Monroe	270	315	401	535	577
Oneida	270	316	401	516	618
Polk	270	315	408	512	577
Price	270	315	401	512	577
Rusk	270	315	401	512	577
Sawyer	270	315	401	512	577
Taylor	270	315	401	512	577
Vernon	270	315	401	512	577
Walworth	282	396	515	671	753
Waupaca	270	315	401	512	607
Wood	293	335	416	522	586

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 54

W Y O M I N G

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	308	357	456	625	739	Natrona
Cheyenne, WY MSA	348	436	582	744	904	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	299	375	500	695	821
Campbell	308	327	420	559	660
Converse	284	327	420	557	640
Fremont	284	327	420	557	640
Hot Springs	284	327	420	557	640
Lincoln	284	327	420	557	640
Park	284	327	420	557	647
Sheridan	284	327	420	557	647
Sweetwater	296	327	420	559	660
Uinta	298	327	420	558	674
Weston	284	327	420	557	640
Big Horn	284	327	420	557	640
Carbon	284	327	420	557	640
Crook	284	327	420	557	640
Goshen	284	327	420	557	640
Johnson	284	327	420	557	640
Niobrara	284	327	420	557	640
Platte	284	327	420	557	640
Sublette	317	357	420	557	640
Teton	380	484	642	864	942
Washakie	284	327	420	557	640

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	670	806	954	1196	1346

P U E R T O R I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	206	251	298	371	418	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	223	270	317	398	447	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	260	313	370	465	517	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	245	298	354	439	495	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	243	297	350	437	491	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	327	399	471	589	661	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042397

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 55

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	197	244	285	360	399
Arroyo Municipio.....	197	244	285	360	399
Ciales Municipio.....	197	244	285	360	399
Culebra Municipio.....	197	244	285	360	399
Guayama Municipio.....	197	244	285	360	399
Jayuya Municipio.....	197	244	285	360	399
Lares Municipio.....	197	244	285	360	399
Maricao Municipio.....	197	244	285	360	399
Orocovis Municipio.....	197	244	285	360	399
Quebradillas Municipio..	197	244	285	360	399
Salinas Municipio.....	197	244	285	360	399
Santa Isabel Municipio..	197	244	285	360	399
Vieques Municipio.....	197	244	285	360	399

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	197	244	285	360	399
Barranquitas Municipio..	197	244	285	360	399
Coamo Municipio.....	197	244	285	360	399
Guanica Municipio.....	197	244	285	360	399
Isabela Municipio.....	197	244	285	360	399
Lajas Municipio.....	197	244	285	360	399
Las Marias Municipio....	197	244	285	360	399
Maunabo Municipio.....	197	244	285	360	399
Patillas Municipio.....	197	244	285	360	399
Rincon Municipio.....	197	244	285	360	399
San Sebastian Municipio.	197	244	285	360	399
Utuado Municipio.....	197	244	285	360	399

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Croix.....	471	572	674	842	944

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas....	605	734	864	1080	1209

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SCHEDULE D - FY 1998 40TH PERCENTILE FAIR MARKET RENTS
FOR MANUFACTURED HOME SPACES IN THE
SECTION 8 CERTIFICATE PROGRAM

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California	
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San Diego, CA MSA	$396
Vallejo-Fairfield-Napa, CA PMSA	$300
Colorado	
Boulder-Longmont, CO PMSA	$314
Denver, CO PMSA	$299
Delaware	
Dover, DE MSA	$172
Sussex County, DE	$119
Maryland	
Hagerstown, MD PMSA	$213
St. Mary's County, MD	$260
Minnesota	
Minneapolis-St. Paul, MN-WI MSA	$258
New York	
Dutchess County, NY PMSA	$348
Jamestown, NY MSA	$175
Newburgh, NY-PA PMSA	$326
Rochester, NY MSA	$244
Utica-Rome, NY MSA	$218
Tompkins County, NY	$204
Oregon	
Salem, OR PMSA	$217
Portland-Vancouver, OR-WA MSA	$262
Benton County, OR	$207
Linn County, OR	$187
Utah	
Provo-Orem, UT MSA	$215
Vermont	
Washington County, VT	$207
West Virginia	
Berkeley County, WV	$140
Jefferson County, WV	$143
Morgan County, WV	$138

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Agricultural Marketing Service

Honey research, promotion, and consumer information order; comments due by 5-6-97; published 3-7-97

Milk marketing orders:

Eastern Colorado; comments due by 5-8-97; published 4-8-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

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Brucellosis in cattle and bison—

State and area classifications; comments due by 5-5-97; published 3-6-97

Plant-related quarantine, domestic:

Asian longhorned beetle; comments due by 5-6-97; published 3-7-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Popcorn; comments due by 5-9-97; published 4-9-97

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

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Rural venture capital demonstration program; comments due by 5-9-97; published 4-9-97

AGRICULTURE DEPARTMENT

Rural Telephone Bank

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Northeastern United States fisheries—

Summer flounder, etc.; comments due by 5-8-97; published 4-8-97

West Coast States and Western Pacific fisheries—

Ocean salmon off coasts of Washington, Oregon, and California; comments due by 5-9-97; published 4-24-97

Pacific Coast groundfish; comments due by 5-5-97; published 3-21-97

COMMODITY FUTURES TRADING COMMISSION

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Chicago Board of Trade—London International Financial Futures and Options Exchange Trading Link; distribution of customer property related to trading; comments due by 5-7-97; published 4-22-97

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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Delegation of authority, cooperative agreements and contracts for oil and gas inspections; comments due by 5-9-97; published 4-9-97

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Fish and Wildlife Service
Endangered and threatened species:
Desert bighorn sheep; Peninsular Ranges population; comments due by 5-7-97; published 4-7-97
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Appendices and amendments; comments due by 5-9-97; published 4-17-97

INTERIOR DEPARTMENT
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Royalty management:
Reporting and paying royalties on gas standards and gas analysis report; comments due by 5-5-97; published 4-4-97

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Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 785/P.L. 105–10

To designate the J. Phil Campbell, Senior, Natural Resource Conservation Center. (Apr. 24, 1997; 111 Stat. 21)

H.R. 1225/P.L. 105–11

To make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states. (Apr. 25, 1997; 111 Stat. 22)

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FEDERAL REGISTER WORKSHOP

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

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHEN: May 6, 1997 at 9:00 am to 12:00 noon

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Conference Room 3470
Long Beach, CA 90802

San Francisco, CA

WHEN: May 21, 1997 at 9:00 am to 12:00 noon

WHERE: Phillip Burton Federal Building and Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Anchorage, AK

WHEN: May 23, 1997 at 9:00 am to 12:00 noon

WHERE: Federal Building and U.S. Courthouse
222 West 7th Avenue
Executive Dining Room (Inside Cafeteria)
Anchorage, AK 99513

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