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Monday
May 5, 1997

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Waiver of the nonmanufacturer rule for power circuit breakers, current and potential transformers, autotransformer, and surge arresters.

SUMMARY: This document advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters. The basis for a waiver is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set-aside for small businesses or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: May 5, 1997.

ADDRESSES: David Wm. Loines, Procurement Analyst, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Tel: (202) 205–6475.

FOR FURTHER INFORMATION CONTACT: David Wm. Loines, Procurement Analyst, (202) 205–6475, FAX (202) 205–7324.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set-aside for small businesses or the SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines ''class of products'' based on two coding systems. The first is the Office of Management and Budget *Standard Industrial Classification Manual.* The second is the Product and Service Code (PSC) established by the Federal Procurement Data System.

The SBA was asked to issue a waiver for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters because of an apparent lack of any small business manufacturers of processors for them within the Federal market. The SBA searched its Procurement Automated Source System (PASS) for small business participants and found none. We then published a document in the **Federal Register** on February 12, 1997, 62 FR 6499, of our intent to grant a waiver for these classes of products unless new information was found. The proposed waiver covered Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters. The document described the legal provisions for a waiver, how SBA defines the market, and asked for small business participants of these classes of products. After the 15-day comment period, no small businesses were identified for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters. This waiver is being granted pursuant to statutory authority under section 303(h) of Public Law 100–656 for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, Surge Arresters. The waiver will last indefinitely but is subject to both an annual review and a review upon receipt of information that the conditions required for a waiver no longer exist. If such information is found, the waiver may be terminated.

Judith A. Roussel,
Associate Administrator for Government Contracting.

[FR Doc. 97–11555 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–151–AD; Amendment 39–10011; AD 97–09–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that requires a one-time inspection to determine the part number of the engage solenoid valve of the yaw damper, and replacement of the valve with a valve having a different part number, if necessary. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers.

EFFECTIVE DATE: June 9, 1997.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Hania Younis, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2764; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes was published in the **Federal Register** on August 28, 1996 (61 FR 44243). That action proposed to require repetitive tests to verify the integrity of the yaw damper coupler, and various follow-on actions. That action also proposed to require a one-time inspection to determine the part number of the engage solenoid valve of the yaw damper, and replacement of the valve with a valve having a different part number, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request for Issuance of Two Separate AD's

One commenter requests that the proposed rule, which proposed actions related to the yaw damper coupler/rate gyroscope and the engage solenoid valve of the yaw damper, be separated into two independent AD's—one for the yaw damper coupler/rate gyroscope, and the other for the engage solenoid valve. The commenter believes that the actions required for each of these parts are sufficiently different that recordkeeping requirements warrant separate rules.

The FAA finds that issuance of two separate AD's is appropriate: one to address the yaw damper coupler/rate gyroscope, and another to address the engage solenoid valve. Therefore, this final rule is being issued to address actions associated with the engage solenoid valve of the yaw damper coupler. [Those actions appeared in paragraph (b) of the proposal.]

Further, the FAA is considering the issuance of separate rulemaking action to require accomplishment of the actions contained in the proposal that address the yaw damper coupler/rate gyroscope. [Those actions appeared in paragraph (a) of the proposal.] Since the issuance of the proposal, the FAA has determined that the requirements contained in paragraph (a) must be expanded to require hard-time replacement of the rate gyroscope. That paragraph originally proposed to require, in part, replacement of the rate gyroscope only if necessary following testing.

Request To Withdraw the Proposal

One commenter requests that the FAA withdraw the proposed rule. The commenter does not believe that the proposed requirement to replace the existing engage solenoid valve with one that uses encapsulated coils is warranted. The commenter states that industry experience with the existing engage solenoid valve indicates an extremely reliable valve. The commenter adds that the mean time between failures is in excess of 150,000 flight hours. In addition, the commenter states that valves with encapsulated coils have been no more reliable than the existing valves. The commenter also states that failure of this valve is not a safety of flight issue.

The FAA does not concur with the commenter's request to withdraw the proposal. The FAA has not received data that demonstrate the commenter's contentions concerning the reliability of the existing engage solenoid valve. Additionally, the FAA finds that failure of the existing valve could result in abrupt, uncommanded yawing of the airplane, which could result in reduced controllability of the airplane. This AD addresses that unsafe condition.

Request To Allow Option for Replacing Coils

Another commenter requests that the proposal be revised to allow operators the option of changing the engage solenoid valve or replacing the soft-potted coils with encapsulated coils. The commenter asserts that this option will still accomplish the intent of the AD, and will give credit to operators that previously have upgraded to the encapsulated coils while maintaining the original valve part number. The commenter adds that this valve is used in multiple locations and on several fleets, and the introduction of a new and unique part number is undesirable.

The FAA does not concur with the commenter's request to allow an option in this AD. The FAA points out that no new or unique part number is being introduced by this AD. The parts that are required to be installed by this final rule are currently optional parts that could have been installed prior to the issuance of this AD. The FAA acknowledges the commenter's concern regarding the use of the valve in multiple locations and on several fleets; however, the FAA has determined that issuance of this AD is necessary to address the identified unsafe condition. If an operator desires to replace the electric coil inside the valve with an encapsulated coil to bring the valve to the proper configuration, the FAA would consider a request for approval of an alternative method of compliance, in accordance with the provisions of this AD, provided that complete substantiating data are submitted.

Request for Replacement of Engage Solenoid Valve Based on Results of Dielectric Tests

One commenter requests that the FAA eliminate the requirement to replace the engage solenoid valves, and require replacement of the valves only on the basis of results of dielectric tests. The commenter states that simple electrical test can be performed in-situ; the commenter believes this test can reveal dielectric breakdown prior to failure. The commenter concludes that such testing and a requirement to upgrade the engage solenoid valve (if degradation is detected) would be appropriate.

The FAA does not concur. The FAA is unaware of a test procedure such as that suggested by the commenter. The FAA has been advised that data from the manufacturer shows that encapsulated coils provide higher reliability due to increased resistance to damage and moisture. The FAA finds that basing replacement only upon testing, as suggested by the commenter, would not prevent failures that could occur between maintenance checks. However, the FAA would consider a request for approval of an alternative method of compliance, in accordance with the provisions of this AD, provided that complete test procedures and substantiating data are submitted.

Request for Further Testing of Engage Solenoid Valve

One commenter requests that further testing be accomplished on the engage solenoid valve having part number 10–60811-( ) to either develop a test for the internal corrosion or to key the valves so they are unique to the rudder PCU position. The commenter points out that this particular valve is installed in 12 to 16 locations on each airplane, and it would be very difficult to restrict acceptable part numbers to only the rudder PCU. The commenter also states that it would be costly if airlines are forced to change all of these valves to ensure that the wrong valve is not installed on the rudder PCU; if the design of the part was keyed such that the valve installed on the rudder PCU is unique, this cost could be avoided.

The FAA does not concur with the commenter's request. While the FAA recognizes that some operators may elect to replace valves having the affected part number at all locations of the airplane, this AD requires replacement of the engage solenoid valve only in the rudder PCU, and not at all locations where that valve is installed. The FAA does not agree that an internal test for corrosion is necessary since the new replacement

valve is designed to preclude moisture penetration and consequent corrosion. While such a test may be desirable, the FAA is not aware of the availability of such a procedure. Should such a test be developed, the FAA would consider a request for approval of an alternative method of compliance in accordance with the provisions of this AD. The FAA finds that installation of these newly designed valves at the replacement interval specified in this AD will ensure an acceptable level of safety of the affected fleet.

Request for Revised Compliance Time for Replacement of Engage Solenoid Valve

Several commenters request that the requirement for replacement of certain engage solenoid valves be revised from 18 months to the next PCU shop visit. The commenters contend that the proposed AD should not require hard-time replacement. One of these commenters states that past experience has revealed the reliability of engage solenoid valves having part numbers 10–60881–1, –3, and –9 has been very good; these valves have a mean time between failures of 130,000 flight hours.

The FAA concurs that the proposed compliance time can be extended without compromising the safety of the affected fleet. In light of the information presented by the commenters, the FAA has revised the compliance time specified in paragraph (a) of this AD to within five years or 15,000 flight hours after the effective date of this AD, or at the next time the PCU is sent to a repair facility (whichever occurs first). This revised compliance time should allow the action to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available, if necessary.

Request for Reduced Compliance Time for Replacement of Engage Solenoid Valve

One commenter supports the proposal, but requests that the proposed compliance time for one-time inspection of the engage solenoid valve be reduced from 18 months to 3 months to provide an acceptable level of safety.

The FAA does not concur with the commenter's request to shorten the proposed compliance time. In developing the proposed compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the required actions. In consideration of these factors, the FAA determined that the compliance time, as proposed, represents an appropriate time in which the one-time inspection can be accomplished in a timely manner within the fleet and still maintain an adequate level of safety. In fact, the FAA has determined, as discussed above, that the proposed compliance can be extended somewhat without compromising the safety of the fleet. Operators are always permitted to accomplish the requirements of an AD at a time earlier than that specified as the compliance time. If additional data are presented that would justify a shorter compliance time, the FAA may consider further rulemaking on this issue.

Request for Clarification of Part Numbers

Two commenters request clarification of the part numbers (P/N) of the engage solenoid valve addressed in the proposal. One of these commenters, Boeing, indicates that there are two suppliers that have qualified parts to Boeing P/N 10–60811–3. Parker P/N 59600–5007 has a soft-potted coil (similar to P/N 10–60811–1 and –9), while Sterer P/N 45080 has an encapsulated epoxy coil (similar to P/N 10–60811–8 and –13). The second commenter states that the P/N's of the engage solenoid valve that appear in the proposed rule do not exist.

The FAA agrees that clarification is necessary. The P/N's that appeared in paragraph (b) of the proposal were incorrect. Paragraph (a) of this final rule [which appeared as paragraph (b) of the proposal] has been revised to specify that the correct P/N's of the valves to be removed are Boeing P/N 10–60811–3 and Parker P/N 59600–5007 (Boeing P/N 10–60811–3), and that the correct P/N's of the replacement valves are Boeing P/N 10–60811–8 and –13, and Sterer P/N 45080 (Boeing P/N 10–60811–3).

Operators should note that both the Parker and Sterer P/N's have the same Boeing P/N—10–60811–3. If, upon inspection, Boeing P/N 10–60811–3 is found to be installed, operators must ascertain the vendor P/N. Parts having Boeing P/N 10–60811–3 and Parker P/N 59600–5007 must be replaced, and are not considered to be acceptable for use as replacement parts. The FAA has included a note in this final rule to reflect this information.

Request To Revise Reference to Maintenance Manual

Boeing indicates that the appropriate reference for replacement of the engage solenoid valve, as specified in paragraph (b) of the proposal, is the Boeing Maintenance Manual 22–12–11. The proposal indicates that the appropriate reference is Chapter 27–20–01 of the Boeing 737 Overhaul Manual.

The FAA concurs that the reference provided by the commenter is appropriate. The FAA has reviewed the references contained in both the maintenance and overhaul manuals. Both manuals provide procedures for installation of the part. However, the overhaul manual addresses procedures to be used when the PCU is not installed on the airplane; the maintenance manual provides not only those procedures, but additional information related to access and close-up of the airplane. The FAA concludes that the maintenance manual is the appropriate reference for purposes of this AD, and has revised the final rule accordingly.

Request To Revise Statement of Findings of Critical Design Review Team

One commenter requests the second paragraph of the Discussion section that appeared in the preamble to the proposed rule be revised to accurately reflect the findings of the Critical Design Review (CDR) team. The commenter asks that the FAA delete the one sentence in that paragraph, which read: ''The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as correction of certain design deficiencies.'' The commenter suggests that the following sentences should be added: ''The team did not find any design issues that could lead to a definite cause of the accidents that gave rise to this effort. The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as incorporation of certain design improvements in order to enhance its already acceptable level of safety.''

The FAA does not find that a revision to this final rule in the manner suggested by the commenter is necessary, since the Discussion section of a proposed rule does not reappear in a final rule. The FAA acknowledges that the CDR team did not find any design issue that could lead to a definite cause of the accidents that gave rise to this effort. However, as a result of having conducted the CDR of the flight control systems on Boeing Model 737 series airplanes, the team indicated that there are a number of recommendations that should be addressed by the FAA for each of the various models of the Model 737. In reviewing these recommendations, the FAA has concluded that they address unsafe conditions that must be corrected through the issuance of AD's. Therefore, the FAA does not concur that these

design changes merely ''enhance [the Model 737's] already acceptable level of safety.''

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 2,675 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,091 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the required one-time inspection of the engage solenoid valve, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $65,460, or $60 per airplane.

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

Should an operator be required to replace an engage solenoid valve of the yaw damper, it will take approximately 3 work hours to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,688 per airplane. Based on these figures, the cost impact of any necessary replacement of an engage solenoid valve is estimated to be $1,868 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

97–09–15 Boeing: Amendment 39–10011. Docket 96–NM–151–AD.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers, accomplish the following:

(a) Perform a one-time inspection of the engage solenoid valve of the yaw damper to determine the part number (P/N) of the valve. If any valve having Boeing P/N 10–60811–1 or –9, or Parker P/N 59600–5007 (Boeing P/N 10–60811–3) is installed, prior to further flight, replace it with a valve having Boeing P/N 10–60811–8 or –13, or Sterer P/N 45080 (Boeing P/N 10–60811–3). Accomplish the actions in accordance with procedures specified in Chapter 22–12–11 of the Boeing Maintenance Manual. Accomplish the inspection at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after the effective date of this AD, whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

Note 2: Boeing In-Service Activities Report 95–03–2725–10, dated February 16, 1995 (for Model 737–100 and –200 series airplanes), or 95–04–2725–10, dated February 24, 1995 (for Model 737–300, –400, and –500 series airplanes), provide additional information concerning interchangeability of solenoid valve part numbers.

Note 3: Operators should note that, as specified in paragraph (a) of this AD, both the Parker and Sterer P/N's have the same Boeing P/N (10–60811–3). If, upon inspection, Boeing P/N 10–60811–3 is found to be installed, operators must ascertain the vendor P/N. Parts having Boeing P/N 10–60811–3 and Parker P/N 59600–5007 must be replaced and are not considered to be acceptable replacement parts.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(d) This amendment becomes effective on June 9, 1997.

Issued in Renton, Washington, on April 24, 1997.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–11201 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 429

RIN 0960–AE51

Administrative Regulations; Tort Claims

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: These final rules adopt as SSA rules the same procedures and

practices on tort claims against the Government that were applicable to SSA when it was a component of HHS. The Social Security Independence and Program Improvements Act of 1994 established the Social Security Administration as an independent agency in the executive branch of the United States Government effective March 31, 1995 and vested general regulatory authority in the Commissioner of Social Security. These regulations establish a new part 429 in title 20 of the Code of Federal Regulations.

EFFECTIVE DATE: These rules are effective May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Suzanne DiMarino, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1769 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: Prior to March 31, 1995, SSA was an operating component of the Department of Health and Human Services (HHS) and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. § 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal government effective March 31, 1995 and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). SSA continues to administer the old-age, survivors, and disability insurance programs under title II and the supplemental security income program under title XVI.

These final rules adopt, with only technical changes, into a new part 429 for SSA, the same procedures and practices set out in 45 CFR part 35, entitled, Tort Claims Against the Government. The rules at 45 CFR part 35 prescribe the procedure HHS follows when claims are asserted under the Federal Tort Claims Act for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any HHS employee.

All changes are technical, that is, changes in names, addresses and legal citations, or paragraph redesignation. These final rules also amend our regulations to revise references to HHS, HEW or ''the Secretary'' to refer to the Social Security Administration or ''the Commissioner''. They also delete references to other operating divisions, major components, or principal operating components of HEW or HHS and refer solely to SSA.

Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee.

Regulatory Procedures

When required, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, since these final rules reflect a continuation of the procedures and practices in effect when SSA was an operating component of the HHS, notice of proposed rulemaking and public comment procedures are unnecessary. Accordingly, we have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because the only changes are minor and technical in nature. These changes make no substantive change in the regulations and have no impact on the public. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule.

SSA is not providing a 30-day delay in the effective date of this final rule under 5 U.S.C. 553(d). This is not a substantive rule, and there is no change in policy. Accordingly, it is in the public interest to make these regulations effective on publication.

Executive Order 12866

SSA has consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

SSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities since it makes no changes in policy. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income; 96.007 Social Security—Research and Demonstration)

List of Subjects in 20 CFR Part 429

Claims.

Dated: April 15, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

For reasons set out in the preamble, Chapter III of Title 20 of the Code of Federal Regulations is amended by adding the following:

PART 429—ADMINISTRATIVE REGULATIONS

Tort Claims Against the Government

Sec.
429.101 Scope of regulations.
429.102 Administrative claims; when presented; place of filing.
429.103 Administrative claims; who may file.
429.104 Administrative claims; evidence and information to be submitted.
429.105 Investigation, examination, and determination of claims.
429.106 Final denial of claims.
429.107 Payment of approved claims.
429.108 Release.
429.109 Penalties.
429.110 Limitation on SSA's authority.

Authority: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. § 902(a)(5)), 28 U.S.C. § 2672; 28 CFR Part 14.

§ 429.101 Scope of regulations.

The regulations in this part shall apply only to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. sections 2671–2680, for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Social Security Administration (SSA) while acting within the scope of his office or employment.

§ 429.102 Administrative claims; when presented; place of filing.

(a) For purposes of the regulations in this part, a claim shall be deemed to have been presented when SSA

receives, at a place designated in paragraph (c) of this section, an executed Standard Form 95 or other written notification of an incident accompanied by a claim for money damages in a sum certain for damage to or loss of property, for personal injury, or for death, alleged to have occurred by reason of the incident. A claim which should have been presented to SSA but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to SSA as of the date that the claim is received by SSA. A claim mistakenly addressed to or filed with SSA shall forthwith be transferred to the appropriate Federal agency, if ascertainable, or returned to the claimant.

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final action by the SSA Claims Officer or prior to the exercise of the claimant's option to bring suit under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant. Upon the timely filing of an amendment to a pending claim, SSA shall have 6 months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of an amendment.

(c) Forms may be obtained from and claims may be filed with the SSA Claims Officer, Room 611, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

§ 429.103 Administrative claims; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his duly authorized agent, or his legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or his legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim under applicable state law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, he shall present with his claim appropriate evidence that he has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 429.104 Administrative claims; evidence and information to be submitted.

(a) Death. In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payments for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) Personal injury. In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed or designated by SSA. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that claimant has, upon request, furnished the report referred to in the first sentence of this paragraph (b)(1) and has made or agrees to make available to SSA any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected duration of and expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) Property damage. In support of a claim for damage to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, market value of the property as of date of damage, and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing either on the responsibility of the United States for the injury to or loss of property or the damages claimed.

(d) Time limit. All evidence required to be submitted by this section shall be furnished by the claimant within a reasonable time. Failure of a claimant to furnish evidence necessary to a determination of his claim within three months after a request therefor has been mailed to his last known address may be deemed an abandonment of the claim.

The claim may be thereupon disallowed.

§ 429.105 Investigation, examination, and determination of claims.

When a claim is received, SSA shall make such investigation as may be necessary or appropriate for a determination of the validity of the claim and thereafter shall forward the claim, together with all pertinent material, and a recommendation based on the merits of the case, with regard to allowance or disallowance of the claim, to the SSA Claims Officer to whom authority has been delegated to adjust, determine, compromise and settle all claims hereunder.

§ 429.106 Final denial of claims.

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with SSA's action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

(b) Prior to the commencement of suit and prior to the expiration of the 6-month period after the date of mailing, by certified or registered mail of notice of final denial of the claim as provided in 28 U.S.C. 2401(b), a claimant, his duly authorized agent, or legal representative, may file a written request with SSA for reconsideration of a final denial of a claim under paragraph (a) of this section. Upon the timely filing of a request for reconsideration SSA shall have 6 months from the date of filing in which to make a final disposition of the claim and the claimant's option under 28 U.S.C. 2675(a) to bring suit shall not accrue until 6 months after the filing of a request for reconsideration. Final SSA action on a request for reconsideration shall be effected in accordance with the provisions of paragraph (a) of this section.

§ 429.107 Payment of approved claims.

(a) Upon allowance of his claim, claimant or his duly authorized agent shall sign the voucher for payment, Standard Form 1145, before payment is made.

(b) When the claimant is represented by an attorney, the voucher for payment (SF 1145) shall designate both the claimant and his attorney as ''payees.'' The check shall be delivered to the attorney whose address shall appear on the voucher.

§ 429.108 Release.

Acceptance by the claimant, his agent or legal representative, of any award, compromise or settlement made hereunder, shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 429.109 Penalties.

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than $10,000 or to imprisonment of not more than 5 years, or both (18 U.S.C. §§ 287; 1001), and, in addition, to a forfeiture of $2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C. § 231).

§ 429.110 Limitation on SSA's authority.

(a) An award, compromise or settlement of a claim hereunder in excess of $25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised or settled hereunder only after consultation with the Department of Justice when, in the opinion of SSA:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and SSA is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) An administrative claim may be adjusted, determined, compromised or settled only after consultation with the Department of Justice when it is learned that the United States or an employee, agent or cost plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

[FR Doc. 97–11530 Filed 5–2–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2536]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Validity of Nonimmigrant Visas

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: Section 632(b) of Pub. L. 104–208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), enacted on September 30, 1996, amended the Immigration and Nationality Act (INA) to authorize the application of the nonimmigrant reciprocity rules to refugees and permanent residents on a reciprocal basis. Thus, on a reciprocal basis, permanent residents of a foreign country and aliens granted refugee status in that foreign country may have nonimmigrant visas issued pursuant to the same visa fee schedule and for the same period of validity as nationals of that country. This rule implements new INA 221(c) and amends the Department's regulations at 41.112(b) accordingly.

Additionally, effective April 1, 1994, the Department instructed all Foreign Service posts to cease issuing Burroughs nonimmigrant visas with indefinite validity. Foreign Service posts worldwide now issue only machine-readable visas (MRVs), a more technologically advanced and secure type of visa. The Department is, therefore, amending its regulations by changing the maximum validity of nonimmigrant visas from ''indefinite'' to ''ten years'' to conform to the applicable technology mandated by Congress.

DATES: This rule is effective May 5, 1997.

ADDRESSES: Chief, Legislation and Regulation Division, Visa Office, Room L603–C, SA–1, Washington, D.C. 20520–0106.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, (202) 663–1203.

SUPPLEMENTARY INFORMATION:

IIRIRA Section 632(b)

Section 632(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) amended INA 221(c). Under INA 221(c), aliens are accorded the same treatment upon a reciprocal basis as the alien's

country extends to U.S. citizens. This treatment extends to fees charged for visas and validity periods of issued visas. The amount of the fee and the duration of the visa's validity are set forth in schedules published by the Department of State. These schedules are published in Volume 9 of the Foreign Affairs Manual, Part IV, Appendix C. The schedules are developed on the basis of reciprocal agreements which seek parity in visa fees and visa validity periods between the United States and a particular foreign government. Consequently, United States nonimmigrant visa fees and periods of visa validity are based, as far as is practicable, on the visa fees and validity periods which United States citizens are accorded when applying for visas for travel to a particular country. This amendment authorizes on a reciprocal basis the use of the same fee and visa validity schedules for aliens who have obtained refugee status in a country or who have obtained permanent resident status in that country. Thus, an alien who is a refugee or permanent resident in a country may be issued a visa pursuant to the reciprocity schedule accorded nationals of that country, as long as that foreign country extends the same treatment to refugees and permanent residents of the United States. The regulation at 22 CFR 41.112(b) is amended to accommodate these changes.

Machine Readable Visa (MRV)

Over the past several years United States Foreign Service posts have converted from the issuance of Burroughs visas to machine readable visas (MRVs) for all nonimmigrant issuance. MRV technology was developed as an anti-counterfeiting measure to enhance the security of the visa. A MRV has a maximum life span of ten years. Therefore, effective April 1, 1994, no nonimmigrant visa, (including B visas formerly authorized for indefinite maximum validity) may be issued for more than ten years, and reciprocity schedules have been amended accordingly. The Department is, therefore, amending its regulation at 22 CFR 41.112(b) to reflect use of the machine-readable visa.

Final Rule

The implementation of this rule as a final rule is based upon the ''good cause'' exceptions established by 5 U.S.C. 553(b)(B) and 553(d)(3). The first amendment made by this rule grants or recognizes an exemption or relieves a restriction under 5 U.S.C. 553(d)(1). The second amendment is based upon the limitations inherent in applicable technology. Both are considered beneficial to the United States Government.

This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act (5 U.S.C. 605(b)). This rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12988 and certified to be in compliance therewith. This rule is exempted from E.O. 12866 but has been reviewed to ensure consistency therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas, Visa validity.

In view of the foregoing, 22 CFR is amended as follows:

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read:

Authority: 8 U.S.C. 1104.

2. Section 41.112 is amended by revising paragraph (b) to read as follows:

§ 41.112 Validity of visa.

* * * * *

(b) Validity of visa and number of applications for admission. (1) Except as provided in paragraph (c) of this section, a nonimmigrant visa shall have the validity prescribed in schedules provided to consular officers by the Department, reflecting insofar as practicable the reciprocal treatment accorded U.S. nationals, U.S. permanent residents, or aliens granted refugee status in the U.S. by the government of the country of which the alien is a national, permanent resident, refugee or stateless resident.

(2) Notwithstanding paragraph (b)(1) of this section, United States nonimmigrant visas shall have a maximum validity period of 10 years.

(3) An unexpired visa is valid for application for admission even if the passport in which the visa is stamped has expired, provided the alien is also in possession of a valid passport issued by the authorities of the country of which the alien is a national.

* * * * *

Dated: April 22, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 97–11518 Filed 5–2–97; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2538]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Validity of Nonimmigrant Visas

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: The Department has been developing for a number of years a machine-readable nonimmigrant visa (MRV). The MRV is a durable, long-lasting adhesive foil designed to improve security and protect against counterfeiting. MRVs are affixed in passports and contain: specific biographic data on the bearer, a digitized photograph of the alien, and specially encoded machine-readable data. MRVs are now being used exclusively at consular posts abroad, having replaced old-style mechanically-stamped visas. The Department, therefore, is modifying regulatory language to comport with the new MRV technology.

The Department also is removing an obsolete regulation relating to the issuance of visas on official identity cards produced under the auspices of the International Olympic Committee (IOC).

DATES: This rule is effective May 5, 1997.

ADDRESSES: Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street, NW, Room L603–C, SA–1, Washington, D.C. 20520–0106.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, (202) 663–1203.

SUPPLEMENTARY INFORMATION: The practice of placing United States visas into foreign passports has progressed through three stages, the use of a simple hand stamp, to a machine-driven automated stamp, and now, to a more sophisticated machine readable visa technology that provides greater security and anti-counterfeiting features. As a result of the new MRV technology, a number of visa issuance procedures codified in the Department's regulations at 22 CFR 41.113 have become outmoded, or need updating.

Machine Readable Visas (MRVs)

Section 4604 of the Anti-Drug Abuse Act of 1988, (Pub. L. 100–690), enacted

November 18, 1988, mandated the development of a machine-readable travel and identity document to improve border entry and departure control using an automated data-capture system. As a result, the Department developed the Machine Readable Visa, a durable, long-lasting adhesive foil made out of Teslin.

Before MRVs, nonimmigrant visas were issued using a device called a Standard Register protectograph, otherwise known as a Burroughs certifier machine. It produced what was colloquially known as a ''Burroughs visa,'' an indelible ink impression mechanically stamped directly onto a page in the alien's passport. Over time, Burroughs machines were gradually replaced by MRV technology, which is now used exclusively by all nonimmigrant visa issuing posts throughout the world.

22 CFR 41.113(a) prescribes that a nonimmigrant visa shall be evidenced by a ''stamp'' placed in the alien's passport. 22 CFR 41.113(d) defines the format that the ''visa stamp'' is to take. Accordingly, the Department is modifying 22 CFR 41.113(d) to encompass within the meaning of ''visa stamp'' the Machine Readable Visa foil. 22 CFR 41.113(d) is also being redsignated herein as 22 CFR 41.113(c), as explained below.

Cessation of Indefinite Visa Validity for ''B'' Visas

Prior to MRV technology, Burroughs visas were issued to alien visitors for indefinite validity periods whenever an enabling reciprocal arrangement was established between the United States and a particular foreign government. Because a Burroughs visa would last for the life of the passport containing it, consular officers were authorized to issue, where appropriate, a nonimmigrant visitor visa with an indefinite validity period. MRVs, however, have a lifespan of ten years. Consequently, in anticipation of replacing Burroughs visas with MRVs, the Department instructed all posts, effective April 4, 1994, to cease issuing visitor visas with indefinite validity. The maximum validity for a nonimmigrant visa is now ten years.

22 CFR 41.113(c) refers to the issuance of indefinite validity visas. Since this provision has been rendered obsolete with the introduction of MRV technology, it is being eliminated. Accordingly, 22 CFR 41.113(d) is being redesignated as 22 CFR 41.113(c).

22 CFR 41.113(f), which makes reference to indefinite validity, is being amended and redesignated as 22 CFR 41.113(e).

Elimination of the ''Bearer(s)'' Annotation

Burroughs visas contained a space in which a consular employee was required to write the name of the alien to whom the visa was being issued. An alien's passport might also include family members, such as a spouse, or children, who also had to be listed on the visa. In March 1983, in order to expedite the issuance of nonimmigrant visas and to improve operational efficiency, the Department authorized the use of a ''bearer(s)'' stamp for certain countries so that consular officers would not have to spend time writing in the applicant's name (and those of accompanying family members). MRVs, however, must be issued individually to qualified aliens. Consequently, the ''bearer'' annotation has become obsolete.

22 CFR 41.113(e) is being redesignated as 22 CFR 41.113(d), and is being amended to remove procedures relating to the ''bearer'' annotation, and to reflect changes in terminology brought about by MRV technology.

Elimination of Signature Requirement

As a result of the enhanced security afforded by MRVs, the signature requirement at 22 CFR 41.113(h) is being eliminated and 22 CFR 41.113 (i) and (j) are being redesignated as 22 CFR 41.113 (h) and (i), respectively.

Restriction to Specific Port of Entry

22 CFR 41.113(g) is redesignated as 22 CFR 41.113(f) and is modified to reflect changes to that section brought about by the new MRV technology.

Elimination of Special Regulations for International Games

The Department is removing its regulation at 22 CFR 41.113(k) relating to international sporting events. The regulation was created to facilitate the issuance of United States visas on official identity cards issued under the auspices of the International Olympic Committee (IOC); however, it has never been used, and the Department believes it unlikely that it ever will be.

Under 41.113(k)(2), in order to be recognized as a valid travel document (see INA 101(a)(30) and 212(a)(7)(B)(i)(I)), an IOC-issued identity card requires the signature of a competent authority of the participating government signifying that the bearer of the card will be permitted reentry rights for up to six months beyond the expiration date of the card. In practice, the above requirement has never been satisfied for any international sporting event for which it was designed, chiefly because of the enormous administrative difficulty in securing authorization from participating governments for the use of an OIC-issued card as a valid travel document. Since the regulation has no apparent practical applicability, it is being eliminated.

Conclusion

In light of the foregoing, the Department is amending part 41 of Title 22 CFR of the Code of Federal Regulations to comport with the use of the machine-readable visa. The Department's regulations are, therefore, being amended to reflect the use of the MRV, to eliminate the use of the ''bearer(s)'' annotation, to limit the maximum validity of nonimmigrant visas to a maximum of ten years, and to remove the requirement of the consular officer's signature.

Final Rule

The introduction of the machine readable visa has necessitated changes in the Department's procedural regulations at 22 CFR 41.113.

The implementation of this rule as a final rule, rather than a proposed rule, is based upon the ''good cause'' exceptions established by 5 U.S.C. 553(b)(B) and 553(d)(3). This rule grants or recognizes an exemption or relieves a restriction and is considered beneficial to the United States Government.

This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act (15 U.S.C. 605(b)). This rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12988 and certified to be in compliance therewith. This rule is exempted from E.O. 12866 but has been reviewed to ensure consistency therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas, Visa validity.

In view of the foregoing, 22 CFR is amended as follows:

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read:

Authority: 8 U.S.C. 1104.

2. Section 41.113 is amended by removing paragraphs (c), (h), and (k) and redesignating paragraphs (d) through (g), (i) and (j) as paragraphs (c) through (h), and revising paragraphs (a), (b), and newly designated paragraphs (c) through (f) to read as follows:

§ 41.113 Procedures in issuing visas.

(a) Visa evidenced by stamp placed in passport. Except as provided in paragraphs (b) of this section, a nonimmigrant visa shall be evidenced by a visa stamp placed in the alien's passport. The appropriate symbol as prescribed in 41.12 , showing the classification of the alien, shall be entered on the visa.

(b) Cases in which visa not placed in passport. In the following cases the visa shall be placed on the prescribed Form OF–232. In issuing such a visa, a notation shall be made on the Form OF–232 on which the visa is placed specifying the pertinent subparagraph of this paragraph under which the action is taken.

(1) The alien's passport was issued by a government with which the United States does not have formal diplomatic relations, unless the Department has specifically authorized the placing of the visa in such passport;

(2) The alien's passport does not provide sufficient space for the visa;

(3) The passport requirement has been waived; or

(4) In other cases as authorized by the Department.

(c) Visa stamp. A machine-readable nonimmigrant visa foil, or other indicia as directed by the Department, shall constitute a visa ''stamp,'' and shall be in a format designated by the Department, and contain, at a minimum, the following data:

(1) Full name of the applicant;

(2) Visa type/class;

(3) Location of the visa issuing office;

(4) Passport number;

(5) Sex;

(6) Date of birth;

(7) Nationality;

(8) Number of applications for admission or the letter ''M'' for multiple entries;

(9) Date of issuance;

(10) Date of expiration;

(11) Visa control number.

(d) Insertion of name; petition and derivative status notation. (1) The surname and given name of the visa recipient shall be shown on the visa in the space provided.

(2) If the visa is being issued upon the basis of a petition approved by the Attorney General, the number of the petition, if any, the period for which the alien's admission has been authorized, and the name of the petitioner shall be reflected in the annotation field on the visa.

(3) In the case of an alien who derives status from a principal alien, the name and position of the principal alien shall be reflected in the annotation field of the visa.

(e) Period of validity. If a nonimmigrant visa is issued for an unlimited number of applications for admission within the period of validity, the letter ''M'' shall be shown under the word ''entries''. Otherwise the number of permitted applications for admission shall be identified numerically. The date of issuance and the date of expiration of the visa shall be shown at the appropriate places in the visa by day, month and year in that order. The standard three letter abbreviation for the month shall be used in all cases.

(f) Restriction to specified port of entry. If a nonimmigrant visa is valid for admission only at one or more specified ports of entry, the names of those ports shall be entered in the annotation field. In cases where there is insufficient room to list the ports of entry, they shall be listed by hand on a clean passport page. Reference shall be made in the visa's annotation field citing the passport page upon which the ports are listed.

(g) Delivery of visa and disposition of Form OF–156. In issuing a nonimmigrant visa, the consular officer shall deliver the visaed passport, or the prescribed Form OF–232, which bears the visa, to the alien or, if personal appearance has been waived, to the authorized representative. The executed Form OF–156, Nonimmigrant Visa Application, and any additional evidence furnished by the alien in accordance with 41.103(b) shall be retained in the consular files.

(h) Disposition of supporting documents. Original supporting documents furnished by the alien shall be returned for presentation, if necessary, to the immigration authorities at the port of entry, and a notation to that effect shall be made on the Form OF–156. Duplicate copies may be retained in the consular files.

Dated: April 22, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 97–11519 Filed 5–2–97; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2537]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Visa Fees

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This publication finalizes the Department's interim rule [59 FR 25325] published May 16, 1994 authorizing the Department to collect a processing fee for machine-readable nonimmigrant visas and machine-readable combined border crossing cards.

EFFECTIVE DATE: May 16, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Washington, D.C., (202) 663–1203.

SUPPLEMENTARY INFORMATION: Section 140 of Pub. L. 103–236, the State Department Authorization Bill for Fiscal Years 1994 and 1995, signed by the President on April 30, 1994, authorized the Secretary of State to collect a processing fee for machine-readable nonimmigrant visas and machine-readable border crossing cards. The surcharge is independent of any reciprocity fees otherwise prescribed pursuant to section 281 of the Immigration and Nationality Act (INA).

Final Rule

The interim rule amended the Department's regulations at 22 CFR 41.107 to provide for a visa processing surcharge for costs associated with the production of machine-readable nonimmigrant visas and machine-readable border crossing cards, and invited interested persons to submit comments. As no comments were received, the interim rule is incorporated herein as a final rule.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passport and Visas, Fees, Surcharge.

Accordingly, the interim rule amending 22 CFR part 41 which was published at 59 FR 25325 on May 16, 1994 is adopted as a final rule without change.

Dated: April 22, 1997.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 97–11520 Filed 5–2–97; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 950

[Docket No. FR–4080–F–02]

RIN 2577–AB66

Optional Earned Income Exclusions

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as final the amendments to HUD's regulations for

the definition of ''annual income'' applicable to Public Housing Agencies and Indian Housing Authorities in the operation of public housing and Indian housing programs that were issued as an interim rule in August 1996. The rule is necessary to encourage HAs to take action to further the efforts of applicants and tenants to seek employment and to increase their earned income. The intended effect is to permit HAs to adopt an exclusion for earned income, tailored to their own circumstances, to support the efforts of working families.

EFFECTIVE DATE: June 4, 1997.

FOR FURTHER INFORMATION CONTACT: For the public housing program, contact Linda Campbell, Director, Marketing and Leasing Management Division, Office of Public and Assisted Housing Operations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC. 20410, telephone (voice): (202) 708–0744, extension 4020. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via text telephone by dialing the Federal Information Relay Service at 1–800–877–8339.

For the Indian housing programs, contact Deborah Lalancette, Director, Housing Management Division, Office of Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Box 90, Denver, CO 80202, telephone (voice): (303) 675–1600, extension 3300. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via text telephone by dialing the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. The August 30, 1996 Interim Rule

An interim rule was published on August 30, 1996 (61 FR 46344), amending regulations for the public housing and Indian housing programs to permit Public Housing Agencies and Indian Housing Authorities (collectively Housing Agencies, or ''HAs'') to adopt an exclusion for earned income. The rule was based on the authority of the Secretary to define ''income'' (section 3(b)(4) of the United States Housing Act of 1937, 42 U.S.C. 1437a(b)(4)), and it was related to a 1996 statutory enactment that specifically authorized housing agencies to allow earned income adjustments, as long as HUD's operating subsidy obligation was not affected.

That rule added to the definitions of ''annual income'' in the regulations governing the public housing and Indian housing programs an option for HAs to adopt additional exclusions for earned income pursuant to an established written policy. Eleven types of exclusions were stated, and HAs were to choose from among those types and variations of those types if they adopted an earned income exclusion. The rule stated that if an HA experienced a loss in rental income as a result of adopting such an exclusion, it would have to absorb the loss since there is no provision for an adjustment to its operating subsidy from HUD under the Performance Funding System. Similarly, an HA that receives greater rental income as a result of adoption of such an exclusion does not suffer any reduction in income as a result of the rule.

II. Changes to the Interim Rule

The Department is making no substantive changes to the rule. The public comments received are discussed in greater detail in section IV of this preamble. The primary concerns expressed dealt with a desire for increases in operating subsidy to offset HA losses in rental income from adopting earned income exclusions and with administrative burden associated with calculating rental income both with and without the earned income exclusion. HUD is not in a position to provide additional operating subsidy, because of Congressional funding constraints, and the administrative burden is not actually as great as feared by the HAs who submitted comments.

III. Background

A. Statutory

The 1996 statutory enactment that dealt with earned income adjustments was the Balanced Budget Downpayment Act I, enacted on January 26, 1996 (Pub. L. No. 104–99), which was also known as the Continuing Resolution or ''CR''. The CR permitted housing agencies to take actions to attract and retain working families in occupancy such as the adoption of ceiling rents and the adoption of earned income deductions that would ease the impact on working tenants. The Act also repealed Federal admissions preferences, permitting HAs to use preferences for working families to greater advantage.

The CR was enacted by Congress for effect during Federal Fiscal Year 1996. Now its provisions have been extended to be effective for Federal Fiscal Year 1997, as well, by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, September 26, 1996, 110 Stat. 2882). Unlike the CR provisions that allow a deduction from a family's income for earned income, this rule provides for an exclusion from a family's initial determination of income. (See the preamble to the interim rule for a more detailed discussion of this subject.) This rule is intended to promote the same objectives, however, as the CR.

B. Regulatory

When the interim rule was published, on August 30, 1996, the amendments were made to 24 CFR parts 913 and 950, which were the regulatory provisions then in effect with respect to income definitions for the public housing and Indian housing programs. Since that time, the definition of ''annual income'' governing the public housing program was moved from 24 CFR part 913 to 24 CFR 5.609 by a final rule published on October 18, 1996 (61 FR 54492). That rule incorporated in § 5.609(d) (at 61 FR 54502), the provisions stated in § 913.106(d) of the August 1996 interim rule, making a minor modification to add a title limiting its applicability to the public housing program. (Unlike part 913, part 5 applies to programs other than public housing, so the title was needed to limit the effect of the provision to public housing.) That rule noted in the preamble, 61 FR 54497, that the provision included at § 5.609(d) was still an interim provision on which public comments were welcome through October 29, 1996. Part 950 was left unchanged by that rule.

IV. Response to Public Comments

A. General

The Department received public comments from three public housing agencies. Generally, the comments expressed support for the concept of a flexible, optional exclusion for earned income. The comments did express concern, however, about the fiscal impact of the proposed rule and about administrative burdens associated with providing HUD with comparative figures for actual rental income and rental income that would have been received without the adoption of an earned income exclusion.

B. Loss in Subsidy

Comment: The HAs expressed concern that losses in HA income as a result of implementing an earned income exclusion would not be offset by increases in PFS subsidy eligibility. They indicated an expectation that families first moving to work would not produce incomes sufficient to raise rental payments if an earned income exclusion were implemented. With a

nationwide move of welfare families to employment, as a result of welfare reform legislation, they indicated that the decrease in rental income from families who are employed under an earned income exclusion would cause extreme hardship on housing agencies if HUD does not offer any compensating subsidy.

Response: The CR authorized the earned income adjustment only for the public and Indian housing programs and only based on the premise that operating subsidy obligations of the Department would not be affected. This rule follows those limits on the scope of the optional special treatment of earned income. Congress has shown no interest in increasing HA subsidy under the PFS to offset any loss to HAs resulting from implementation of this type of adjustment, so HUD does not have funding to furnish HAs to make up any such shortfall.

Comment: One HA recommended that HUD allow HAs a two-year evaluation period during which they would not absorb any loss in rental income that results from adoption of earned income exclusions.

Response: A two-year period during which an HA would not be penalized is unacceptable because it provides no restraints on the amount of the exclusions that an HA would provide. Since the amount of PFS funding is fixed by Congress, giving more operating subsidy to the HAs that provided large earned income exclusions for its tenants would result in a loss of operating subsidy by other HAs that chose not to have an earned income exclusion.

Comment: One HA indicated that the limit of the rule's applicability through Federal Fiscal Year 1998 limits a HA's ability to anticipate reaping benefits from residents' eventual higher incomes and increased rental income.

Response: Although the HUD Notice implementing the CR was limited in the length of its applicability, this rule is not so limited since it is based not on the CR but on the authority of the Secretary to define ''income.''

C. Administrative Burden

Comment: Two of the HAs indicated that they were concerned that the rule would require them to maintain two rent rolls—one for the rental income that would be received without the adoption of an earned income exclusion and one for the rental income actually realized implementing the exclusion.

Response: The Department agrees that there is somewhat more work for HAs, since an HA must know how much of the rent they are collecting comes from earnings—something they have not done—and they must calculate the rental payments both with and without an earned income exclusion. The comparison of what is received in rental income and what would have been received in the absence of an earned income exclusion only would need to be done once a year. It would not require the HA to maintain two sets of books throughout the year. (The procedure is specified in HUD Notice PIH 96–87 (HA), which was issued November 20, 1996, to implement the deductions permitted under the CR as well as the exclusions permitted under the interim rule.)

The HA uses the rent from a base month, such as April 1996 (or a later month) and then, once a year compares the rent roll from the base month with the rent roll of the month being used for the annual analysis, such as April 1997. The HA then does two things. It adds back to the base month amount in the later year the amount ''given up'' in earned income exclusions. It uses that amount to calculate the PFS subsidy eligibility amount. Secondly, it compares, on a per unit basis, the amount of rent from earnings versus other income for the base month of the earlier year with the amount of earnings versus other income for the base month of the later year. That gives the HA an opportunity to offset some of the loss, or actually make a gain. The mechanism is not two rent rolls maintained throughout the year but a comparison done once a year.

For example, an HA that has 100 units might receive a total of $50,000 in rent in April 1996, of which $20,000 represented earned income and $30,000 represented other income. Without adoption of an earned income exclusion, its rental income the following year might be $55,000, of which $35,000 represented earned income and $20,000 represented other income. If it adopted an earned income exclusion that disregarded $10,000 of the earned income, its rental income in April 1997 would be $45,000. The $15,000 difference between the rental income from earned income in April 1997 ($35,000) and in April 1996 ($20,000) would be used to offset the $10,000 in earned income exclusions. This HA would have an additional $5,000 to keep, up to 100% of its PFS funding.

Findings and Certifications

Impact on the Environment

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410–0500.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have significant impact on States or their political subdivisions since the provisions of this interim rule simply add an option for housing agencies to adopt. To the extent there is an impact, it is advantageous to the HAs, which are creatures of State or local government.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being. Therefore, the rule is not subject to review under the Order. The rule merely broadens the options for housing agencies in managing their public housing or Indian housing programs to encourage families to obtain employment and to increase their earnings.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities, because it makes available additional options for housing agencies but does not impose mandatory obligations.

Catalog

The Catalog of Federal Domestic Assistance number for the programs affected by this rule is 14.850.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and

community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

24 CFR Part 950

Aged, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

Accordingly, the amendments to the definitions of ''Annual income'' codified at 24 CFR 950.102, as published on August 30, 1996 (61 FR 46346), is adopted as final, without change, and 24 CFR 5.609(d), published on October 18, 1996 (61 FR 54502), is reaffirmed as final.

Dated: April 23, 1997.

Andrew Cuomo,

Secretary.

[FR Doc. 97–11534 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 3280 and 3282

[Docket No. FR–4223–N–01]

Manufactured Housing: Statement of Policy 1997–1, State and Local Zoning Determinations Involving HUD-Code

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Statement of policy.

SUMMARY: This Statement of Policy provides notice to the public concerning HUD's application of the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act) to certain zoning decisions being made by State or local government. These cases typically involve State or local actions to prohibit the siting of HUD-code manufactured housing while permitting the siting of other types of manufactured housing built to State or local building codes.

If a locality is attempting to regulate and even exclude certain manufactured homes through zoning enforcement that is based solely on a construction and safety code different than that prescribed by the Act, the locality is without authority to do so. This Statement of Policy is being provided to clarify and distribute HUD's existing policy determination concerning this matter.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th St. SW, Room 9152, Washington, D.C. 20410–8000), telephone number (202) 708–6409 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Over the last few years, HUD has received a number of questions concerning the application of the Federal preemption authority in the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) (Act) to actions by State or local government. HUD recently published a nonbinding notice of staff guidance, which it hoped would assist the public on some of these questions (62 FR 3456, January 23, 1997).

In certain cases involving questions of preemption and zoning, the State or local government is imposing more limitations on the placement of manufactured homes that are built to the Federal manufactured home construction and safety standards (24 CFR part 3282) (Federal standards) than on other types of factory-built single family housing. In the past, HUD has sent letters to various communities in such cases, where local zoning laws are in direct conflict with the Federal Act and regulations.

II. Increasing Homeownership and the Supply and Availability of Affordable Housing

The elimination of barriers to the expanded use of affordable housing, including manufactured homes, has been one of the primary objectives of the President's National Homeownership Strategy. HUD coordinates the National Partners in Homeownership, which now has over 60 national organizations participating, including State, county and local governments, and other groups, to identify and promote ways to increase homeownership and the supply of affordable housing. The Strategy includes the following goals and objectives in Action Item 27:

- The partnership should identify and promote zoning and land development policies that are more conducive to manufactured housing. As part of this initiative, partners should develop model legislation for States and localities to adopt that prohibits exclusion of manufactured housing solely on the basis of HUD certification (manufacturer certification that the home has been constructed to the Federal standards).
- The partners also should produce design and land development criteria and guidance materials for use by housing developers and local governments, to facilitate inclusion of manufactured housing in their jurisdictions. To supplement these efforts, the partnership should offer a cooperative program of education and technical assistance to encourage nationwide acceptance of the model legislation within 6 years.

HUD strongly endorses this Action Item, particularly making available sites for manufactured housing outside of parks and largely rural areas. On March 22, 1996, the Manufactured Housing Institute (MHI) and the American Planning Association (APA) convened a National Partners in Homeownership Forum to discuss zoning and other issues. The Forum drew over 100 attendees including planners, housing-advocacy organizations, and representatives from the manufactured housing industry.

The attendees reached an almost unanimous consensus that very real zoning and other regulatory barriers exist that significantly hinder the full use of manufactured housing. The Forum produced a series of recommendations to HUD and the National Partners in Homeownership, including APA and MHI.

This Statement of Policy is being issued as an initial step toward the elimination of barriers to the use of manufactured housing and in furtherance of the goals and objectives of the National Homeownership Strategy.

III. Requirements of Act and Regulations

Section 604(d) of the Act, 42 U.S.C. 5403(d), states:

> Whenever a Federal manufactured home construction and safety standard established under [the Act] is in effect, no State or political subdivision of a State shall have any authority * * * to establish, * * * with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

The term ''manufactured home'' is defined in section 603(6) of the Act, 42 U.S.C. 5402(6). In addition, § 3282.11(d) of the Manufactured Home Procedural and Enforcement Regulations (24 CFR part 3282) prohibits any State or locality

from establishing and enforcing rules or taking any action that impairs the Federal superintendence of the manufactured home industry.

Conversely, section 623(a) of the Act (42 U.S.C. 5422(a)) provides:

> Nothing in this [Act] shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established. * * *

IV. Statement of Policy 1997–1

Generally, the adoption and enforcement of a local zoning ordinance regulating the location of manufactured homes has not been subjected to the regulatory authority of the Act because such actions are exercises of the locality's authority to determine proper land use. Under section 604(d) of the Act (42 U.S.C. 5403(d)), however, the locality is without authority to regulate or exclude certain manufactured homes through zoning ordinances or enforcement decisions that are based solely on a construction and safety code that is different from the Federal standards prescribed under the Act.

For example, assume two structures are brought into a locality and both structures are: 320 or more square feet when erected on site; built on a permanent chassis; and transported in one or more sections. If the locality only allows the structure that is built to the State or local building code to be sited outside an approved mobile home park, the locality would be acting without authority. If under the local zoning laws the locality accords the same treatment to all structures that meet the Act's definition of a ''Manufactured home'' (42 U.S.C. 5402(6)), the locality is not in conflict with the preemptive provisions of the Act.

Therefore, a locality cannot exclude or restrict manufactured homes that meet the Federal standards if the locality accepts manufactured homes meeting other standards. By excluding or restricting only manufactured homes built to the Federal standards and accepting manufactured homes built to State or local codes, the locality is establishing standards for manufactured homes that are different from the Federal standards. To the extent that the provisions or enforcement of local zoning regulations require that manufactured homes meet standards other than the Federal standards for manufactured homes, those local actions are preempted by section 604(d) of the Act (42 U.S.C. 5403(d)). Furthermore, such a system of local regulation and enforcement would interfere with Federal superintendence of the manufactured home industry, in contravention of 24 CFR 3282.11(d).

Dated: April 24, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–11535 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–96–101]

RIN 2115–AE47

Drawbridge Operation Regulations; Corson Inlet, Strathmere, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Cape May County Bridge Commission, the Coast Guard is changing the regulations that govern the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, by requiring a two-hour advance notice for drawbridge openings from October 1 to May 15 from 10 p.m. to 6 a.m., seven days a week. This final rule will help relieve the bridge owner of the burden of having a bridge tender constantly available at times when there are few or no requests for openings, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on June 19, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection and copying at the Office of the Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, USCG Atlantic Area, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Linda L. Gilliam, Project Manager, Bridge Administration Section, and CDR G. Shelton, Project Counsel, USCG Maintenance and Logistics Command Atlantic Legal Division.

Regulatory History

On December 26, 1996, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled ''Drawbridge Operation Regulations; Corson Inlet, Strathmere, New Jersey'' in the **Federal Register** (61 FR 67970). The comment period ended February 24, 1997. No comments were received. No public hearing was requested, and none was held.

Background and Purpose

The drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, is currently required to open on signal year round. The Cape May County Bridge Commission (Commission) requested that the operating schedule for the drawbridge be amended to reduce the periods during which the bridge must open on signal. In support of its request, the Commission contends that its records show that during the period from October 1 through May 15, no vessels required a drawbridge between the hours of 10 p.m. to 6 a.m.

The Coast Guard reviewed the Commission's bridge logs for 1992 through 1995, copies of which are included in the docket of this rulemaking. According to the logs, no openings occurred between the hours of 10 p.m. and 6 a.m. from October 1 through May 15 in any of these years.

Therefore, the Coast Guard is changing the regulations governing the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey. The final rule requires the bridge to open on signal from May 15 through September 30 and between 6 a.m. and 10 p.m. from October 1 through May 15. The bridge will also open between 10 p.m. and 6 a.m. from October 1 through May 15 if notice is given to the Cape May County Bridge Department at least two hours in advance of the time that the opening is requested. A sign will be posted at the bridge giving the Cape May County Bridge Department's 24-hour telephone number. The Coast Guard believes that this change relieves the bridge owner of the burden of having a bridge tender on duty during periods of little or no vessel traffic while not unduly restricting navigation.

Discussion of Comments and Changes

The Coast Guard received no comments on the NPRM. Therefore, the proposed rule is being implemented without change.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not

require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

This final rule does not restrict vessel navigation, but merely requires advance notice for a bridge opening during periods of limited vessel activity. Therefore, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on 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 under the principles and criteria contained in Executive Order 12612, and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2e (32)(e) of Commandant Instruction M16475.1B (as amended, 50 FR 38654, 29 July 1994), this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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. A new § 117.714 is added to read as follows:

§ 117.714 Corson Inlet.

The draw of the Corson Inlet bridge, mile 0.9, at Strathmere, shall open on signal; except that from October 1 through May 15, from 10 p.m. to 6 a.m., the draw need only open if at least two hours notice is given.

Dated: April 22, 1997.

Kent H. Williams,

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

[FR Doc. 97–11563 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–97–022]

RIN 2115–AA97

Safety Zone Regulations; Tampa Bay, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone from 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2 to include the entire width of subject channel to 27–52.06N, 082–35.00W for the South Gandy Channel Marker G4. Another boundary line extending from South Gandy Channel Marker G4 to 27–51.08N, 082–32.08W for the northern edge of Picnic Island and a boundary line extending from 27–50.08N, 082–33.03W for the southern edge of Picnic Island returning to 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2. This temporary safety zone has been established to facilitate the Tampa Bay Open Water Challenge 5k Swim. The temporary safety zone is necessary to protect race participants from vessel traffic that could result in injury to race participants. All vessels are prohibited from transiting the prescribed safety zone unless specifically authorized by the Captain of the Port Tampa, Florida.

DATES: These regulations become effective at 9 a.m. and terminate at 1 p.m. Eastern Daylight Savings Time (EDT) on May 10, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant David Murk, Coast Guard Marine Safety Office Tampa at (813) 228–2189.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Tampa Baywatch and Clearwater Aquatics Team are sponsoring the first of its kind 2.5 mile open water swimming race form Gandy Beach in Pinellas County to Picnic Island in Hillsborough County. The race participants will be transiting across the established safety zone between 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2 to include the entire width of subject channel to 27–52.06N, 082–35.00W for the South Gandy Channel Marker G4. Another boundary line extending from South Gandy Channel Marker G4 to 27–51.08N, 082–32.08W for the northern edge of Picnic Island and a boundary line extending from 27–50.08N, 082–33.03W for the southern edge of Picnic Island returning to 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2. The event is expected to last approximately 4 hours.

In accordance with 5 U.S.C. 553, a notice for proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publishing a NPRM and delaying its effective date would be contrary to national safety interests since immediate action is needed to protect the race participants from injury associated with swimming events within Tampa Bay.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the area is prohibited for approximately 4 hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small Entities'' include

independently owned and operated businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule will not have a significant economic impact on a substantial number of small entities, because the regulations will only be in effect for a total of four hours in a limited area.

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 regulation under the principles and criteria of Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to section 2.B.2.e(34)(h) of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Temporary Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, 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; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary section 165.T07–022 is added to read as follows:

§ 165.T07–022 Safety Zone; Tampa Bay, Florida.

(a) *Location*. Tampa Bay within the boundaries of a line beginning at 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2 to include the entire width of subject channel to 27–52.06N, 082–35.00W for the South Gandy Channel Marker G4. Another boundry line extending from South Gandy Channel Marker G4 to 27–51.08N, 082–32.08W for the northern edge of Picnic Island and a boundry line extending from 27–50.08N, 082–33.03W for the southern edge of Picnic Island returning to 27–52.05N, 082–35.06W for the South Gandy Channel Marker R2. All coordinates referenced use Datum: NAD 83.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port.

(2) This section does not apply to authorized law enforcement or search and rescue vessels operating within the safety zone.

(3) The Captain of the Port Tampa, Florida will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and the restrictions imposed.

(c) *Effective date.* This section becomes effective at 9 a.m. and terminates at 1 p.m. EDT on May 10, 1997.

Dated: April 24, 1997.

B. G. Basel,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 97–11564 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Address Correction Information; Standard Mail (A)

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to change the ancillary service endorsements for Standard Mail (A) that mailers use to request an addressee's new address and to provide the Postal Service with instructions on how to handle undeliverable-as-addressed (UAA) mail.

Unendorsed single-piece rate Standard Mail (A) that is undeliverable as addressed will be discarded by the Postal Service. An endorsement will be required on the piece if forwarding or return service is desired by the mailer. This change will benefit mailers who deposit large mailings of bulk rate Standard Mail (A) and do not want to be charged for the return of undeliverable pieces.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Rocky Matthews, (202) 268–5790, or Neil Berger, (202) 268–2859.

SUPPLEMENTARY INFORMATION: On October 10, 1996, the Postal Service published for public comment in the **Federal Register** (61 FR 53280–53285) a proposed rule to change the ancillary service endorsements that mailers use to request an addressee's new address and to provide the Postal Service with instructions on how to handle undeliverable-as-addressed (UAA) mail.

After evaluating the comments received, the Postal Service published a final rule on March 28, 1997, in the **Federal Register** (62 FR 15056–15066) that contained three additional standards not previously set forth in the proposed rule:

1. A fourth ancillary service endorsement, ''Forwarding Service Requested,'' is added. For First-Class Mail and Standard Mail (B), the optional use of this endorsement ensures that UAA pieces receive the same treatment accorded these classes of mail not bearing this or any other endorsement. For Standard Mail (A), this endorsement provides for the forwarding and return of mail without requiring a separate address correction notification.

2. The ''Change Service Requested'' endorsement is restricted within First-Class Mail to electronic Address Change Service (ACS) participants only. This restriction is sensible, because it limits this service to mailers who are most likely to be familiar with the consequences of electing this option—that is, disposal of UAA pieces bearing this endorsement. The mailer receives a separate notice of an address change or reason for nondelivery.

3. Unendorsed single-piece rate Standard Mail (A) that is undeliverable as addressed will be discarded by the Postal Service. An endorsement is required on the piece if forwarding or return is desired.

Owing to the differences between what the Postal Service had proposed and what the Postal Service had published as a final rule and the substance of the change in the treatment of UAA single-piece rate Standard Mail (A), the Postal Service accepted further public comments for an additional 15 days (through April 14, 1997) after the final rule was published only on the change in treatment of UAA single-piece rate Standard Mail (A).

Currently, a mailer has the option of endorsing a single-piece rate Standard Mail (A) piece ''Do Not Forward'' to request that the Postal Service discard the piece if it is undeliverable, with no forwarding, no return, and no address correction provided.

Under the new rule, the current treatment given to pieces bearing the endorsement ''Do Not Forward'' will become the default method of handling unendorsed UAA single-piece rate Standard Mail (A). Thus, single-piece rate Standard Mail (A) mailers not desiring forwarding will be able to choose among three options:

1. Using no endorsement, in which case a UAA piece (if uninsured) will be discarded if it is undeliverable;
2. Using the endorsement ''Return Service Requested,'' in which case a UAA piece will be returned with the new address or reason for nondelivery attached, subject to return postage at the single-piece rate; or
3. Using the endorsement ''Change Service Requested,'' in which case a UAA piece will be discarded and the mailer provided with a separate notice of new address or reason for nondelivery, subject to the address correction fee.

No comments were received on the final rule for the treatment of single-piece rate Standard Mail (A). Therefore, the Postal Service adopts the corresponding DMM standards as published in the final rule on March 28, 1997, in the **Federal Register** (62 FR 15056–15066). For the convenience of the public, the Postal Service republishes the specific rules relating to the change in the treatment of single-piece rate Standard Mail (A).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Amend the Domestic Mail Manual as set forth below:

F Forwarding and Related Services

F000 Basic Services

F010 Basic Information

* * * * *

[Revise the heading of 5.0 to read as follows:]

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

* * * * *

5.3 Standard Mail (A)

[Amend 5.3 by revising 5.3a, 5.3e, 5.3f, and the chart to read as follows:]

Undeliverable Standard Mail (A) is treated as described in the chart below and under these conditions:

a. Insured Standard Mail (A) is treated as though endorsed ''Address Service Requested.''

* * * * *

e. When a large volume of identical-weight pieces originates from a single mailer and is endorsed ''Return Service Requested,'' the USPS may use the weight of a sample of at least 25 pieces and divide that weight by the number of pieces in the sample. After the average per piece weight is determined, the pieces are weighed in bulk to determine the number of pieces subject to the single-piece rate for return. Pieces of identical weight counted in this manner, regardless of weight, are returned to the sender with the new address or the reason for nondelivery endorsed on the piece.

f. The weighted fee is the appropriate Standard Mail (A) single-piece rate, multiplied by a factor of 2.472 and rounded up to the next whole cent (if the computation yields a fraction of a cent). The weighted fee is computed (and rounded if necessary) for each mailpiece individually. Neither the applicable postage, the factor, nor any necessary rounding is applied cumulatively to multiple pieces. The fee is charged when an unforwardable or undeliverable piece is returned to the sender and the piece bears the endorsement ''Address Service Requested'' or ''Forwarding Service Requested.'' Use of these endorsements obligates the sender to pay the weighted fee on any returns.

* * * * *

STANDARD MAIL (A)

Mailer endorsement	USPS Action on UAA pieces
''Address Service Requested'' [1] ..	Months 1 through 12: mailpiece forwarded; no charge; separate notice of new address provided; address correction fee charged. Months 13 through 18: mailpiece returned with new address attached; only Standard Mail (A) weighted fee charged (address correction fee not charged). After month 18, or if undeliverable: mailpiece returned with reason for nondelivery attached; only Standard Mail (A) weighted fee charged (address correction fee not charged).
''Forwarding Service Requested''	Months 1 through 12: mailpiece forwarded; no charge. Months 13 through 18: mailpiece returned with new address attached; only Standard Mail (A) weighted fee charged (address correction fee not charged). After month 18, or if undeliverable: mailpiece returned with reason for nondelivery attached; only Standard Mail (A) weighted fee charged (address correction fee not charged).
''Return Service Requested''	Mailpiece returned with new address or reason for nondelivery attached; only return postage at Standard Mail (A) single-piece rate charged (address correction fee not charged).
''Change Service Requested'' [1] ...	Separate notice of new address or reason for nondelivery provided; in either case, address correction fee charged; mailpiece disposed of by USPS.
No endorsement	Mailpiece disposed of by USPS. (No exception for Single-Piece Standard Mail, which must be endorsed if forwarding or return is desired.)

[1] Valid for all mailpieces, including Address Change Service (ACS) participating mailpieces.

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–11523 Filed 5–2–97; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI50–01–7257; FRL–5819–5]

Promulgation of Reid Vapor Pressure Standard; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) is approving a revision to the Michigan State Implementation Plan (SIP) establishing a summertime gasoline Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline sold in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties in Michigan (Detroit—Ann Arbor consolidated metropolitan statistical area (CMSA)). The marketing of less volatile gasoline

reduces excessive evaporation of fuel during the summer months. Evaporated gasoline combines with other pollutants on hot summer days to form ground-level ozone, commonly referred to as smog. Ozone pollution is of particular concern because of its harmful effects on lung tissue and breathing passages.

On August 30, 1996, the EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the SIP revision. During the comment period EPA received comments from one commentator, which were adverse.

This document summarizes the comments received, EPA's responses and finalizes the approval of Michigan's SIP revision to establish a RVP limit of 7.8 psi for gasoline sold in the Detroit—Ann Arbor CMSA.

EFFECTIVE DATE: This rule will become effective on May 5, 1997.

ADDRESSES: Copies of the documents relevant to this action are available at the below address for public inspection during normal business hours.

United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Brad J. Beeson at (312) 353–4779.

SUPPLEMENTARY INFORMATION:

I. Background

In April 1995, the Detroit-Ann Arbor CMSA was redesignated as an attainment area for ozone. At the time the area was redesignated to attainment, EPA approved, as a revision to the Michigan SIP, contingency measures including a 7.8 psi RVP fuels program. During the summer of 1995 monitors in the Detroit-Ann Arbor CMSA recorded several violations of the ozone standard. Therefore, the State is required to implement an ozone contingency measure.

On January 6, 1996, Michigan Governor John Engler sent a letter to EPA advising EPA the State had selected the 7.8 psi (low-RVP) fuels program as one of the contingency measures to be implemented in the Detroit area. On May 16, 1996, the State submitted the low-RVP portion of their fuels program to EPA for approval. The program would require gasoline sold in the Detroit-Ann Arbor CMSA to a standard of 7.8 psi from June 1 to September 15. See 61 FR 45926 (August 30, 1996) for further details of the program. The EPA reviewed the SIP revision submitted by the State to determine completeness in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). On May 24, 1996, EPA found the State's SIP submittal complete.

State governments are preempted under Section 211(c)(4)(A) of the Clean Air Act from mandating a gasoline volatility standard not identical to any Federal standard promulgated under Section 211(c)(1) that is applicable to the same characteristic. However, under Section 211(c)(4)(C) a State can require, through a SIP revision, a more stringent RVP standard for a particular area if the EPA finds that the more stringent standard is necessary to achieve the National Ambient Air Quality Standard for ozone. The EPA can approve a preempted state fuel requirement as necessary; only if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. In addition to demonstrating necessity as part of the Section 211(c)(4)(C) waiver process, under Section 110 the State must also submit an adequate description of the low-RVP program and associated enforcement procedures. If EPA finds that a State has shown necessity and has provided an adequate description of the program, EPA may approve the SIP revision requiring the lower State RVP standard for the selected areas.

On August 30, 1996, EPA proposed approval of the State's SIP revision to establish a low-RVP program in the Detroit-Ann Arbor CMSA. As detailed in the proposed approval at 61 FR 45926, EPA found the State's demonstration sufficient to satisfy the necessity requirement of Section 211(c)(4)(C) of the Act. Additionally, EPA found that the State's description of the program and associated enforcement procedures were sufficient for approval.

II. Public Comment and EPA Response

During the comment period comments were received from only one commentator. The following summarizes each comment and provides EPA's response.

Comment

The first comment questioned whether implementation of a low-RVP program alone would be sufficient to reduce ozone and ozone precursor emissions in the Detroit-Ann Arbor area. In support of this position, the commentator cites recent air quality monitoring data showing exceedances of the 120 parts per billion one-hour standard. The data includes ozone monitoring values from monitors in Detroit as well as Southern Ontario, Canada, which is directly downwind of Detroit.

EPA Response

The State is obligated under its maintenance plan to implement further emission control measures if the low-RVP program is not effective in reducing violations of the ozone standard. Implementation of a low-RVP program was only one of several measures the State has in its contingency plan. Therefore, there are other measures in the State's contingency plan which could be and must be implemented if the low-RVP program is not effective.

Comment

The last comment concerns whether consensus was reached by the Michigan Contingency Measure Workgroup in selecting a low-RVP program as a contingency measure. The commentator states that ''the workgroup which was convened to consider and select contingency measures did not result in consensus recommendations.''

EPA Response

Websters' Dictionary defines consensus as a general agreement, or a judgment arrived at by most of those concerned. In the recommendation section of the Workgroup's final report a low-RVP program is listed as one of the recommended contingency measures. The report further states that most of the participants concurred with recommended contingency measures. While the recommendation for a low-RVP program was not unanimous, the recommendation was clearly supported by a majority of the Workgroup. The EPA concludes that the Workgroup reached consensus on the recommendation of low-RVP as a contingency measure.

III. Action

The EPA is approving a revision to Michigan's SIP to establish a summertime gasoline RVP limit of 7.8 psi for gasoline sold in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties.

IV. Administrative Requirements

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. 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 has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., the 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.

This approval does not create any new requirements, but simply approves pre-existing requirements under state law. Therefore, I certify that this action 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 the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA*, 427 U.S. 246, 256–66 (1976).

D. 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.

This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 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)).

F. 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 the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

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

Dated: April 4, 1997.

Valdas V. Adamkus,

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 X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(108) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(108) On May 16, 1996, the State of Michigan submitted a revision to the Michigan State Implementation Plan (SIP). This revision is for the purpose of establishing a gasoline Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline sold in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties in Michigan.

(i) Incorporation by reference.

(A) House Bill No. 4898; signed and effective November 13, 1993.

(B) Michigan Complied Laws, Motor Fuels Quality Act, Chapter 290, Sections 642, 643, 645, 646, 647, and 649; all effective November 13, 1993.

(C) Michigan Complied Laws, Weights and Measures Act of 1964, Chapter 290, Sections 613, 615; all effective August 28, 1964.

(ii) Additional materials.

(A) Letter from Michigan Governor John Engler to Regional Administrator Valdas Adamkus, dated January 5, 1996.

(B) Letter from Michigan Director of Environmental Quality Russell Harding to Regional Administrator Valdas Adamkus, dated May 14, 1996.

(C) State report titled ''Evaluation of Air Quality Contingency Measures for Implementation in Southeast Michigan,'' submitted to the EPA on May 14, 1996.

[FR Doc. 97–11633 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7664]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Executive Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Executive Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

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

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region I				
Vermont: Jay, town of, Orleans County	500253	April 7, 1992, Emerg.; May 5, 1997, Reg.; May 5, 1997, Susp	May 5, 1997	May 5, 1997
Region III				
Pennsylvania: Stroudsburg, borough of, Monroe County	420694	August 25, 1972, Emerg.; December 31, 1976, Reg.; May 19, 1997, Susp	May 19, 1997 ...	May 19, 1997

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region V				
Illinois:				
Huntley, village of, Kane and McHenry Counties	170480	June 6, 1975, Emerg.; December 15, 1992, Reg.; May 19, 1997, Susp	.....do	Do.
McHenry County, unincorporated areas	170732	January 15, 1974, Emerg.; September 30, 1981, Reg.; May 19, 1997, Susp	.....do	Do.
Minnesota: North Branch, city of, Chicago County	270072	September 15, 1987, Emerg.; May 19, 1997, Reg.; May 19, 1997, Susp	.....do	Do.
Region VI				
Louisiana: Caddo Parish, unincorporated areas	220361	November 9, 1979, Emerg.; September 5, 1990, Reg.; May 19, 1997, Susp	.....do	Do.

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Rein.-Reinstatement; Susp.-Suspension.

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

Issued: April 28, 1997.

Craig S. Wingo,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 97–11639 Filed 5–2–97; 8:45 am]

BILLING CODE 6718–05–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1831

Revision to the NASA FAR Supplement To Delete Class Deviation

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This action deletes the class deviation from the cost principle at 1831.205–18 on independent research and development (IR&D).

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph LeCren, Code HK, (202) 358–0444, fax (202) 358–2–3220, or e-mail joseph.lecren@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

Background

NASA published a class deviation as a final rule in the **Federal Register** (59 FR 46359–46360) September 8, 1994. The class deviation eliminated the provision at FAR 31.205–18(e) against the treatment of contractor IR&D contributions under NASA cooperative arrangements as allowable indirect costs. A FAR case was initiated to revise the IR&D cost principle to remove that provision at 31.205–18(e). A final FAR rule was published in the **Federal Register** (62 FR 12704–12705) March 17, 1997, making that revision. The publication of the revised FAR cost principle eliminates the need for the NASA class deviation. The revised FAR cost principle is effective May 16, 1997.

Impact

NASA certifies that this change to its regulations will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This change does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1831

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR 1831 is amended as follows:

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR 1831 continues to read as follows:

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

§ 1831.205–18 [Removed]

2. Section 1831.205–18 is removed.

[FR Doc. 97–11586 Filed 5–2–97; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[Docket No. 961217358–6358–01; I.D. 041995B]

RIN 0648–XX77

Threatened Fish and Wildlife; Change in Listing Status of Steller Sea Lions Under the Endangered Species Act

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

ACTION: Final rule.

SUMMARY: The Steller sea lion, *Eumetopias jubatus,* is currently listed as threatened, pursuant to the Endangered Species Act (ESA), throughout its range, which extends from California and associated waters to Alaska, including the Gulf of Alaska (GOA) and Aleutian Islands, and into the Bering Sea and North Pacific and into Russian waters and territory. Based on biological information collected since the species was listed as threatened in 1990, NMFS is now reclassifying Steller sea lions as two distinct population segments under the ESA. The Steller sea lion population segment west of 144 °W. long. (a line near Cape Suckling, AK) is reclassified as endangered; the threatened listing is being maintained for the remainder of the U.S. Steller sea lion population.

EFFECTIVE DATE: June 4, 1997.

ADDRESSES: Requests for copies of this rule or a complete list of references should be addressed to the Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910

or the Director, Protected Resources Management Division, NMFS, Alaska Regional Office, P.O. Box 21668, Juneau, AK 99802–1668.

FOR FURTHER INFORMATION CONTACT: Steve Zimmerman, 907–586–7235, or Margot Bohan, 301–713–2322.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. population of Steller sea lions, which numbered close to 192,000 adults and juveniles (nonpups) 30 years ago, declined by 64 percent to less than 69,100 nonpups by 1989, with the majority of the decline occurring in Alaska between the Kenai Peninsula and Kiska Island. As a result of this precipitous decline, the species was listed as threatened under provisions of the ESA in 1990 (55 FR 12645, April 5, 1990; see also, 55 FR 13488, April 10, 1990; 55 FR 49204, November 26, 1990; and, 55 FR 50005, December 4, 1990).

The current rule listing the Steller sea lion as a threatened species contains a series of management measures to reduce direct causes of mortality, to restrict opportunities for intentional and unintentional harassment of Steller sea lions, and to minimize disturbance and interference with Steller sea lion behavior, including disruption of foraging behavior, especially at pupping and breeding sites.

In conjunction with the listing, NMFS also appointed a Recovery Team (Team) with the primary goal of developing a Recovery Plan (Plan) to promote recovery of the Steller sea lion population to a level appropriate to justify removal from ESA listings. The Plan was published in December 1992, identifying factors limiting to the population and recommending research and management actions to aid population recovery.

As a result of ESA section 7 consultations on the effects of the North Pacific federally-managed groundfish fisheries, NMFS developed protective measures under the Magnuson Fishery Conservation and Management Act (Magnuson-Stevens Act) to reduce the effects of certain fisheries on Steller sea lion foraging (see 56 FR 28112, June 19, 1991; 57 FR 2683, January 23, 1992; and 58 FR 13561, March 12, 1993; current protections are codified at 50 CFR §§ 672.24(e) and 675.24(f)). In 1993, NMFS designated critical habitat for the species (at 58 FR 45269, August 27, 1993), which includes all U.S. rookeries, major haulouts in Alaska, horizontal and vertical buffer zones around these rookeries and haulouts, and three aquatic foraging areas in North Pacific waters—Seguam Pass, southeastern Bering Sea shelf and Shelikof Strait (50 CFR 226.12).

At the time that they were listed as threatened under the ESA, no subpopulation distinction was identified for Steller sea lions. NMFS determined that there was insufficient information available to consider animals in different geographic regions as separate populations. However, subsequent analysis of mitochondrial DNA provided new information, leading to a conclusion that a distinct population segment was identifiable (Bickham et al., 1996). Furthermore, based on a phylogeographical analysis (Dizon et al., 1992) using Steller sea lion population dynamics, data from tagging, branding and radio-telemetry studies, phenotypic data, and genetics, NMFS has been able to delineate two discrete population segments of Steller sea lions within their geographic range: an eastern segment, which includes animals east of Cape Suckling, AK (144 °W. long.) and a western segment, which includes animals at and west of Cape Suckling, AK.

Since 1990, NMFS, the Alaska Department of Fish and Game (ADFG), the Oregon Department of Fish and Wildlife, and the Canadian and Russian governments have continued to assess the Steller sea lion populations and to study the cause(s) of the decline. Results of 1990–94 surveys to monitor abundance trends indicated that the number of adults and juveniles continued to decline in Alaska (4 percent per year) during that period. Since 1994, preliminary findings indicate an overall decrease of 7.8 percent in nonpup numbers at trend sites (rookeries and haulouts that have been counted during every major survey) in Alaska. Pup numbers in the GOA and Aleutian Islands declined at a rate of 8 percent per year during 1990–1994. In addition, a partial survey of Steller sea lion pups conducted at nine rookeries from Southeast Alaska to the eastern Aleutian Islands indicates a 6.1 percent decrease in pup numbers at surveyed sites since 1994.

Because this information indicates a continued decline, NMFS initiated a formal population status review to determine whether a change in listing status was warranted (58 FR 58318, November 1, 1993). NMFS received 16 comments in response to the status review notice.

To complete the status review and to calculate the future trends of the U.S. Steller sea lion populations, should the historical trends persist, population viability analyses (PVAs) were prepared. NMFS determined that PVAs were only necessary for the western population segment, because the eastern population segment is likely to maintain current abundance for the foreseeable future. Based on the 1985–94 and 1989–94 population trends, models of the declining western population segment were developed to evaluate the probability of persistence of the population over the foreseeable future (the next 100 years). Two PVA models were developed based on a stochastic model of exponential growth that required only count data and count variance to predict future trends. Essentially, the models project the future population trend, using the historical trend, and estimate the probabilities that specific population sizes will be reached based on both the trend and the observed variance around the historical trend. Only adult females were considered as part of the model because this is the population segment that dictates population growth in sea lions.

One model, an aggregate Kenai-Kiska Island (trend sites) model, was based on the trajectory of the sum of the rookery populations within the area. The second model was based on a simulation of the population trajectories of individual rookeries in the Kenai-Kiska area.

Both models predicted that the Kenai-Kiska population would be reduced to low levels within 100 years from the present if either the 1985–94 or the 1989–94 trend continues into the future. The Kenai-Kiska regional model predicted a 100 percent probability of extinction within 100 years from the 1985–94 trend data, and a 65 percent probability of extinction within 100 years if the 1989–94 trend continues.

Under each of these modeling scenarios, the results indicate that, if either trend persists, the next 20 years will be crucial to the survival of the western Alaska population of Steller sea lions.

On November 29–30, 1994, NMFS convened the Team to consider the appropriate ESA listing status for the species and to evaluate the adequacy of ongoing research and management programs. In the course of that meeting and in subsequent letters to the Assistant Administrator for Fisheries, NOAA, the Team recommended that NMFS list the Steller sea lion as two distinct population segments, split to the east and west of 144 °W. long. The Team recommended that the western population segment be listed as endangered and that the eastern population segment remain listed as threatened.

Based on the status review comments, recommendations from the Steller sea lion recovery team, the International

Union for the Conservation of Nature's (IUCN) vulnerability criteria and additional data and analyses compiled by NMFS (including genetics, phenetics, population trend data, and data from tagging/branding studies), NMFS issued a proposed rule and request for comments on October 4, 1995 (60 FR 51968), to delineate two distinct population segments of Steller sea lions and reclassify the segment west of 144 °W. long. as endangered, while maintaining the eastern segment as threatened pursuant to the ESA.

II. Comments and Responses on Proposed Rule To Reclassify

NMFS received 14 comments on the proposed rule (60 FR 51968, October 4, 1995) during the 90-day comment period. Four comments were received from environmental groups, three comments were received from Federal, state and local governments, one comment was received from an academic institution, one comment was received from Alaskan Native interest groups, four comments were received from fishing industry groups, and one comment was received from a private individual. These comments, which are discussed below, address the following issues: Separate population listings, listing status, population viability analysis, protective management measures, buffer zone exemptions and research, and research funding.

Separate Population Listings

Comment: The majority of commenters were in support of the proposal to separate the Steller sea lion species into two distinct segments. One commenter, however, questioned the segmentation into two distinct populations, as opposed to three or four populations. Another commenter recommended designating the line separating the population segments at 147° W. long., which is central Prince William Sound; this would follow the Federal groundfish districts for the eastern and western GOA. The commenter reasoned that this would still maintain the major haulout and pupping areas of Prince William Sound in the western population region, while enabling fishing to continue.

Response: NMFS was able to delineate two discrete populations of Steller sea lions within their geographic range using the phylogeographic method. Mitochondrial DNA analyses conducted on samples taken from newborn pups on rookeries from Oregon, Alaska, and Russia defined 52 haplotypes, which could be further grouped into eight maternal lineages. Cluster analysis indicates that these lineages can be divided into two genetically differentiated population segments, an eastern and a western segment with separation at Prince William Sound. Other supporting evidence for two discrete populations includes distinct population trends, rookery site fidelity of tagged/branded animals, and possible phenotypic differences (e.g., pup size, skull size). These results were presented at the September 1994 Workshop on the Use of Genetics Data to Diagnose Management Units, and the conclusion of two distinct population segments was endorsed by the workshop attendees.

NMFS' decision to separate the two populations at 144° W. long., as opposed to 147° W. long., was also based largely on genetics data and population trends. Steller sea lion declines have occurred between 144° W. and 147° W. long.; such has not been the case east of 144° W. long. Few sea lions are found between 144° W. long. and southeast Alaska where the population has been more stable. West of 144° W. long., however, sea lions are distributed relatively continuously and are declining. NMFS will continue genetics studies in order to better determine relationships between population segments and among rookeries. Clarification of the criteria used to determine the presence of distinct population segments is outlined in this rule under section III. Final Policy on Population Determinations.

Change in Listing Status

Comment: Several commenters indicated their support for a change in the listing status of the western population from threatened to endangered while maintaining a threatened status for the eastern population. Comments were also received by NMFS to reclassify Steller sea lions along the west coast of the U.S. (south of 49° N. lat.) to endangered. Other commenters stated that the current listing of the species as threatened provides NMFS with sufficient regulatory authority to protect Steller sea lions; therefore, a change in listing status to endangered for the western population segment is not necessary. In addition, delisting should be considered for the eastern population segment.

Response: The ESA requires that listing and reclassification decisions be made solely on the basis of the best scientific and commercial information available regarding the species' population status (section 4(b)(1)(A)). Each of the five factors described in section 4(a)(1) of the ESA must be considered in making a listing status determination and are discussed in this preamble under section IV. Listing Procedures: Summary of Factors Affecting the Species.

Steller sea lions are declining throughout their range, except in the eastern Aleutian Islands and Bering Sea (BSAI) regions where the numbers are increasing slightly. Nevertheless, the abundance there remains only a fraction of what it was 20 years ago. The Team reviewed the data on population trends, the PVA analysis for the western population segment in relation to the reclassification criteria in the Plan, as well as the ESA definition of ''endangered,'' and concluded that the western population segment should be listed as endangered. NMFS concurs with the recommendations of the Team and the IUCN Seal Specialist Group's listing criteria, which also recommend a classification of endangered.

The Team also agreed that there was continued concern for the eastern population segment of Steller sea lions, despite the fact that its current abundance may be stable. The history of declines in the eastern Aleutian Islands (Merrick et al., 1987) has shown that the Alaska Steller sea lion population decline has not followed a constant trajectory. Periods of apparent moderation in the decline seem to have been interspersed with periods of acute decline throughout the overall period of decline.

NMFS takes a risk-averse approach to downlisting or delisting species protected under the ESA. Although adult counts in southeastern Alaska are considered stable, preliminary data indicate a decline of 7.2 percent in 1995–96, and pup production decreased by 20.5 percent between 1989–90 and 1994–95. Steller sea lion numbers at the southern margin are declining and the range is shrinking.

Furthermore, during the nonbreeding season of animals from the eastern and western population segments mix at sea and at haulout sites. These animals cannot be visually differentiated, and animals from the western population segment need to be protected under the ESA wherever they occur.

Evaluating the population status of the eastern population segment without a consideration of its place in the overall species population is inappropriate. Prior to the decline, the proportion of Steller sea lions that resided within the eastern population segment was less than 10 percent of the entire species abundance (NMFS, 1995). Because of the western population segment's decline, the eastern population segment's numerical significance has increased. Thus,

although for listing purposes the western and eastern population segments may be considered discrete, the substantial decline that has occurred represents a threat to the continued existence of the entire species.

In consideration of the relatively small fraction of the entire population segment that exists in the eastern part of the range, and the limited knowledge of the underlying causes of the decline, the eastern population segment should maintain its threatened status under the ESA. The Team recommended that monitoring of the eastern population segment be continued to determine if delisting is appropriate, and delisting criteria will be developed by NMFS in consultation with the Team.

Population Viability Analysis

Comment: One commenter stated that the PVA used to evaluate the future trend of the U.S. Steller sea lion population was incomplete, misleading and, if applied to humans, would predict that the human population will increase to infinity. Another commenter indicated that the PVA should be peer-reviewed by independent experts. Some commenters expressed concern regarding the weight that would be given to the results of the Steller sea lion PVA. They noted difficulties in predicting future population trends with confidence when causal relationships are not understood and suggested that NMFS use the PVA results with caution in the listing status determination.

Response: NMFS believes that the PVA provides the best estimate of extinction risk possible with existing population data and scientific methods. It was submitted for review and approved by outside, independent experts. The validity of the predictions made by the PVA model(s) is conditioned on the validity of its premise. The central premise in the PVA modeling is that the decreasing population pattern of the past 25 years will continue into the distant future. The model assumes that the decline will not abate, and, in fact, there is no indication that it will. PVA models are not valid for increasing populations (and the authors do not apply the model(s) to increasing populations, such as the human population); therefore the commenter's analogy regarding humans is not appropriate. The upper limit on the size of the Steller sea lion population was ignored because the authors of the PVA were trying to answer the question: How long will the population persist if the present pattern of decline continues? The PVA represents an exploration into that query alone. NMFS recognizes the limitations of population modeling to accurately predict future trends for this population. Thus, although the PVA results have been considered in the status determination, these have not been given greater weight than population trend data and the scientific opinion of experts, both within and outside NMFS.

Protective Management Measures

Comment: Several commenters raised issues regarding the protective measures currently in place to aid recovery of Steller sea lions. Some commenters felt that additional/revised regulations were needed to provide improved protection. One commenter questioned the efficacy of the 3 nautical mile (nm) (5.5 kilometer (km)) buffer zones around certain rookeries west of 150 °W. long., restricting all human activities year-round. Another commenter indicated the need to support full partnerships with coastal communities and develop cooperative management programs. Two commenters suggested that NMFS, in consultation with the Team, convene a panel of independent experts to evaluate and make recommendations on the full range of fishery and resource management practices that may be useful for reversing the decline of Steller sea lions.

Response: Since the species' listing as threatened in 1990, NMFS has implemented various protective measures for Steller sea lions under the ESA and the Magnuson-Stevens Act. These measures are intended to reduce intentional and unintentional mortality and harassment, disturbance of breeding areas and reproduction, and the possible effects of commercial fishing on the availability of Steller sea lion prey.

The purposes of the buffer zones are: (1) To restrict opportunities for individuals to shoot at sea lions and to facilitate the enforcement of the restriction; (2) to reduce the likelihood of interactions with sea lions such as accidents or incidental takings in areas where concentrations of the animals are expected to be high; (3) to minimize disturbances and interference with sea lion behavior, e.g., boating activity, especially at pupping and breeding sites; and (4) to avoid or minimize other related adverse effects (which could include prey removal in the immediate areas surrounding the rookeries).

NMFS believes it is premature to propose changes to the Steller sea lion protective measures, because: (1) More time is required to assess what, if any, benefit has been derived from the actions currently in place; and (2) given the limited knowledge of the sea lion/fishery prey interaction and the effects of human disturbance, it is difficult to identify meaningful management actions in addition to those already in place. It will continue to be difficult to demonstrate a definitive causal link between Steller sea lion decline and fishery-related activities due to the complex nature of the interactions between fisheries and marine mammals on a large scale.

Buffer Zone Exemptions

Comment: One commenter remarked that the 3 nm (5.5 km) approach prohibition places an excessive burden on the Adak crab fleet by precluding crab fishing activities. The commenter explained further that the Adak crab fleet, by nature of fishing practices, fishing gear, bycatch composition and observer requirements, can be shown to address adequately each of the concerns associated with the restrictions of the buffer areas without the imposition of such restrictions. The commenter requested limited exemptions, waivers, or special permits for the Adak crab fleet to fish within the buffer areas.

Response: A mechanism is provided under existing regulations (55 FR 49204, November 26, 1990) to allow the public to petition the Regional Administrator, Alaska Region, NMFS, to issue exemptions for any activity that has historically or traditionally occurred within a buffer zone, is not likely to adversely affect sea lions, and for which there is no readily available and acceptable alternative to conducting the activity within a buffer zone. Notice of all such exemptions will be published in the **Federal Register**.

Research and Research Funding

Comment: Several commenters recommended an expansion of existing research efforts and offered specific recommendations for areas of research. The majority of commenters urged NMFS to place emphasis on investigating the temporal and spatial prey (fish) availability across the foraging range of the Steller sea lion and on examining the impact of changes in biomass of the forage fish/prey upon Steller sea lion. One commenter questioned whether NMFS is currently accounting for all catch and discards in groundfish fisheries, especially walleye pollock. Cooperative research and monitoring programs were recommended with an emphasis on the walleye pollock and other forage fish exploitation in Russian waters of the Bering Sea. Commenters recommended that NMFS reconvene the Team to review and revise the research priorities and recommendations in the Plan based on existing data and information from

ongoing research. Support was expressed for use of a peer review process, to examine plans for satellite telemetry studies, and food habits/foraging ecology research.

Response: NMFS is addressing the majority of these comments through the Steller Sea Lion Recovery Research Program, a federally-funded effort, cooperatively implemented by NMFS and ADFG since 1992. The Steller Sea Lion Recovery Research Program involves state and private research entities and receives input from the Team. At the November 29–30, 1994, Steller Sea Lion Recovery Team meeting, the Team concluded that individual research peer review workshops were needed to review research conducted to date and to define necessary changes in research program emphasis. This peer review process is considered an essential precursor to updating the Plan (revised Plan due in 1998).

NMFS intends to conduct peer reviews on several components of the Steller Sea Lion Recovery Research Program. The general goals of research peer review, as expressed by the Team, are to determine: (1) Whether the research facilitates recovery or leads to the identification of management actions to aid the species; (2) whether it is cost effective; and (3) whether the work has been completed or has reached a specified level of completion. More specifically, these recovery program component reviews are intended to: (a) Evaluate hypotheses being tested by the current suite of studies; (b) review program design and methods; (c) review results obtained to date; (d) evaluate whether current projects and methods are likely to adequately address hypotheses proposed; (e) evaluate how studies being done fit into the broader context of studies on Steller sea lions and their ecosystems; (f) evaluate the degree of and need for coordination among related studies; and (g) make recommendations for continuation, modification, or deletion of specific studies.

Research peer review workshops will focus on four components of the Steller Sea Lion Recovery Research Program: (1) Behavior—satellite telemetry at-sea/behavior on land; (2) health/physiology; (3) food habits/feeding ecology, and; (4) prey competition studies. These reviews will involve experts from outside NMFS and the Team to assess research conducted to date and to identify appropriate future actions that are most likely to stop the decline of Steller sea lions. This peer review process is also considered an essential precursor to updating the Recovery Plan. Steller sea lion peer review workshops are tentatively scheduled to begin in the fall of 1997.

III. Final Policy on Population Determinations

Only a ''species'' may be listed as threatened or endangered under the ESA. This term is defined under section 3 of the ESA to include any subspecies of fish or wildlife and any distinct population segment of any species of fish or wildlife that interbreeds when mature. On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS) published a policy to clarify their interpretation of the phrase ''distinct population segment of any species of vertebrate fish or wildlife'' for the purposes of listing, delisting, and reclassifying species under the ESA (61 FR 4722).

NMFS used the criteria in this policy to assess the presence of distinct population segments of Steller sea lions. The policy outlines three elements to be considered in deciding the status of a possible distinct population segment as endangered or threatened under the ESA:

(1) Discreteness of the population segment in relation to the remainder of the species to which it belongs.

(2) The significance of the population segment to the species to which it belongs.

(3) The population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment, when treated as if it were a species, endangered or threatened?).

Discreteness: A population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (a) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (b) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA.

The former criterion is particularly relevant for Steller sea lions. Genetic studies provide the strongest evidence that discrete population segments of Steller sea lions exist. Bickham et al. (1996) collected genetic samples from 224 Steller sea lion pups on rookeries in Russia, the Aleutian Islands, the western and central GOA, southeastern Alaska, and Oregon. Mitochondrial DNA analyses of these samples identified a total of 52 haplotypes (sets of alleles of closely linked genes that tend to be inherited together, uniquely identifying a chromosome) that could be further grouped together into eight lineages. Bickham et al. (1996) found a distinct break in haplotype distribution between the four western localities and the two eastern localities. Cluster analysis indicated that the eight lineages could be subdivided into two genetically differentiated populations, with the division at about Prince William Sound. Ono (1993) conducted similar analyses on samples obtained from 11 Steller sea lions on Año Nuevo Island, CA, and found seven haplotypes. Six of these were identical to those identified from southeastern Alaska and Oregon by Bickham et al. (1996), and one was unique to Año Nuevo Island, CA.

Tagging and branding studies provide further evidence that the breeding behavior of Steller sea lions probably reduces opportunities for genetic mixing among rookeries although Steller sea lions have been documented to travel large distances during the non-breeding season. The majority of females marked as pups, then later resighted as adults, have returned to their rookery of birth to breed (Calkins & Pitcher, 1982; NMFS, 1995). The few resighted females observed breeding at rookeries other than their natal site were all at rookeries near their birth rookery. This apparent natal site fidelity not only reduces genetic mixing among rookeries, but it also makes it less likely that declining rookeries will be bolstered by recruitment from other rookeries.

Satellite telemetry studies also provide evidence of ''homing'' behavior in Steller sea lions. Generally, tracked sea lions forage from a central place (either a rookery or nearby haulout) and return to that place at the end of a foraging trip that may vary in duration from hours to months (Merrick et al. 1994).

Population trend data provide further evidence of separation among these two population segments. The Steller sea lion population east of Cape Suckling (with the exception of the portion in southern California) has remained stable since the 1970s, whereas the population to the west has declined dramatically. It is also worth noting that the only break in the distribution of Steller sea lions along the Alaskan coast occurs in the Yakutat area, near the proposed longitudinal border that would delineate the western and eastern population segments.

Loughlin (1994) used the phylogeographic approach proposed by

Dizon et al. (1992) to discern population discreteness in Steller sea lions. Loughlin concluded, based on an evaluation of distribution, population response, phenotypic, and genotypic data, that Steller sea lions should be managed as two discrete populations, with the separation point at about 144 °W. long.

Significance: If a population segment is considered discrete under one or more of the above conditions, its biological and ecological significance should then be considered. In carrying out this examination, NMFS considered available scientific evidence of the discrete population segment's importance to the taxon to which it belongs. This consideration included, but was not limited to, the following: (a) Persistence of the discrete population segment in an ecological setting unusual or unique for this taxon; (b) evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon; (c) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or (d) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

Because precise circumstances are likely to vary considerably from case to case, it is not possible to describe prospectively all the classes of information that might bear on the biological and ecological importance of a discrete population segment.

In the case of Steller sea lions, the eastern and western population segments (including the Russian population), make up the entire range of the species. Extinction of either population segment would represent a substantial loss to the ecological and genetic diversity of the species as a whole. The importance of each of the population segments indicates that the significance criterion of the policy is satisfied.

Status: If a population segment is discrete and significant (i.e., it is a distinct population segment), its evaluation for endangered or threatened status will be based on the ESA definition of those terms and, primarily, a review of the factors enumerated in section 4(a) for determining whether a species is endangered or threatened. In the following section of this notice, the conservation status of each Steller sea lion population segment is evaluated and discussed within these contexts.

IV. Status Listing Procedures: Summary of Factors Affecting the Species

Species may be determined to be endangered or threatened due to one or more of five factors described in section 4(a)(1) of the ESA. These factors, as they apply to the western and eastern Steller sea lions population segments, are discussed below.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Western Population Segment: Steller sea lions breed, pup, and seek rest and refuge on relatively remote islands and points of land along the Alaska coastline. There is no evidence that the availability of rookery or haulout space is a limiting factor for this species. As the number of animals in the western population segment continues to decline, some rookeries and haulouts have been abandoned and the availability of suitable terrestrial habitat is increasing. Terrestrial habitat destruction and modification do not appear to be significant issues for this population segment, or have a significant role in its population decline.

There are indications that Steller sea lion declines may be related to changes in the availability or quality of sea lion prey, as a result of environmental changes or human activities (Alverson, 1991; Calkins and Goodwin, 1988; Loughlin and Merrick, 1991; Merrick et al., 1987; NMFS, 1992; NMFS, 1995). This issue is discussed in more detail below in the section analyzing other factors affecting the species.

Eastern Population Segment: Modification or destruction of habitat, including both terrestrial and aquatic habitat, does not appear to be a significant factor affecting Steller sea lions in southeast Alaska. In Oregon, human disturbance of sea lions at Three Arch Rock and Oxford Reef was found to have a significant effect on the number of Steller sea lions using these sites (R. Brown, pers. comm.; NMFS, 1992). State regulations have been implemented, however, to restrict vessel traffic and reduce human disturbance in these areas.

In California, the reason for the decline of Steller sea lions is not known. Former rookery habitat has been abandoned (San Miguel Island), and some other rookeries (Año Nuevo Island, Farallon Islands) are at lower than historical abundance levels. The availability of suitable terrestrial habitat does not appear to be a factor in the sea lion decline in parts of California. A redistribution of Steller sea lions from disturbed to undisturbed habitats, however, has been reported in the Farallon Islands (D. Ainley in NMFS, 1992), which may be indicative of unreported disturbance limiting habitat use in other areas. Similarly, with respect to aquatic habitat, changes in the availability and quality of Steller sea lion prey resources due to natural cycles, fisheries, and toxic substances may be a factor in observed population trends in California.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Western and Eastern Population Segments: Steller sea lion pups were harvested commercially in the past, with significant levels of harvest occurring in eastern Aleutian Islands and the GOA during the 1960s and early 70s. Commercial harvest of Steller sea lions has not occurred since 1972. In the past, there have been reports of people shooting at Steller sea lions at rookeries and haulout sites and in the water near boats. Although illegal, shooting of sea lions may still continue, but the magnitude and significance of this mortality source is not known. While the commercial harvest and illegal shooting of Steller sea lions may have been significant factors in past declines, especially with respect to the western population segment, these harvests probably are not a major or substantial cause of recent population changes. In addition, in some cases, the animals may be disturbed as a result of recreational activities.

Intentional lethal takings of small numbers of Steller sea lions for scientific purposes have occurred in the past. Since the 1990 ESA listing, however, scientists have relied on non-lethal sampling techniques. Research often results in the temporary harassment and occasionally results in the injury of Steller sea lions. Prior to 1990, a small number of animals were taken from the wild for public display purposes, but no such removals have been authorized since listing. While occasionally the subject of observation and harassment, especially in some areas, Steller sea lions usually are not utilized for educational purposes in a manner that would have a significant negative impact on the animals. The utilization of Steller sea lions for scientific or educational purposes has not been a significant or contributing factor that has affected either population segment.

C. Disease or Predation

Western and Eastern Population Segments: Sharks and killer whales are

known to prey on Steller sea lions, primarily pups. The magnitude and significance of predator-related mortality, however, is not known. Natural mortality from predation is not currently considered to be a significant factor for either Steller sea lion population segment. Nonetheless, should the western population segment continue to decline and the amount of mortality resulting from natural predation by killer whales remain unchanged, natural mortality could exacerbate the decline, especially in some areas of the western population.

Studies to assess the significance of disease in the Steller sea lion population are ongoing. To date, researchers have not found any evidence that disease is a significant factor affecting either population of Steller sea lions. Various pathogens have been isolated from animals collected by researchers or carcasses found on the beach, but their significance to the overall population remains unclear. One area of ongoing research is determining the role, if any, of pathogens in the relatively high rate of abortions observed in GOA Steller sea lions.

D. The Inadequacy of Existing Regulatory Mechanisms

NMFS has the authority to implement regulations necessary to protect Steller sea lions under the ESA and the MMPA. Similarly, under the Magnuson-Stevens Act, NMFS has the authority to regulate fishing activities that may be affecting sea lions, directly or indirectly. However, whether existing regulatory mechanisms and protective regulations are adequate is difficult to evaluate because of the lack of a clear cause and effect relationship between human activities and the decline in the western population segment. Various regulations that have been implemented, or that have been suggested or proposed for implementation, are considered below.

Take prohibitions: Under the MMPA, it is unlawful for any person subject to the jurisdiction of the United States to take a marine mammal on the high seas or in waters or lands under U.S. jurisdiction. ''Take'' is defined as harass, hunt, capture, collect or kill or attempt to harass, hunt, capture, collect or kill any marine mammal. Certain exceptions from the prohibitions on taking are provided.

Similarly, under the ESA, certain statutory prohibitions apply once a species is listed as endangered. For example, under section 9 of the ESA, no person subject to the jurisdiction of the United States may take such a species within the U.S., the territorial sea of the U.S., or upon the high seas. ''Take'' is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct. Certain exceptions are provided.

Often prohibitions similar to the section 9 prohibitions for endangered species are implemented by regulation with respect to species that are listed as threatened. Such action was not taken with respect to Steller sea lions when the species originally was listed as threatened in 1990, in part, because similar take prohibitions existed under the MMPA, and in part, because of the difficulty of authorizing incidental takings if such prohibitions had been implemented. However, at the time of the listing, or shortly subsequent to the listing, stringent protective measures, including the following, were implemented: Regulations prohibiting the discharge of firearms; designation of buffer zones; designation of critical habitat; and restrictions on fishing activities.

Regulations prohibiting the discharge of firearms: Regulations, issued in conjunction with the original listing of Steller sea lions as threatened, prohibit the discharge of firearms at or near these animals. Although intentional lethal taking of sea lions was already prohibited at the time of the listing, there had been reports of firearm use to deter sea lions from interfering with fishing operations.

In a separate action, NMFS recently proposed regulations and guidelines for deterring marine mammals as required under amended section 101(a)(4) of the MMPA (60 FR 22345, May 5, 1995). When these regulations and guidelines are finalized, the use of any firearms to deter marine mammals from interacting with fishing gear or catch will be prohibited. In addition, new section 118(a)(5) of the MMPA prohibits intentional lethal taking of any marine mammal during commercial fishing operations, except in defense of human life (60 FR 6036, Feb. 1, 1995).

The firearm prohibition, issued at the time of the original listing of Steller sea lions as threatened, is viewed, in general, as adequate; NMFS will continue to implement this protective measure for both the eastern and western population segments.

No approach in buffer areas: Regulations issued at the time Steller sea lions were originally listed as threatened, prohibited any vessel from approaching within three miles of specific Steller sea lion rookeries; likewise, approach on non-private land within one-half mile of these specific rookery sites was prohibited. A variety of exceptions was provided.

The purposes of the buffer areas are to restrict opportunities for individuals to shoot at sea lions and to facilitate enforcement of this restriction; to reduce interactions with sea lions, such as accidents or incidental takings, in areas where concentrations of these animals are expected to be high; to minimize disturbance and interference with sea lion behavior including foraging behavior, especially at pupping and breeding sites; and to avoid or minimize other human impacts and related adverse effects. To date, these regulations are generally viewed as effective. Based on the review of logbooks and overflights conducted by the U.S. Coast Guard, NMFS has found few instances of entry into these zones.

NMFS will continue to implement the existing regulatory buffer zones in the western area. At this time, NMFS is not proposing additional protective zones in the western or eastern area. NMFS regional research and management staff are reviewing the ongoing Steller sea lion program and looking at developing an action plan for future research and management directions. Consideration is being given to the development of an experiment for assessing the efficacy of closure zones.

Quotas on incidental takings: On April 30, 1994, the reauthorized and amended MMPA established a new regime to govern the take of marine mammals incidental to commercial fishing operations; the new regime replaces the interim exemption program established in 1988. Under the 1988 Interim Marine Mammal Exemption Program, up to 1,350 Steller sea lions were authorized to be taken annually incidental to commercial fisheries, and emergency regulatory actions were required if more than 1,350 animals were incidentally killed in any year. The new MMPA management regime replaced the previous quota system and focuses on reducing the incidental mortality and serious injury of marine mammals from strategic stocks, i.e., those population segments that are listed as endangered or threatened under the ESA, those stocks that are listed as depleted under the MMPA, and those stocks for which human-caused mortality exceeds the estimated potential biological removal (PBR) (the 1994 Amendments to the MMPA defined PBR as the maximum level of animals, not including natural mortalities, that can be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population). Under this new regime, NMFS is

required to permit the take of endangered and threatened marine mammals incidental to commercial fishing under section 101(a)(5)(E) of the MMPA, provided that (1) the incidental mortality and serious injury would have a negligible impact on the affected species or stock, (2) a recovery plan for that species or stock has been developed or is being developed, and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels are registered, and a take reduction plan has been developed or is being developed. A take reduction plan, once developed, is intended to assist in the recovery of the species and should include recommendations for regulatory or voluntary measures to reduce incidental mortality due to commercial fisheries.

To determine which stocks should be considered strategic and what level of take could be considered negligible, stock assessment reports were developed in 1995 for each Steller sea lion stock (population segment). These stock assessment reports compiled the available data on population size and trend, calculated a PBR level for each stock, and described, to the extent possible, the known sources of human mortality, including takes in commercial fisheries.

Based primarily on the low level of known incidental takes relative to the PBR level, NMFS determined negligible impact and issued an Incidental Take Statement (60 FR 45399, August 31, 1995) authorizing, under section 7(b)(4) of the ESA, takings from the western population segment of Steller sea lions incidental to commercial fisheries for a period of 2 years, and incidental takings from the eastern population segment for a period of 3 years. Due to the listing change and because many fisheries that interact with Steller sea lions in Alaska are not currently monitored by observers, there may be a need to reassess the negligible impact determination and reconsult under section 7.

NMFS is in the process of designing monitoring programs to be conducted in the unobserved fisheries in Alaska, including fisheries expected to incidentally take Steller sea lions. NMFS also will be preparing updated stock assessments in the coming year, reexamining the estimated mortality rates incidental to commercial fisheries and considering the next steps, if necessary, toward take reduction.

Subsistence harvests: Under section 10(e) of the ESA, prohibitions on the taking of threatened and endangered species normally do not apply to takings by Alaska Natives if such taking is primarily for subsistence purposes. To date, no action has been taken to regulate, or otherwise manage, the subsistence harvest of Steller sea lions by Alaska Native groups. The subsistence harvest may have some localized impact on survival, but its impact upon the survival of the overall populations is not considered significant. If subsistence takings materially and negatively affect the species in the future, Federal regulations or restrictions may be imposed only after a hearing and decision on the record.

Section 119 of the MMPA allows the Secretary of Commerce (Secretary) to enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence uses. In 1994, an interim Alaska Native Steller Sea Lion Commission (Commission) consisting of representatives from western Alaska communities that take Steller sea lions for subsistence needs was formed to improve communication among indigenous communities that use sea lions, to advocate for conservation of Steller sea lions, to advocate for protection of customary and traditional rights of indigenous peoples with regard to access and use of sea lions, and to serve as the focal point for development of co-management agreements with NMFS. Local hunter groups have also formed on St. Paul and St. George Islands to draft and implement guidelines to make their subsistence harvests more efficient. NMFS has met with these groups to discuss compliance with the guidelines, reduction of the strike/loss ratio, hunter education, Native/government information exchange and increased participation in the collection of biological samples. Through co-management agreements between NMFS and the Commission or local hunter groups, self-management and regulation of the subsistence harvest by Alaska Natives will be developed.

Critical habitat: Currently, designated critical habitat for Steller sea lions includes all rookeries, major haulouts, 3000-ft zones landward, seaward, and skyward of these sites, and aquatic foraging zones in Shelikof Strait, Seguam Pass and on the eastern Bering Sea Shelf. West of 150° W. long., critical habitat aquatic zones around rookeries and major haulouts extend to 20nm from the site boundary. In Oregon and California, critical habitat includes rookeries and 3000-ft zones landward, seaward, and skyward of these sites.

Critical habitat provides the public and other Federal agencies with notice of particular areas and features that are essential to the conservation of Steller sea lions. Consultation under section 7(a)(2) of the ESA is required for any agency action that may affect critical habitat. NMFS believes that the current designation of critical habitat is adequate and is not proposing to revise this designation at this time.

Restrictions on fishing activities: Although the relationship between commercial fisheries and the ability of Steller sea lions to obtain adequate food is not clear, a change in food availability, especially for juvenile Steller sea lions, is a leading hypothesis for the continuing decline in the western population segment. The GOA/BSAI management area is the geographic region where Steller sea lions have experienced the greatest population decline and is also an area where large commercial fisheries have developed. As a result, NMFS has implemented protective regulations to reduce the possible effects of certain commercial groundfish fisheries on Steller sea lions, especially the groundfish fisheries of the GOA and the BSAI.

Many of the Steller sea lion's preferred prey species are harvested by commercial fisheries in this region, and food availability to Steller sea lions may be affected by fishing. Because of concerns that commercial fisheries in these essential sea lion habitats could deplete prey abundance, NMFS amended the BSAI and GOA groundfish fishery management plans. Under the Magnuson-Stevens Act, NMFS: (1) Prohibited trawling year-round within 10 nm of listed GOA and BSAI Steller sea lion rookeries; (2) prohibited trawling within 20 nm of the Akun, Akutan, Sea Lion Rock, Agligadak, and Seguam rookeries during the BSAI winter pollock roe fishery to mitigate concentrated fishing effort on the southeastern Bering Sea shelf and in Seguam Pass; and (3) placed spatial allocation on the GOA pollock harvest to divert fishing effort away from sea lion foraging areas.

NMFS also seasonally expanded the 10 nm no-trawl zone around Ugamak Island in the eastern Aleutians to 20 nm (58 FR 13561, March 12, 1993). The expanded seasonal ''buffer'' at Ugamak Island better encompassed Steller sea lion winter habitats and juvenile foraging areas in the eastern Aleutian Islands region during the BSAI winter pollock fishery.

Consultations under section 7 of the ESA have been conducted on annual total allowable catch specifications for the GOA and BSAI fisheries, as well as all other changes in the fishery. Current regulations limiting the groundfish

fisheries in the GOA and BSAI were implemented under the Magnuson-Stevens Act. NMFS and the NPFMC have instituted changes so that Steller sea lion (and other marine mammal) concerns are now routinely considered in the fishery management decision making and quota specification process. The Team has recommended that NMFS evaluate the need for additional measures in order to enhance food availability near rookeries and haulouts in the western area. As stated earlier, NMFS is looking at developing a program to investigate the efficacy of current regulations and to address future research and management directions. No regulatory additions or changes are being proposed at this time.

Other regulatory mechanisms: The inadequacy of other regulatory mechanisms has been suggested as a factor in the decline or vulnerability of both Steller sea lion populations. Comments received on the status review notice included suggestions that additional regulations were needed to protect Steller sea lions, particularly at haulout and rookery sites, from the effects of Federal land management activities, including oil and gas exploration and development.

In most cases, other agencies, such as the Minerals Management Service and the U.S. Forest Service, regulate these types of activities. These agencies are expected to consult with NMFS under section 7 of the ESA to ensure that their actions are not likely to jeopardize the continued existence of listed species or to destroy or adversely modify critical habitat. Comments received concerning the adequacy of current regulations issued by other agencies will be considered during the consultation process.

Conclusions regarding the inadequacy of existing regulatory mechanisms: A final determination with respect to whether existing regulatory mechanisms are adequate is difficult to make, given the lack of a clear cause of the decline. NMFS recognizes the importance of further examination of the adequacy and the benefits of existing regulations. However, in some cases, even after further study, it may be difficult or impossible to make definitive determinations about the adequacy of specific regulations because of the lack of understanding of all the mechanisms contributing to the decline or vulnerability of Steller sea lion populations.

Nevertheless, because of the separation of the species into distinct population segments and the status reclassification, various agency actions, likely to affect Steller sea lions, may be subject to reinitiation of consultation under section 7 of the ESA.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Other factors also may affect either or both populations of Steller sea lions. In particular, removals of Steller sea lions from the wild, resulting from direct and incidental takings, may be a contributing factor in past and continuing declines. Change in food availability is another factor that may be causing declines. Contaminants are also a concern. These other factors are discussed in more detail in the following sections.

Removals from the Western Population Segment: Steller sea lions interact with commercial fisheries, and, historically, many have been reported incidentally taken in fisheries in the GOA and BSAI. Estimates of the total number of Steller sea lions taken in commercial trawl fisheries in these waters from 1966 through 1988 have exceeded 20,000 animals (NMFS, 1995). Incidental catch appears to have been a contributing factor in the population decline in some areas of the Aleutian Islands and GOA during certain time periods.

Alaska Native subsistence hunters have been estimated to take about 350–500 Steller sea lions annually in recent years; virtually all of the subsistence harvest in Alaska occurs within the range of the western population segment (Wolfe & Mischler, 1993; 1994; 1995). These removals have some localized impact; should the western population segment continue to decline and the subsistence harvest continue at the same level, these removals may become significant to the survival of the overall populations.

Removals from the Eastern Population Segment: Accurate data on incidental takes of Steller sea lions in other fisheries in southeast Alaska, Oregon, and California are not available, but estimates from available sources are low. Alaska Native takes of Steller sea lions within the eastern population segment have been estimated at less than 10 animals annually (Wolfe & Mischler, 1993; 1994; 1995).

Food availability for the western population segment: Steller sea lions are opportunistic feeders, feeding primarily on schooling fish, such as walleye pollock, Atka mackerel, herring, and capelin. Declines in sea lion abundance may be related to changes in the availability of sea lion prey. Changes in the quantity or quality of available prey could have a chronic negative influence on the health and fitness of individual sea lions, resulting in reduced reproductive potential, increased susceptibility to disease, or death (Loughlin & Merrick, 1989). Calkins and Goodwin (1988) observed that Steller sea lions collected in the Kodiak Island area in 1985–86 were significantly smaller at age than animals collected from 1975–78, and hypothesized that nutritional stress was the cause. Juvenile sea lions, which are less adept foragers, may be most affected by changes in food availability. Demographic studies at Ugamak and Marmot Island rookeries suggest that juvenile survival has been greatly reduced over the last 20 years, and that this reduced juvenile survival may be the proximate cause of the population decline (NMFS, 1995). The role of food availability in the population decline remains unclear and is being investigated by researchers.

The BSAI and GOA commercial groundfish fisheries target important prey species of Steller sea lions, notably walleye pollock and Atka mackerel. Whether these fisheries actually deplete food resources of Steller sea lions is unclear. Analyses that have compared fishery harvests with changes in Steller sea lion abundance have been inconclusive, but the limitations of the available data may confound results (Loughlin & Merrick, 1989; Ferrero & Fritz, 1994).

One hypothesis is that where and how fisheries operate is significant to Steller sea lions, even if overall fishery removal levels are conservative of fish stocks. Fisheries that harvest large quantities of fish in relatively small geographic areas and short periods of time may deplete the local abundance of fishery resources. When such a fishery occurs in important Steller sea lion foraging habitat and targets, or has a significant bycatch of, Steller sea lion prey species (as the walleye pollock and Atka mackerel fisheries do), the fishery may make it more difficult for sea lions to obtain food. This is likely to be more important in the winter when alternate food resources are fewer and sea lion metabolic costs higher, and to be more significant to newly-weaned juveniles, which are less adept foragers. Based on this hypothesis, NMFS established no-groundfish-trawl zones around listed Steller sea lion rookeries in the GOA and BSAI (to reduce harvest in important foraging habitats), and created geographic fishery allocation areas in the GOA for walleye pollock (to disperse fishing effort).

The hypothesized change in prey availability to Steller sea lions could also be related to environmental change. Changes in the abundance of several species of fish, shellfish, birds, and

other marine mammals in the BSAI and GOA have been documented over the last 20 years. In particular, some important forage fish stocks, such as capelin and sand lance, appeared to have declined in both the BSAI and GOA during the 1970s and 1980s. Some of these observed changes in the ecosystem can be linked to human activities (e.g., fisheries, marine mammal harvests, hatcheries) whereas others appear to be related to natural phenomena (e.g., oceanic temperature changes).

Contaminants affecting both population segments: Concern has been expressed about the possible adverse effects of anthropogenic contaminants on the health and productivity of Steller sea lions, particularly in the western population segment and in California. Presently, the significance, if any, of toxic substances in Steller sea lion population declines is not known, and additional research is warranted.

V. Final Determination

NMFS has determined that the best available evidence indicates that Steller sea lions should be managed as two discrete population segments and that the threatened classification for the eastern segment and the endangered classification for the western segment are appropriate.

Available data on population trends indicate that the western population segment of Steller sea lions is in danger of extinction throughout all or a significant part of its range. This population had exhibited a precipitous, large population decline at the time that the Steller sea lion was listed as a threatened species in 1990 and has continued to decline since the listing. Therefore, the western population segment of Steller sea lions is reclassified as an endangered species under the ESA.

The eastern population segment was originally listed as a threatened species in 1990 when the entire species was listed. The eastern population segment has exhibited a stable population trend for the last 15 years; however, NMFS believes that the large decline within the overall U.S. population threatens the continued existence of the entire species. This is particularly true, since the underlying causes of the decline remain unknown, and thus, unpredictable. Therefore, despite the apparent stability of the eastern population segment, NMFS is maintaining a threatened listing for this portion of the geographic range.

These determinations allow for a differentiation between the two populations that acknowledges the different individual population segment trends, but does not lose sight of the overall trend for the species.

NMFS Policies on Endangered and Threatened Wildlife

On July 1, 1994, NMFS, jointly with the USFWS, published a series of new policies regarding listings under the ESA, including a policy to identify, to the maximum extent possible, those activities that would or would not constitute a violation of section 9 of the ESA (59 FR 34272).

Identification of those activities that would constitute a violation of Section 9 of the ESA: Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered and threatened species. Under the ESA (section 9 and regulations), it is illegal to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect) or to attempt to take any endangered and most threatened species. Activities considered by the NMFS to constitute a ''take'' of an endangered or threatened Steller sea lion include:

1. Shooting at or near a Steller sea lion. An example would be an individual who shoots at a Steller sea lion to deter or distract it from taking fish off the individual's fishing gear; another example is shooting a Steller sea lion with a paint ball gun.

2. Collecting Steller sea lion parts. The ESA prohibits the collection of an endangered species or parts therefrom. Therefore, it would be illegal to collect parts from a dead Steller sea lion that has washed ashore.

3. Pursuing or harassing Steller sea lions. An example would be pursuing a Steller sea lion in an attempt to watch its behavior or to obtain a better view of it from a vessel. These illegal activities can be committed by guided marine life tour operators as well as individual recreational boaters. Persons who wish to view Steller sea lions would be required to avoid any actions that harass the Steller sea lion or actions that would constitute pursuit of Steller sea lions either in the water or on land. Trying to get the perfect photograph may result in actions that constitute harassment or pursuit of a Steller sea lion.

4. Approaching within 3 nm of a listed Steller sea lion rookery site. This includes, but is not limited to, transiting through the rookery site in a vessel, anchoring within any rookery site or fishing within any rookery site.

5. The take of Steller sea lions for the production of authentic native articles of handicrafts and clothing only. The ESA only provides for the non-wasteful taking of endangered species for subsistence purposes. If taken for this purpose, however, Native Alaskans are allowed to create authentic native articles of handicraft and clothing from non-edible byproducts.

This list is *not* exhaustive. It is provided to give the reader some examples of the types of activities that would be considered by the Agency as constituting a ''take'' of an endangered or threatened Steller sea lion under the ESA and regulations.

By operation of law, the section 9 prohibitions apply directly to the western stock of Steller sea lions. In this rule, pursuant to enforcement concerns, we are also extending these prohibitions to the eastern stock which remains threatened. Because the reclassified eastern and western population segments of Steller sea lions are physically indistinguishable and both segments are capable of traversing great distances, it will be exceedingly difficult to determine that a particular Steller belongs to a particular population. Extension of the section 9 prohibitions to all Steller sea lions would obviate this concern.

With regard to activities that may affect Steller sea lions or their habitat, and whose likelihood of violation of section 9 is uncertain, NMFS Alaska Regional Office (see **ADDRESSES**) should be contacted to assist in determining whether a particular activity constitutes a prohibited act under section 9.

Classification

Section 4(b)(1) of the ESA restricts the information that may be considered when assessing species for listing. Based on this limitation and the opinion in *Pacific Legal Foundation* v. *Andrus,* 657 F.2d 829 (6th Cir. 1981), listing actions under the ESA are excluded from the normal requirements of the National Environmental Policy Act.

As noted in the Conference report on the 1982 amendments to the ESA (H.R. Conf. Rep. No. 835, 97th Cong., 2d Sess 20. (1982)), economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12866, and the Regulatory Flexibility Act are not applicable to the listing process.

Dated: April 29, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries.

List of Subjects

50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, Transportation.

50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

For the reasons set out in the preamble, 50 CFR parts 222 and 227 are amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for part 222 is revised to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart D, § 222.32 also issued under 16 U.S.C. 1361 *et seq.*

2. In § 222.23, paragraph (a) is amended by adding the following material after ''Saimaa seal (*Phoca hispida saimensis*);'' to read as follows:

§ 222.23 Permits for scientific purposes or to enhance the propagation or survival of the affected endangered species.

(a) * * * Steller sea lion (*Eumetopias jubatus*), western population, which consists of Steller sea lions from breeding colonies located west of 144 °W. long.; * * *

* * * * *

3. Section 222.33 is added to subpart D to read as follows:

§ 222.33 Special prohibitions relating to endangered Steller sea lion protection.

General. The regulatory provisions set forth in part 227, which govern threatened Steller sea lions, shall also apply to the western population of Steller sea lions, which consists of all Steller sea lions from breeding colonies located west of 144 °W. long.

PART 227—THREATENED FISH AND WILDLIFE

4. The authority citation for part 227 is revised to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 227.12 also issued under 16 U.S.C. 1361 *et seq.*

5. In § 227.4, paragraph (e) is revised to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(e) Steller (northern) sea lion (*Eumetopias jubatus*), eastern population, which consists of all Steller sea lions from breeding colonies located east of 144 °W. longitude.

* * * * *

6. In § 227.12, paragraph (a) introductory text is added, and the paragraph (a) heading, paragraphs (a)(4) and (b)(2) are revised to read as follows:

§ 227.12 Steller sea lion.

(a) *General prohibitions.* The prohibitions of section 9 of the Act (16 U.S.C. 1538) and the following regulatory provisions shall apply to the eastern population of Steller sea lions:

* * * * *

(4) *Commercial Fishing Operations.* The incidental mortality and serious injury of endangered and threatened Steller sea lions in commercial fisheries can be authorized in compliance with sections 101(a)(5) and 118 of the Marine Mammal Protection Act.

(b) * * *

(2) *Official activities.* The taking of Steller sea lions must be reported within 30 days to the Regional Administrator, Alaska Region. Paragraph (a) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties from:

(i) Taking a Steller sea lion in a humane manner, if the taking is for the protection or welfare of the animal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals; or

(ii) Entering the buffer areas to perform activities that are necessary for national defense, or the performance of other legitimate governmental activities.

* * * * *

[FR Doc. 97–11668 Filed 4–30–97; 4:00 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970429101–7101–01; I.D. 042497B]

RIN 0648–AJ09

Fisheries Off West Coast and Western Pacific States; West Coast Salmon Fisheries; 1997 Management Measures

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

ACTION: Annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS establishes fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California for 1997 and for 1998 salmon seasons opening earlier than May 1, 1998. Specific fishery management measures vary by fishery and area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3–200 nautical miles (nm)) off Washington, Oregon, and California. These management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian and non-treaty commercial and recreational fisheries. The measures are intended to allow a portion of the salmon runs to escape the ocean fisheries to provide for spawning escapement and inside fisheries.

DATES: Effective from 0001 hours Pacific Daylight Time (P.d.t.), May 1, 1997, until the effective date of the 1998 management measures, as published in the **Federal Register**. Comments must be received by June 4, 1997.

ADDRESSES: Comments on the management measures and related environmental assessment (EA) may be sent to William Stelle, Jr., Regional Administrator, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., Seattle, WA 98115–0070; or William Hogarth, Acting Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213. Copies of the EA and other documents cited in this notice are available from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 S.W. Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William Robinson at 206–526–6140, or Rodney McInnis at 562–980–4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the exclusive economic zone off Washington, Oregon, and California (the fishery management area (FMA)) are managed under a ''framework'' fishery management plan—the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California (FMP) was developed, approved and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notification in the **Federal Register**.

These management measures for the 1997 and pre-May 1998 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 8–11, 1997, meeting.

Schedule Used To Establish 1997 Management Measures

In accordance with the FMP, the Council's Salmon Technical Team (STT) and staff economist prepared several reports for the Council, its advisors, and the public. The first report, ''Review of 1996 Ocean Salmon Fisheries,'' summarizes the 1996 ocean salmon fisheries and assesses how well the Council's management objectives were met in 1996. The second report, ''Preseason Report I Stock Abundance Analysis for 1997 Ocean Salmon Fisheries,'' provides the 1997 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 1996 regulations or regulatory procedures were applied to the 1997 stock abundances.

The Council met on March 4–7, 1997, in Portland, OR, to develop proposed management options for 1997. Three commercial and three recreational fishery management options were proposed for analysis and public comment. These options presented various combinations of management measures designed to protect numerous weak stocks of coho and chinook salmon and provide for ocean harvests of more abundant stocks. The options provided for retention of chinook salmon in non-treaty fisheries north of Cape Falcon, OR, for the first time since 1993, and no retention of coho salmon south of Cape Falcon for the third consecutive year. After the March Council meeting, the STT and Council staff economist prepared a third report, ''Preseason Report II Analysis of Proposed Regulatory Options for 1997 Ocean Salmon Fisheries,'' which analyzes the effects of the proposed 1997 management options. This report also was made available to the Council, its advisors, and the public.

Public hearings on the proposed options were held March 31 and April 1, 1997, in Westport, WA; Astoria and North Bend, OR; and Eureka, CA.

The Council met on April 8–11, 1997, in Millbrae, CA, to adopt its final 1997 recommendations. Following the April Council meeting, the STT and Council staff economist prepared a fourth report, ''Preseason Report III Analysis of Council-Adopted Management Measures for 1997 Ocean Salmon Fisheries,'' which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was made available to the Council, its advisors, and the public.

Resource Status

Aside from salmon species listed and proposed for listing under the Endangered Species Act (ESA) discussed below, the primary resource concerns are for Klamath River fall chinook, lower Columbia River fall chinook stocks, Oregon coastal natural coho, and Washington coastal and Puget Sound natural coho. Management of all of these stocks is affected by interjurisdictional agreements among tribal, State, Federal, and/or Canadian managers.

Chinook Salmon Stocks

California Central Valley fall chinook stocks are abundant compared to other chinook stocks of the Pacific coast. The Central Valley Index of abundance of combined Central Valley chinook stocks is projected to be 849,000 fish for 1997, the highest predicted since 1990 and 17 percent above the postseason estimate of the index for 1996. The spawning escapement of Sacramento River adult fall chinook was 244,400 adults in 1996, well above the escapement goal range of 122,000 to 180,000 adult spawners.

Winter chinook from the Sacramento River are listed under the ESA as an endangered species (59 FR 440, January 4, 1994). The 1996 spawning run size was estimated to be approximately 600 adults, 2.3 times the estimated 1993 adult escapement. Neither preseason nor postseason estimates of ocean abundance are available for winter chinook, but the run is expected to remain extremely depressed in 1997.

Klamath River fall chinook ocean abundance is projected to be 155,400 age-3 and age-4 fish at the beginning of the fishing season. The abundance forecast is 45 percent below the 1996 postseason abundance estimate and 46 percent below the average postseason estimates for 1987–1996. The spawning escapement goal for the stock is 33–34 percent of the potential natural adults but no fewer than 35,000 natural spawners (fish that spawn outside of hatcheries). The natural spawning escapement in 1996 was 81,000 adults, about half of the 1995 escapement of 161,800 adults.

Oregon coastal chinook stocks include south-migrating and localized stocks primarily from southern Oregon streams, and north-migrating chinook stocks which generally originate in central and northern Oregon streams. Abundance of south-migrating and localized stocks is expected to be similar to the levels observed in 1996. These stocks are important contributors to ocean fisheries off Oregon and northern California. The generalized expectation for north-migrating stocks is for a continuation of average to above-average abundance as observed in recent years. These stocks contribute primarily to ocean fisheries off British Columbia and Alaska. It is expected that the aggregate Oregon coastal natural chinook spawning escapement goal of 150,000 to 200,000 naturally spawning adults will be met in 1997.

Estimates of Columbia River chinook abundance vary by stock as follows:

1. *Upper Columbia River spring and summer chinook.* Numbers of upriver spring chinook predicted to return to the river in 1997 are 67,800 fish, 32 percent above the 1996 return of 51,500 adult fish, and 20 percent above the 1979–1984 average return of 56,600 fish. The 1996 stock status indicates improvement from the record low return in 1994, but also a continuation of the depressed status of this stock. Recent improvements in 1985–1990 and 1992–1993 from the poor returns in the early 1980s are primarily the result of increases of hatchery stocks. The natural stock component remains severely depressed. Ocean escapement is expected to be significantly below the goal of 115,000 adults counted at Bonneville Dam. Upriver spring chinook are affected only slightly by ocean harvests in Council area fisheries, with the contribution of these stocks being generally 1 percent or less of the total chinook catch north of Cape Falcon, OR. Expected ocean escapement of adult upriver summer chinook is 16,700 fish, the third lowest on record. The 1997 stock status remains extremely depressed, with a return of 16,700 fish being only 21 percent of the lower end of the spawning escapement goal range of 80,000 to 90,000 adults counted at Bonneville Dam. Upriver summer chinook migrate to the far north and are not a major contributor to ocean fisheries off Washington and Oregon. Snake River spring and summer chinook are listed as threatened under the ESA (57 FR 14653, April 22, 1992).

2. *Lower Columbia River spring chinook.* Willamette River spring chinook returns are projected to be 30,000 fish, 14 percent below the observed 1996 run of 34,800 fish, and the fourth consecutive year that the adult return is less than 50,000 fish. Lower Columbia River spring chinook stocks are important contributors to Council area fishery catches north of Cape Falcon; Willamette River spring chinook stocks generally contribute to Canadian and Alaskan ocean fisheries.

3. *Columbia River fall chinook.* Abundance estimates are made for five distinct fall chinook stock units, as follows.

a. Upriver bright fall chinook ocean escapement is expected to be 166,400 adults, 16 percent above the 1996 actual return of 143,200 adults, and 109 percent above the 1979–1983 average return of 79,500 adults. This stock has a northern ocean migratory pattern and constitutes less than 10 percent of Council area fisheries north of Cape Falcon.

b. Lower river natural fall chinook ocean escapement is forecast at 7,500 adults, 49 percent below the 1996 run size of 14,600 adults.

c. Lower river hatchery fall chinook ocean escapement is forecast at 54,200 adults, 28 percent below the 1996 observed return of 75,500 adults. This stock has declined sharply since the record high return in 1987 to a record low return in 1995. Lower Columbia River fall chinook stocks normally account for more than half the total catch in Council area fisheries north of Cape Falcon, with lower river hatchery fall chinook being the single largest contributing stock.

d. Spring Creek hatchery fall chinook ocean escapement is projected to be 21,900 adults, 34 percent below the 1996 observed return of 33,100 adults; the 1986–1990 average return was 16,700 adults, a recent 5-year period of poor returns. The Spring Creek hatchery fall chinook stock generally has been rebuilding slowly since the record low return in 1987.

e. Mid-Columbia bright fall chinook ocean escapement is projected to be 72,100 adults, 21 percent above the 1996 return of 59,700 adults.

4. *Snake River wild fall chinook.* Snake River wild fall chinook are listed under the ESA as a threatened species (57 FR 14653, April 22, 1992). Information on the stock's ocean distribution and fishery impacts are not available. Attempts to evaluate fishery impacts on Snake River fall chinook have used the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska.

Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

Coho Salmon Stocks

Central California coast coho were listed as a threatened species under the ESA in 1996 (61 FR 56138, October 31, 1996), and southern Oregon/northern California coast coho were determined by the Assistant Administrator, NMFS, to be threatened species on April 25, 1997. Coho populations in California have not been monitored closely in the past, and no forecasts of the ocean abundance of coho originating from California are available; these runs have been generally at low abundance levels for many years.

Oregon coastal and Columbia River coho stocks are the primary components of the Oregon Production Index (OPI), an annual index of coho abundance from Leadbetter Point, WA, to the U.S.-Mexico border. Beginning in 1988, the Council adopted revised estimation procedures that were expected to more accurately predict abundance of the following individual OPI area stock components: Public hatchery, private hatchery, Oregon coastal natural (OCN) for rivers and lakes, and Salmon Trout Enhancement Program. Prediction methodologies are described in the Council's ''Preseason Report I Stock Abundance Analysis for 1988 Ocean Salmon Fisheries.'' In response to the extremely low abundances in 1994, some changes to the abundance predictors were implemented as described in the Council's ''Preseason Report I Stock Abundance Analysis for 1994 Ocean Salmon Fisheries.'' The 1997 OPI is forecast to be 463,800 coho, 24 percent above the 1996 preseason forecast of 372,800 coho, and 62 percent above the 1996 observed level of 286,600 coho. The 1997 estimate for OCN is 86,400 coho, 37 percent above the 1996 preseason forecast of 63,200 coho, and 16 percent below the 1996 observed level of 102,900 coho. The 1996 spawning escapement of the OCN stock was 88,100 fish, the largest for at least the last 7 years.

Most Washington coastal natural coho stocks and Puget Sound combined natural coho stocks are expected to be less abundant in 1997 than forecast in 1996. Abundances for Washington coastal stocks of Grays Harbor, Queets River, Hoh River, and Quillayute River fall natural coho are projected to be below the 1996 preseason predictions by 79 percent, 48 percent, 33 percent, and 32 percent, respectively. Abundances for Puget Sound stocks of Skagit River, Stillaguamish River, Hood Canal, and Strait of Juan de Fuca natural coho are projected to be 135 percent above, 30 percent below, 212 percent above, and 39 percent below the 1996 preseason predictions, respectively. Many natural coho run sizes are forecast to be well below maximum sustainable yield (MSY) spawning escapement goals. Abundance forecasts for coho hatchery production range from 9 percent above to 64 percent below 1996 expectations for Washington coastal stocks and 11 percent below the 1996 forecast for Puget Sound combined stocks.

Pink Salmon Stocks

Major pink salmon runs return to the Fraser River and Puget Sound only in odd-numbered years. In 1997, abundance expectations are for 11.4 million Fraser River pink salmon and 1.7 million (preliminary) Puget Sound pink salmon.

Management Measures for 1997

The Council recommended allowable ocean harvest levels and management measures for 1997 designed to apportion the burden of protecting the weak stocks discussed above equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with requirements of the Magnuson-Stevens Act and other applicable law, including the ESA, and U.S. obligations to Indian tribes with Federally recognized fishing rights. Accordingly, NMFS hearby adopts them.

Off central California, the 1997 management measures are some of the most restrictive ever established. The salmon seasons are also reduced compared to the season options adopted by the Council for public review in March. At the April Council meeting, the STT: (1) Implemented Council-approved changes to the Klamath River fall chinook ocean harvest model in order to compensate for a previously unrecognized underestimation of Klamath River chinook impacts in fisheries south of Point Arena, and (2) discovered that effort scalars used by the STT to model Snake River fall chinook impacts for the March options were incorrect. Together, these changes resulted in more restrictive seasons than the options that had been developed at the March Council meeting and that were subject to public comment and public hearings prior to the April Council meeting.

A. South of Cape Falcon

In the area south of Cape Falcon, the management measures reflect the need to achieve the minimum spawning escapement goal for Klamath River fall chinook and ESA requirements for listed species which include Snake

River fall chinook, Sacramento River winter chinook, southern Oregon/northern California coast coho, and central California coast coho.

In a March 8, 1996, biological opinion that considered the impacts to salmon species listed under the ESA resulting from fisheries conducted in conformance with the FMP, NMFS determined that the continued existence of Sacramento River winter chinook was likely to be jeopardized. The biological opinion identified Reasonable and Prudent Alternatives (RPA) to avoid jeopardy; specifically, NMFS required that all harvest-related impacts to the Sacramento River winter chinook population be reduced by a level that would achieve a 35-percent increase in the spawner-to-spawner replacement rate over a 1989–1991 base period. Based on new information and additional analysis, NMFS reinitiated consultation and, in a February 18, 1997, addendum to the biological opinion, determined that a 31-percent increase in the spawner-to-spawner replacement rate over a base period of 1989–1993 would provide sufficient protection to the winter chinook population to avoid jeopardizing the run's continued existence.

The Council analyzed the impacts of the proposed seasons on Snake River spring/summer and fall chinook stocks, listed as threatened species under the ESA. For Snake River wild spring and summer chinook, the available information indicates that it is highly unlikely that these fish are impacted by Council area fisheries. For Snake River wild fall chinook, NMFS determined in its March 8, 1996, biological opinion that the fisheries conducted under the FMP were likely to jeopardize that stock's continued existence. The RPA requires the Council to manage the ocean salmon fisheries within the jurisdiction of the Council to ensure the impacts of the annual management measures on Snake River wild fall chinook of either all U.S. ocean fisheries or all U.S. and Canadian ocean fisheries combined are no more than 50 percent or 70 percent, respectively, of the 1988–1993 average exploitation rate. The STT estimated a 30-percent reduction in the ocean exploitation rate for all ocean fisheries under the Council's recommended measures compared to the 1988–1993 average.

Snake River fall chinook are distributed widely throughout Council fisheries and in both Canadian and Alaskan fisheries. The greatest incidence of Snake River fall chinook in Council fisheries is north of Cape Falcon and south of Cape Falcon off the Oregon coast. The incidence diminishes further south and reaches a very low level off southern California. In order to meet the Snake River fall chinook RPA, the Council attempted to balance necessary fishery restrictions up and down the entire coast.

Southern and central California fisheries were constrained: (1) To meet the Klamath River fall chinook spawning escapement floor; (2) to meet the Sacramento River winter chinook RPA; and (3) to meet the Snake River fall chinook RPA. As a consequence of these restrictions, the escapement of Central Valley fall chinook will exceed substantially its escapement goal.

The Council recommended the continued use of an increase in the minimum size limit in the recreational fishery south of Horse Mountain to 24 inches (61.0 cm), in conjunction with restricted seasons in order to reduce incidental ocean harvest of Sacramento River winter chinook. The Council reviewed a recent California Department of Fish and Game study on the mortality rate of salmon released in the California recreational fishery and increased the hook-and-release mortality rates associated with mooching using ''circle'' and ''J'' hooks consistent with the study results. The Council recommended that gear restrictions for recreational fisheries off California implemented in 1996 be continued with certain modifications to minimize hook-and-release mortality.

In addition, the Council recommended a July and August trial recreational fishery between Point Reyes and Pigeon Point, CA, in which once caught, no salmon except coho can be released and the chinook bag limit is the first two salmon caught (excluding coho) with no minimum size limit. Any coho salmon caught must be released.

Since completion of the March 8, 1996, opinion, additional species have been listed under the ESA that may be affected by ocean fisheries including central California coast coho, southern Oregon/northern California coast coho, and Umpqua River searun cutthroat trout. Additional species are currently being considered for listing, including a number of steelhead populations. In a February 26, 1997, letter to the Council, NMFS provided guidance on protective measures for coho for the 1997 season only. NMFS required that Council fisheries be managed so that the total harvest mortality to OCN coho from all fisheries does not exceed 13 percent, and that coho retention be prohibited in all catch areas that significantly impact listed coho. In accordance with the NMFS guidance, the Council's recommendations result in an 11-percent exploitation rate impact for OCN coho and no retention of coho south of Cape Falcon for the third consecutive year. NMFS also stated that ocean fishery management actions specifically designed for the protection of Umpqua River searun cutthroat trout and steelhead are not necessary. In an April 30, 1997, supplemental biological opinion, NMFS concluded that incidental fishery impacts that occur in the ocean salmon fishery proposed for the period from May 1, 1997, through April 30, 1998 (or until the effective date of the 1998 management measures), will not jeopardize the continued existence of central California coast coho, southern Oregon/northern California coast coho, Umpqua River searun cutthroat trout, or any of the populations of steelhead proposed for listing.

The California Fish and Game Commission (Commission) regulates sport fishing in California waters. In an April 7, 1997, letter, the Commission notified the Council that it is considering an in-river sport fishery allocation within the range of 15 to 33 percent of the non-tribal allocation, higher than has existed in recent years. The Commission will set harvest levels for in-river sport fisheries at its June 13, 1997, meeting. The Klamath River Fishery Management Council considered in-river sport allocations of 15 percent and 33 percent and recommended to the Council and the Commission an in-river sport allocation of 15 percent. The Council adopted management measures based on in-river sport fishery impacts being modeled at 15 percent of the non-tribal allocation. Modeling by the STT indicates that an in-river sport harvest allocation of 15 percent, in conjunction with the management measures implemented through this notice, is predicted to achieve the natural spawner escapement floor for Klamath River fall chinook of 35,000 adults and provide for a tribal harvest of half of the available harvest. NMFS approval of the Council's recommendations is based on the assumption that the Commission will set an in-river sport harvest at 15 percent of the non-tribal allocation. Should the Commission approve an allocation higher than 15 percent, NMFS will implement adjustments to ocean fisheries that will achieve the Klamath River fall chinook spawning escapement goal and allow for a tribal harvest of half of the available harvest.

Commercial Troll Fisheries

Retention of coho salmon is prohibited in all areas south of Cape Falcon. All commercial troll fishing seasons south of Cape Falcon are

restricted to all salmon species except coho salmon. Off California, no more than six lines are allowed per vessel. Off Oregon, no more than four spreads are allowed per line.

From Point San Pedro, CA, to the U.S.-Mexico border, the commercial fishery will open May 1 through May 31, then reopen June 23 through July 18 and September 1 through September 30.

From Point Lopez to Point Mugu, CA, the commercial fishery opened April 15 and was scheduled to continue through the earlier of April 28, but closed April 22 upon attainment of the 10,000 chinook quota.

From Point Reyes to Point San Pedro, CA, the commercial fishery will open July 1 through September 30.

From Point Arena to Point Reyes, CA, the commercial fishery will open July 16 through September 30.

From Horse Mountain to Point Arena, CA, the commercial fishery will open September 1 through September 30.

From the Oregon-California border to Humboldt South Jetty, CA, the commercial fishery will open September 1 and continue through the earlier of September 30 or attainment of the 6,000 chinook quota. Restrictions include: (1) A landing limit of no more than 30 fish per day; (2) all fish caught in this subarea must be landed within the subarea; and (3) closure of the Klamath Control Zone.

From Cape Arago, OR, to the Oregon-California border, the commercial fishery, which opened April 15, will continue through the earlier of May 31 or attainment of the 5,300 chinook quota. If sufficient quota remains after May 31, the fishery will reopen only between Cape Arago and Humbug Mountain, OR, from June 1 and continue through the earlier of June 30 or attainment of the remaining chinook quota.

From Sisters Rocks to Mack Arch, OR, the commercial fishery will open August 1 and continue through the earlier of August 31 or attainment of the 3,000 chinook quota. The fishery will follow a cycle of 2 days open and 2 days closed. The days open may be adjusted inseason if necessary to manage the fishery. The open area is restricted to only 0–4 nm (7.4 km) of shore.

From Cape Arago to Humbug Mountain, OR, the commercial fishery will open August 1 and continue through the earlier of August 31 or attainment of the 8,800 chinook quota, then reopen September 1 and continue through the earlier of October 31 or attainment of the 10,000 chinook quota.

From Cape Falcon to Cape Arago, OR, the commercial fishery, which opened on April 15, will continue through June 27, then reopen August 1 through August 31 and September 4 through October 31.

Recreational Fisheries

Retention of coho salmon is prohibited in all areas south of Cape Falcon. All recreational fishing seasons south of Cape Falcon are restricted to all salmon species except coho salmon. North of Point Conception, persons fishing for salmon and persons fishing from a boat with salmon on board may use no more than one rod per angler. From Horse Mountain to Point Conception, CA, the following restrictions apply when fishing with bait and any combination of weights measuring 1 lb or less:

1. From May 1 through September 1.—No more than two barbless hooks may be used per line. When using two barbless hooks, the terminal (lower) hook must be no less than ¾ inch (1.9 cm) when measured from the hook point to the shank and the upper hook no less than ⅝ inch (1.6 cm) when measured from the hook point to the shank; the distance between the two hooks must not exceed 5 inches (12.7 cm) when measured from the top of the eye of the top hook to the inner base of the lower hook, and both hooks must be permanently tied in place (hard tied). When using a single hook, the hook must be no less than ¾ inch (1.9 cm) from the hook point to the shank. See ''exceptions'' below.

2. Beginning September 2 (and continuing into 1998).—No more than two hooks may be used per line. All hooks must be barbless ''circle'' hooks. A circle hook is defined as a hook with a generally circular shape, and a point that turns inward to the shank at approximately a 90 degree angle. See ''exceptions'' below. At the November 1997 Council meeting, these special gear restrictions will be reviewed and may be modified.

Exceptions.—Hook size and hook type restrictions do not apply when artificial lures are used except that hooks must be barbless. Artificial lures include, but are not limited to, any lure constructed with a lead head, metal bars or spoons designed to attract fish. Artificial lures do not include ''J'' hooks with only beads, yarn, feathers and bait attached, including scented and flavored artificial baits.

From Pigeon Point, CA, to the U.S.-Mexico border, the recreational fishery, which opened on March 15, will continue through October 19 with a two-fish daily bag limit.

From Point Arena to Pigeon Point, CA, the recreational fishery, which opened on March 29, will continue through November 2 with a two-fish daily bag limit. Between Point Reyes and Pigeon Point, CA, from July 1 through September 1, the daily bag limit will be the first two fish (no size limit) and the special gear restrictions do not apply.

From Horse Mountain to Point Arena, CA, the recreational fishery, which opened on February 15 (the nearest Saturday to February 15), will continue through July 6 then reopen August 1 through November 16 (the nearest Sunday to November 15) with a two-fish daily bag limit for both seasons.

From Humbug Mountain, OR, to Horse Mountain, CA, the recreational fishery will open May 24 through May 30, then reopen June 17 through July 6 and August 12 through September 14. All seasons include a one-fish daily bag limit, but no more than four fish in 7 consecutive days, and closure of the Klamath Control Zone.

From Cape Falcon to Humbug Mountain, OR, the recreational fishery, which opened April 15, will continue through July 6, then reopen August 1 through October 31. Both seasons include a two-fish daily bag limit, but no more than six fish in 7 consecutive days. Legal gear is limited to artificial lures, plugs, or bait no less than 6 inches (15.2 cm) long (excluding hooks and swivels) with no more than two single point, single shank barbless hooks; divers are prohibited; flashers are prohibited until May 1 and then may only be used with downriggers.

B. North of Cape Falcon

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed lower Columbia River fall chinook salmon and Washington coastal and Puget Sound natural coho salmon stocks and to meet ESA requirements for Snake River fall chinook salmon. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, commercial and recreational fishing groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S.* v. *Washington*, *U.S.* v. *Oregon*, and *Hoh Indian Tribe* v. *Baldrige*.

Retention of chinook salmon in non-treaty fisheries north of Cape Falcon is allowed for the first time since 1993. All non-treaty commercial troll and recreational ocean fisheries will be limited by either an overall 16,700 chinook quota, or impacts on critical Washington coastal and Puget Sound natural stocks equivalent to the preseason coho quota of 35,000. A

preseason trade was made of 8,800 coho from the commercial troll fishery to the recreational fishery for 3,200 chinook.

Commercial Troll Fisheries

The commercial troll fishery for all salmon except coho will open between the U.S.-Canada border and Cape Falcon, OR, on May 1 and continue through June 15 or attainment of the 11,500 chinook quota.

Recreational Fisheries

Recreational fisheries are divided into four subareas. Opening dates, subarea quotas, bag limits, and area and gear restrictions are described below. The fisheries in all subareas will open July 21 and continue through the earlier of September 25 or attainment of the respective subarea quota. The recreational fisheries will be limited by overall catch quotas of 5,200 chinook and 35,000 coho. Chinook guidelines for the three subareas between Cape Alava, WA, and Cape Falcon, OR, will provide a basis for inseason management measures to restrain chinook harvest but will not serve as quotas. The coho allocated to the subarea between the U.S.-Canada border and Cape Alava, WA, is being utilized for hook-and-release mortality associated with the all-salmon-except-coho fishery.

From Leadbetter Point, WA, to Cape Falcon, OR, the fishery will be for all salmon with a 17,500 coho subarea quota, open Sunday through Thursday only, with a two-fish daily bag limit, but no more than four fish in 7 consecutive days, closed 0–3 miles (4.8 km) of shore north of the Columbia Control Zone, and closed in the Columbia Control Zone.

From the Queets River to Leadbetter Point, WA, the fishery will be for all salmon with a 14,000-coho subarea quota, open Sunday through Thursday only, with a two-fish daily bag limit, but no more than four fish in 7 consecutive days, and closed 0–3 miles (4.8 km) of shore.

From Cape Alava to the Queets River, WA, the fishery will be for all salmon with a 800-coho subarea quota, open 7 days per week with a two-fish daily bag limit.

From the U.S.-Canada border to Cape Alava, WA, the fishery will be for all salmon except coho with a 550-chinook subarea quota, open seven days per week with a two-fish daily bag limit.

Treaty Indian Fisheries

Ocean salmon management measures proposed by the treaty Indian tribes are part of a comprehensive package of treaty Indian and non-treaty salmon fisheries in the ocean and inside waters agreed to by the various parties. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. Treaty Indian troll fisheries north of Cape Falcon are governed by quotas of 15,000 chinook and 12,500 coho. The all-salmon-except-coho seasons open May 1 and extend through June 30 if the overall harvest guideline of 7,500 chinook is not reached. The all-salmon seasons open August 1 and extend through the earliest of September 15 or attainment of the chinook or coho quotas. The minimum length restrictions for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches (61.0 cm) for chinook and 16 inches (40.6 cm) for coho.

1998 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, 1998 fishing season openings earlier than May 1 also are established in this notification. The Council recommended, and NMFS concurs, that the following seasons will open off California in 1998. From Point Lopez to Point Mugu, a commercial fishery for all salmon except coho will open April 15 and continue through the earlier of April 28 or attainment of the 10,000 chinook quota; all fish must be landed within the area. This fishery is intended to evaluate the relative contribution rates of Central Valley, Klamath, and southern Oregon chinook stocks to catches off southern California. The following recreational seasons have two-fish daily bag limits, a minimum size limit of 24 inches (61.0 cm) total length for chinook salmon, and the same special gear restrictions as in 1997 between Horse Mountain and Point Conception when fishing with bait and any combination of weights measuring 1 lb or less: (1) From Pigeon Point to the U.S.-Mexico border, a recreational fishery for all salmon except coho will open March 14; (2) from Point Arena to Pigeon Point, a recreational fishery for all salmon except coho will open March 28; and (3) from Horse Mountain to Point Arena, a recreational fishery for all salmon except coho will open February 14.

At its March 1998 meeting, the Council will consider inseason recommendations to open commercial and recreational seasons for all salmon except coho in areas off Oregon prior to May 1; to modify the quota or landing limits in the commercial fishery between Point Lopez and Point Mugu, CA; and to open a commercial season for all salmon except coho, under a quota, between Point San Pedro and Point Sur, CA, prior to May 1.

The following tables and text are the management measures recommended by the Council and approved by NMFS for 1997 and, as specified, for 1998:

Table 1. Commercial Management Measures for 1997 Ocean Salmon Fisheries

Note: This table contains important restrictions in parts A, B, C, and D which must be followed for lawful participation in the fishery.

A. Season Description

North of Cape Falcon

U.S.-Canada Border to Cape Falcon

May 1 through earlier of June 15 or 11,500 chinook quota. All salmon except coho. Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure. The State of Oregon may require vessels landing fish from this fishery to the area south of Cape Falcon to notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing, or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made and the number of chinook landed.

South of Cape Falcon

Cape Falcon to Cape Arago

April 15 through June 27, August 1 through August 31, and September 4 through October 31. All salmon except coho. See gear restriction (C.3.a.).

Cape Arago to Oregon-California Border

April 15 through earlier of May 31 or 5,300 chinook quota. All salmon except

coho. If sufficient quota remains after May 31, the fishery will reopen only between *Cape Arago and Humbug Mountain* from June 1 through the earlier of June 30 or the remaining chinook quota. See gear restriction (C.3.a.)

Cape Arago to Humbug Mountain

August 1 through earlier of August 31 or 8,800 chinook quota, and September 1 through earlier of October 31 or 10,000 chinook quota. All salmon except coho. See gear restriction (C.3.a.).

Sisters Rocks to Mack Arch

August 1 through earlier of August 31 or 3,000 chinook quota. All salmon except coho. Season to follow a cycle of 2 days open/2 days closed (August 1–2; 5–6; 9–10; 13–14; 17–18; 21–22; 25–26; 29–30) and may be modified inseason. Open only 0 to 4 nautical miles (7.4 km) of shore. All salmon must be landed and delivered to Gold Beach, Port Orford or Brookings within 24 hours of each closure. See gear restriction (C.3.a.).

Oregon-California Border to Humboldt South Jetty

September 1 through earlier of September 30 or 6,000 chinook quota. All salmon except coho. Landing limit of no more than 30 fish per day. All fish caught in this subarea must be landed within the subarea. Klamath Control Zone closed (C.7.). See gear restriction (C.3.b.).

Horse Mountain to Point Arena

September 1 through September 30. All salmon except coho. See gear restriction (C.3.b.).

Point Arena to Point Reyes

July 16 through September 30. All salmon except coho. See gear restriction (C.3.b.).

Point Reyes to Point San Pedro

July 1 through September 30. All salmon except coho. See gear restriction (C.3.b.).

Point San Pedro to U.S.-Mexico Border

May 1 through May 31, June 23 through July 18, and September 1 through September 30. All salmon except coho. See gear restriction (C.3.b.).

Point Lopez to Point Mugu

April 15 through April 28, closed April 22 upon attainment of the 10,000 chinook quota. All salmon except coho. All fish must be landed within the area. See gear restriction (C.3.b.).

Point Lopez to Point Mugu in 1998

April 15 through earlier of April 28 or 10,000 chinook quota. All salmon except coho. All fish must be landed within the area. See gear restriction (C.3.b.). In 1998, same restrictions as prescribed in this Table 1, or as modified by inseason action at the March 1998 Council meeting.

B. Minimum Size Limits (Inches)

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon	28.0	21.5	—	—	None.
Cape Falcon to Oregon-California Border	*26.0	*19.5	—	—	None.
South of Oregon-California Border	26.0	19.5	—	—	None.

*Chinook between 26 inches (19.5 inches head-off) and 28 inches (21.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

Metric equivalents for chinook: 28.0 inches=71.1 cm, 26.0 inches=66.0 cm, 21.5 inches=54.6 cm, 19.5 inches=49.5 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Hooks*—Single point, single shank barbless hooks are required.

C.2. *Spread*—A single leader connected to an individual lure or bait.

C.3. *Line, Spread and Gear Restrictions:*

a. Off Oregon, no more than 4 spreads are allowed per line.

b. Off California, no more than 6 lines are allowed per vessel.

C.4. *Compliance with Minimum Size or Other Special Restrictions*—All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.5. *Transit Through Closed Areas with Salmon on Board*—It is unlawful for a vessel to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.6. *Notification When Unsafe Conditions Prevent Compliance with Regulations*—A vessel is exempt from meeting the landing requirements for the season north of Cape Falcon if it is prevented by unsafe weather conditions or mechanical problems from meeting landing restrictions, and it complies with the State of Washington requirement to notify the U.S. Coast Guard and receives acknowledgment of such notification prior to leaving the area where landing is required. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board and the estimated time of arrival.

C.7. *Klamath Control Zone*—The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nautical miles [11.1 km] north of the Klamath River mouth), on the west by 124°23′00″ W. long. (approximately 12 nautical miles [22.2 km] of shore), and on the south by 41°26′48″ N. lat. (approximately 6 nautical miles [11.1 km] south of the Klamath River mouth).

C.8. *Inseason Management*—In addition to standard inseason actions or inseason modifications already noted under the season description, the following inseason guidance is provided to NMFS: Transfers of 5,000 fish or less between subarea quotas north of Cape Falcon shall be done on a fish-for-fish basis; At the March 1998 meeting, the Council will consider inseason recommendations to: (1) open commercial seasons for all salmon except coho prior to May 1 in areas off Oregon, (2) modify the quota or landing limits (based on the results of the 1997 fishery) for the trial season off California between Point Lopez and Point Mugu, and (3) open an all-salmon-except-coho fishery, under a quota, between Point San Pedro and Point Sur prior to May 1.

C.9. *Incidental Halibut Harvest*—The operator of a vessel that has been issued an incidental halibut harvest license by the International Pacific Halibut Commission (IPHC) may retain Pacific halibut caught incidentally in Area 2A, during authorized periods, while trolling for salmon. License applications for incidental harvest must be obtained from the IPHC (phone 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after July 31 if quota remains. A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not in both. The following landing restrictions govern the incidental harvest: License holders may land no more than 1 halibut per each 10 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 20 halibut may be landed per trip. Halibut retained must meet the minimum size limit of 32 inches (81.3 cm). The Oregon Department of Fish and Wildlife and the Washington Department of Fish and Wildlife will monitor landings and if they are projected to exceed the 21,635 pound (9.8 mt) preseason allocation or the Area 2A non-Indian commercial total allowable catch of halibut, NMFS will take inseason action to close the incidental halibut fishery through a notice published in the **Federal Register**.

C.10. Consistent with Council management objectives, the State of Oregon may establish additional late-season, chinook-only fisheries in state waters.

C.11. For the purposes of California Department of Fish and Game Code, Section 8232.5, the definition of the Klamath management zone for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

D. Quotas

D.1. *North of Cape Falcon*—All non-treaty troll and recreational ocean fisheries will be limited by overall quotas of either 16,700 chinook and 35,000 coho. Preseason species trade of 8,800 coho to the recreational fishery for 3,200 chinook to the commercial fishery. Therefore, the troll fishery will be limited by overall catch quotas of 11,500 chinook and 0 coho.

D.2. *Cape Arago to Oregon-California Border*—The troll fishery will be limited by a catch quota of 5,300 chinook. Any chinook quota remaining on June 1 is restricted to the area between Cape Arago and Humbug Mountain.

D.3. *Cape Arago to Humbug Mountain*—The troll fishery in August will be limited by a catch quota of 8,800 chinook; the troll fishery in September and October will be limited by a catch quota of 10,000 chinook.

D.4. *Sisters Rocks to Mack Arch*—The troll fishery will be limited by a catch quota of 3,000 chinook.

D.5. *Oregon-California Border to Humboldt South Jetty*—The troll fishery will be limited by a catch quota of 6,000 chinook.

D.6. *Point Lopez to Point Mugu*—The troll fishery in April 1997 was limited by a catch quota of 10,000 chinook. The troll fishery in April 1998 will be limited by a catch quota of 10,000 chinook.

Table 2. Recreational management measures for 1997 ocean salmon fisheries

Note: This table contains important restrictions in parts A, B, C, and D which must be followed for lawful participation in the fishery.

A. Season Description

North of Cape Falcon

U.S.-Canada Border to Cape Alava

July 21 through earlier of September 25 or 550 chinook subarea quota. All salmon except coho. Open 7 days per week. 2 fish per day. Inseason management (C.8.) may be used to sustain season length.

Cape Alava to Queets River

July 21 through earlier of September 25 or 800 coho subarea quota. All salmon. Open 7 days per week. 2 fish per day. Inseason management (C.8.) may be used to sustain season length and keep harvest within a guideline of 150 chinook.

Queets River to Leadbetter Point

July 21 through earlier of September 25 or 14,000 coho subarea quota. All salmon. Open Sunday through Thursday only. 2 fish per day. No more than 4 fish in 7 consecutive days. Closed 0 to 3 miles (4.8 km) of shore. Inseason management (C.8.) may be used to sustain season length and keep harvest within a guideline of 3,000 chinook.

Leadbetter Point to Cape Falcon

July 21 through earlier of September 25 or 17,500 coho subarea quota. All salmon. Open Sunday through Thursday only. 2 fish per day. No more than 4 fish in 7 consecutive days. Closed 0 to 3 miles (4.8 km) of shore north of the Columbia Control Zone and closed within the Columbia Control Zone (C.5.). Inseason management (C.8.) may be used to sustain season length and keep harvest within a guideline of 1,500 chinook.

South of Cape Falcon

Cape Falcon to Humbug Mountain

April 15 through July 6, and August 1 through October 31. All salmon except coho. 2 fish per day. No more than 6 fish in 7 consecutive days. Legal gear limited to: artificial lures, plugs or bait no less than 6 inches (15.2 cm) long (excluding hooks and swivels) with no more than 2 single point, single shank barbless hooks; divers are prohibited; flashers are prohibited until May 1 and then may only be used with downriggers.

In 1998, the season does not open until May 1, or another date specified in the 1998 management measures, unless it is opened by inseason management (C.8.).

Humbug Mountain to Horse Mountain

May 24 through May 30, June 17 through July 6, and August 12 through September 14. All salmon except coho. 1 fish per day. No more than 4 fish in 7 consecutive days. Klamath Control Zone closed (C.6.). See rod restriction (C.2.).

Horse Mountain to Point Arena

February 15 (nearest Saturday to February 15) through July 6, and August 1 through November 16 (nearest Sunday to November 15). All salmon except coho. 2 fish per day. Chinook minimum size limit of 24 inches. See rod and special gear restrictions (C.2. and C.3.).

In 1998, the season will open February 14 (nearest Saturday to February 15) through April 30 for all salmon except coho; 2 fish per day; chinook minimum size limit of 24 inches; see rod and special gear restrictions (C.2. and C.3.).

Point Arena to Pigeon Point

March 29 through November 2. All salmon except coho. 2 fish per day. Chinook minimum size limit of 24 inches. See rod and special gear restrictions (C.2. and C.3.). Between *Point Reyes and Pigeon Point*, from July 1 through September 1, the daily bag limit will be the first 2 fish, you may not release any salmon except coho; no size limits apply; special gear restriction (C.3.) does not apply.

In 1998, the season will open March 28 through April 30 for all salmon except coho; 2 fish per day; chinook minimum size limit of 24 inches; see rod and special gear restrictions (C.2. and C.3.). The Sacramento Control Zone (C.7.) will be closed from March 28 through March 31.

Pigeon Point to U.S.-Mexico Border

March 15 through October 19. All salmon except coho. 2 fish per day. Chinook minimum size limit of 24 inches. See rod and special gear restrictions (C.2. and C.3.).

In 1998, the season will open March 14 (nearest Saturday to March 15) through April 30 for all salmon except coho; 2 fish per day; chinook minimum size limit of 24 inches; see rod and special gear restrictions (C.2. and C.3.).

B. Minimum Size Limits (Total length in inches)

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None.
Cape Falcon to Horse Mountain	20.0	—	None, except 20.0 off California.
South of Horse Mountain*	*24.0	—	20.0.

*Except July 1 through September 1 from Point Reyes to Pigeon Point—no minimum size limit (i.e., first 2 fish).

Metric equivalents for chinook: 24.0 inches=61.0 cm, 20.0 inches=50.8 cm.
Metric equivalents for coho: 16.0 inches=40.6 cm.
Metric equivalents for pink: 20.0 inches=50.8 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Hooks*—Single point, single shank barbless hooks are required for all fishing gear north of Point Conception, California (34°27′00″ N. lat.).

C.2. *Restriction on Number of Fishing Rods Off California North of Point Conception*—No person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line.

C.3. *Special Gear Restrictions Between Horse Mountain and Point Conception, California, When Fishing With Bait and Any Combination of Weights Measuring 1 Pound (454 gm) or Less*:

From May 1 through September 1—You may not fish with more than 2 barbless hooks per line and the following additional restrictions apply: When using 2 barbless hooks, the terminal (lower) hook must be no less than ¾ inch (1.9 cm) when measured from the hook point to the shank and the upper hook no less than ⅝ inch (1.6 cm) when measured from the hook point to the shank; the distance between the 2 hooks must not exceed 5 inches (12.7 cm) when measured from the top of the eye of the top hook to the inner base of the lower hook, and both hooks must be permanently tied in place (hard tied). When using a single hook, the hook must be no less than ¾ inch (1.9 cm) when measured from the hook point to the shank. See ''exceptions'' below.

Beginning September 2 (and continuing in 1998)—You may not fish with more than 2 hooks per line. All hooks must be barbless ''circle'' hooks. A circle hook is defined as a hook with a generally circular shape, and a point that turns inward to the shank at approximately a 90 degree angle. See ''exceptions'' below. Note: At the November 1997 Council meeting, these special gear restrictions will be reviewed and may be modified.

Exceptions: Hook size and hook type restrictions do not apply when artificial lures are used except that hooks must be barbless. Artificial lures include, but are not limited to, any lure constructed with a lead head, metal bars or spoons designed to attract fish. Artificial lures do not include ''J'' hooks with only beads, yarn, feathers and bait attached, including scented and flavored artificial baits.

C.4. *Compliance with Minimum Size or Other Special Restrictions*—All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.5. *Columbia Control Zone*—The ocean area at the Columbia River mouth bounded by a line extending for 6 nautical miles (11.1 km) due west from North Head along 46°18′00″ N. lat. to 124°13′18″ W. long., then southerly to 46°13′24″ N. lat. and 124°11′00″ W. long. (green, Columbia River Entrance Lighted Bell Buoy #1), then southerly

to 46°11′06″ N. lat. and 124°11′00″ W. long. (red, Columbia River Approach Lighted Whistle Buoy), then northeast along red buoy line to the tip of the south jetty.

C.6. *Klamath Control Zone*—The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nautical miles [11.1 km] north of the Klamath River mouth), on the west by 124°23′00″ W. long. (approximately 12 nautical miles [22.2 km] of shore), and on the south by 41°26′48″ N. lat. (approximately 6 nautical miles [11.1 km] south of the Klamath River mouth).

C.7. *Sacramento Control Zone*—The ocean area bounded by a line commencing at Bolinas Point (Marin County, 37°54′17″ N. lat., 122°43′35″ W. long.) southerly to Duxbury Buoy (37°51′37″ N. lat., 122°41′43″ W. long.) to Channel Buoy 1 (37°46′10″ N. lat., 122°37′56″ W. long.) to Channel Buoy 2 (37°45′48″ N. lat., 122°37′44″ W. long.) to Point San Pedro (San Mateo County, 37°35′40″ N. lat., 122°31′10″ W. long.) is closed from the opening of the season in 1998 through March 31.

C.8. *Inseason Management*—Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. Actions could include modifications to bag limits or days open to fishing, and extensions or reductions in areas open to fishing.

The procedure for inseason coho transfer among recreational subareas north of Cape Falcon will be: After conferring with representatives of the affected ports and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon, NMFS may transfer coho inseason among recreational subareas to help meet the recreational season duration objectives (for each subarea). Any transfers between subarea quotas of 5,000 fish or less shall be done on a fish-for-fish basis.

At the March 1998 meeting, the Council will consider an inseason recommendation to open seasons for all salmon except coho prior to May 1 in areas off Oregon.

C.9. *Additional Seasons in State Territorial Waters*—Consistent with Council management objectives, the states of Washington and Oregon may establish limited seasons in state waters. Fisheries in Oregon state waters are limited to chinook salmon.

D. Quotas

D.1. *North of Cape Falcon*—All non-treaty troll and recreational ocean fisheries will be limited by overall quotas of either 16,700 chinook and 35,000 coho. Preseason species trade of 3,200 chinook to the commercial fishery for 8,800 coho to the recreational fishery. Therefore, the recreational fishery will be limited by overall catch quotas of 5,200 chinook and 35,000 coho. Note: The coho allocation for the subarea from the U.S.-Canada border to Cape Alava is 2,700 coho. This amount of fish is barely sufficient to allow for a 1-day fishery. Therefore, this coho allocation is being utilized as hook-and-release mortality to access the subarea quota of 550 chinook.

Table 3. Treaty Indian management measures for 1997 ocean salmon fisheries

Note: This table contains important restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Descriptions

Tribe and area boundaries	Open seasons	Salmon species	Minimum size limit (inches*)		Special restrictions by area
			Chinook	Coho	
Makah—That portion of the Fishery Management Area (FMA) north of 48°02′15″ N. lat. (Norwegian Memorial) and east of 125°44′00″ W. long..	May 1 through earlier of June 30 or overall 7,500 chinook guideline. August 1 through earliest of September 15 or chinook or coho quota.	All except coho .... All.	24 24	— 16	Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
Quileute—That portion of the FMA between 48°07′36″ N. lat. (Sand Point) and 47°31′42″ N. lat. (Queets River) east of 125°44′00″ W. long.	May 1 through earlier of June 30 or overall 7,500 chinook guideline. August 1 through earliest of September 15 or chinook or coho quota.	All except coho .... All.	24 24	— 16	Barbless hooks. No more than 8 fixed lines per boat.
Hoh—That portion of the FMA between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River) east of 125°44′00″ W. long.	May 1 through earlier of June 30 or overall 7,500 chinook guideline. August 1 through earliest of September 15 or chonook or coho quota.	All except coho .... All.	24 24	— 16	Barbless hooks. No more than 8 fixed lines per boat.
Quinault—That portion of the FMA between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis) east of 125°44′00″ W. long.	May 1 through earlier of June 30 or overall 7,500 chinook guideline. August 1 through earliest of September 15 or chinook or coho quota.	All except coho .... All.	24 24	— 16	Barbless hooks. No more than 8 fixed lines per boat.

*Metric equivalents: 24 inches=61.0 cm, 16 inches=40.6 cm.

B. Special Requirements, Restrictions, and Exceptions

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches (45.7 cm) for chinook and 12 inches (30.5 cm) for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:

Makah Tribe—None.

Quileute, Hoh, and Quinault tribes—Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

B.3. The areas within a 6-mile (9.7-km) radius of the mouths of the Queets River (47°31′42″ N. lat.) and the Hoh River (47°45′12″ N. lat.) will be closed to commercial fishing. A closure within 2 miles (3.2 km) of the mouth of the Quinault River (47°21′00″ N. lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. Quotas

C.1. The overall treaty troll ocean quotas are 15,000 chinook and 12,500 coho. These quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30. The all-salmon-except-coho fishery will be limited by an overall harvest guideline of 7,500 chinook. The remainder of the quota will be available for the all-salmon fishery beginning in August.

Halibut Retention

In accordance with the Northern Pacific Halibut Act, regulations governing the Pacific halibut fishery were published in the **Federal Register** on March 18, 1997 (62 FR 12759), under 50 CFR part 300. The regulations state that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), that have obtained the appropriate International Pacific Halibut Commission (IPHC) license, may retain halibut caught incidentally during authorized periods, in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved. The operator of a vessel that has been issued an incidental halibut harvest license by the IPHC may retain Pacific halibut caught incidentally in Area 2A, during authorized periods, while trolling for salmon. Incidental harvest is authorized only during May and June troll seasons and after July 31 if halibut quota remains. License holders may land no more than 1 halibut per each 10 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 20 halibut may be landed per trip. Halibut retained must meet the minimum size limit of 32 inches (81.3 cm). The Oregon Department of Fish and Wildlife and Washington Department of Fish and Wildlife will monitor landings and if they are projected to exceed the 21,635-pound (9.8-mt) preseason allocation or the Area 2A non-Indian commercial total allowable catch of halibut, NMFS will take inseason action to close the incidental halibut fishery. License applications for incidental harvest must be obtained from the IPHC. Applicants must apply prior to April 1 of each year.

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3 of this preamble, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear

Troll fishing gear for the FMA is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 lb (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Geographical Landmarks

Wherever the words ''nautical miles of shore'' are used in this rule, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this notice are at the following locations:

Cape Alava	48°10′00″ N. lat.
Queets River	47°31′42″ N. lat.
Leadbetter Point	46°38′10″ N. lat.
Cape Falcon	45°46′00″ N. lat.
Cape Arago	43°18′20″ N. lat.
Humbug Mountain	42°40′30″ N. lat.
Sisters Rocks	42°35′45″ N. lat.
Mack Arch	42°13′40″ N. lat.
Oregon-California Border.	42°00′00″ N. lat.
Humboldt South Jetty	40°45′53″ N. lat.
Horse Mountain	40°05′00″ N. lat.
Point Arena	38°57′30″ N. lat.
Point Reyes	37°59′44″ N. lat.
Point San Pedro	37°35′40″ N. lat.
Pigeon Point	37°11′00″ N. lat.
Point Lopez	36°01′15″ N. lat.
Point Conception	34°27′00″ N. lat.
Point Mugu	34°05′12″ N. lat.

Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or

Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

These management measures have been determined to be not significant for the purposes of E.O. 12866.

The Pacific Fishery Management Council prepared an environmental assessment (EA) for the 1997 fisheries as governed by their recommended management measures (See **ADDRESSES**). Based on the EA, the Assistant Administrator found that fisheries to be conducted under the 1997 ocean salmon regulations would not significantly affect the quality of the human environment in ways that have not already been contemplated in the supplemental environmental impact statement for the framework amendment.

Section 660.411 of title 50, Code of Federal Regulations, requires NMFS to publish an action implementing management measures for ocean salmon fisheries each year and, if time allows, invite public comment prior to the effective date. Section 660.411 further states that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after filing of the action with the Office of the Federal Register.

Because many ocean salmon seasons are scheduled to start May 1, the management measures must be in effect by this date. Each year, the schedule for establishing the annual management measures begins in February with the compilation and analysis of biological and socio-economic data for the previous year's fishery and salmon stock abundance estimates for the current year. The Council makes these documents available and distributes them to the public for review and comment. Two meetings of the Council follow, one each in March and April. These meetings are open to the public and public comment on the salmon management measures is encouraged. In 1997, the Council recommended management measures near the conclusion of its meeting on April 11, which resulted in a short time frame for implementation.

In some areas, the season that started May 1 in 1996 is starting later than May 1 in 1997, the season starts on May 1 in 1997 where no season existed in 1996, or the season started before May 1 in 1997 and continuing regulations are required to prevent disruption of the fishery. A delay in implementation of the management measures would allow inappropriate openings or closures in some areas, thereby disregarding the needs of the various stocks and causing adverse impacts not contemplated in the design of the 1997 management measures. In light of the limited available time and the adverse effect of delay, it is contrary to the public interest to delay implementation of the management measures. Therefore, NMFS has determined that good cause exists to waive the requirements of 50 CFR 660.411 and 5 U.S.C. 553(b) for prior notice and opportunity for prior public comments. For the same reasons, NMFS has determined that good cause exists to waive the 30-day delay in effectiveness required by 5 U.S.C. 553(d). For this action, NMFS is receiving public comments for 30 days from publication of the action.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The public had opportunity to comment on these management measures during their development. The public participated in the March and April Council, STT, and Salmon Advisory Subpanel meetings, and in public hearings held in Washington, Oregon, and California in late March and early April that generated the management actions recommended by the Council and approved by NMFS. The Council invited written public comments between the March and April Council meetings. However, at the April meeting the Council directed the STT to implement changes to certain parameters of the Klamath Ocean Harvest Model that resulted in seasons substantially reduced from options developed at the March meeting. In addition, Snake River fall chinook base year data inputs to the Snake River Impact Model were corrected. Persons objecting to modifications in harvest models made at the April Council meeting may still submit comments to NMFS during the 30-day comment period provided herein (See DATES above). As a result of those comments, NMFS will determine if adjustments to the management measures are appropriate.

On March 8, 1996, NMFS issued a biological opinion that considered the effects of the FMP on listed salmon species. On February 18, 1997, NMFS issued an addendum to the biological opinion. The biological opinion concluded that fisheries conducted under the FMP are likely to jeopardize the continued existence of Sacramento River winter chinook and Snake River fall chinook, but provided RPAs to avoid jeopardy. These management measures comply with the RPAs as well as the incidental take conditions contained in the biological opinion as amended. The biological opinion also concluded that fisheries conducted under the FMP are not likely to jeopardize the continued existence of Snake River wild sockeye salmon and Snake River wild spring and summer chinook. Since completion of the biological opinion, additional species have been listed including central California coast coho, southern Oregon/northern California coast coho, and Umpqua River searun cutthroat trout, and additional species are being considered for listing including a number of steelhead populations. These management measures comply with the guidance NMFS provided in a February 26, 1997, letter on harvest management criteria for these stocks.

NMFS concluded in an April 30, 1997, supplemental biological opinion that incidental fishery impacts that occur in the ocean salmon fishery proposed for the period from May 1, 1997, through April 30, 1998 (or until the effective date of the 1998 management measures), will not jeopardize the continued existence of central California coast coho, southern Oregon/northern California coast coho, Umpqua River searun cutthroat trout, or any of the populations of steelhead proposed for listing.

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

Dated: April 30, 1997.

Gary C. Matlock,

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

[FR Doc. 97–11677 Filed 4–30–97; 2:55 pm]

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Proposed Rules

Federal Register
Vol. 62, No. 86
Monday, May 5, 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.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 109, and 110

[Notice 1997–8]

Independent Expenditures and Party Committee Expenditure Limitations

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is considering proposed new rules regarding independent expenditures and coordinated expenditures made by national, state and local party committees on behalf of federal candidates. The Commission is also considering possible changes to the regulations regarding the definition of ''coordination,'' which would apply to party committees as well as other committees, corporations, labor organizations, and individuals. These topics were the subject of a recent Supreme Court opinion concerning portions of the Federal Election Campaign Act of 1971, as amended (the Act or FECA). This notice addresses issues raised by the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee in a Petition for Rulemaking filed with the Commission on July 11, 1996. The draft rules which follow do not represent a final decision by the Commission regarding the petition or the Supreme Court opinion. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before May 30, 1997. If the Commission receives requests to testify, it will hold a hearing on June 18, 1997 at 10:00 a.m. Persons wishing to testify should so indicate in their written comments.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rosemary C. Smith, Senior Attorney, or Ms. Teresa A. Hennessy, Attorney, at (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on proposed revisions to 11 CFR 110.7 regarding coordinated and independent expenditures by party committees. In addition, comment is sought on a revised definition of coordination, located in new 11 CFR 100.23, which would apply to determining whether payments constitute independent expenditures, coordinated expenditures, or in-kind contributions. Corresponding amendments would also be made to sections 100.7(a) (contributions), 104.4(a) (reporting), 109.1(b) (definitions), 110.1 (contribution limits), 110.2 (multicandidate committee limits), and 110.11 (disclaimers). These proposals are intended to implement the Supreme Court's plurality opinion in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S. Ct. 2309 (1996) (*Colorado*) concerning the expenditure limitations of section 441a(d) of the FECA, 2 U.S.C. 431 *et seq.* In that decision, the Court concluded that political parties are capable of making independent expenditures on behalf of their candidates for federal office, and that it would violate the First Amendment to subject such independent expenditures to the expenditure limits found in section 441a(d) of the FECA. *Id.* at 2315.

Section 441a(d) permits national, state, and local committees of political parties to make limited general election campaign expenditures on behalf of their candidates, which are in addition to the amount they may contribute directly to those candidates. 2 U.S.C. 441a(d). These section 441a(d) expenditures are commonly referred to as ''coordinated expenditures.'' Prior to the *Colorado* case, it was presumed that party committees could not make expenditures independent of their candidates. Please note that not all coordinated expenditures constitute communications. In fact, party committees may use their coordinated expenditure limits to pay for other types of expenses incurred by candidates, including staff costs, polling and other services.

Based on the *Colorado* Supreme Court decision, the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee filed a Petition for Rulemaking urging the Commission to: (1) repeal or amend 11 CFR 110.7(b)(4) to the extent that it prohibited national committees of political parties from making independent expenditures for congressional candidates; (2) repeal or amend 11 CFR Part 109 with respect to which expenditures qualify as ''independent''; and (3) issue new rules to provide meaningful guidance regarding independent expenditures by the national committees of political parties. Please note that although the Petition for Rulemaking urged changes only in the rules applicable to national committees of political parties, the Commission's rulemaking will also cover possible changes to the provisions governing state and local party committees.

In response to the *Colorado* decision, the Commission promulgated a Final Rule on August 7, 1996 which repealed paragraph (b)(4) of section 110.7. *See* 61 F.R. 40961 (Aug. 7, 1996). On the same date, the Commission also published a Notice of Availability seeking comment on the remainder of the Petitioners' requests. *See* 61 F.R. 41036 (Aug. 7, 1996). No statements supporting or opposing the petition were received by the close of the comment period.

The attached proposed rules are explained more fully below.

Section 100.7—Contribution

The Commission is proposing adding new language to the definition of contribution in 11 CFR 100.7(a) regarding coordinated communications and other things of value. Comments are sought on two different alternative versions of this new provision. Alternative 1–A would specify that the term ''contribution'' includes a payment for a communication or anything of value which is coordinated with a candidate, authorized committee or other political committee. Alternative 1–B is similar, except that it would include the concept that the communication or thing of value must be for the purpose of influencing a federal election. Coordination is discussed in greater detail below. Please note that under either alternative this

new provision would apply not only to contributions from party committees, but also to any other person, including individuals, corporations, labor organizations, and nonconnected committees, who coordinate with candidates or committees. Alternative 1–A of the proposed rule would also reference 11 CFR 114.2(c), which explains that some forms of coordination by a corporation or labor organization may not necessarily result in the making of a contribution.

Section 100.23—Coordination

The Commission's current regulations at 11 CFR 109.1(b)(4) indicate that an expenditure will be presumed to be coordinated rather than independent when it is ''[b]ased on information about the candidate's plans, projects or needs provided to the expending person by the candidate or the candidate's agents, with a view toward having an expenditure made,'' or when it is ''[m]ade by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent.'' 11 CFR 109.1(b)(4)(i). The present language is drawn from the statutory definitions of ''independent expenditure'' at 2 U.S.C. 431(17) and ''contribution'' at 2 U.S.C. 441a(a)(7)(B). The FECA defines independent expenditure to mean ''an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.'' 2 U.S.C. 431(17); *See also* 11 CFR 109.1(a). Similarly, in *Colorado*, the Court referred to independent expenditures as those which are ''developed * * * independently and not pursuant to any general or particular understanding with [the candidates and their agents].'' 116 S. Ct. at 2315.

While the Commission does not propose to change its definition of independent expenditure in 11 CFR 109.1(a), the attached draft rules would more clearly tie the concept of what negates the independence of expenditures to a revised explanation of what constitutes coordination. Accordingly, the Commission seeks comments on replacing the current language in section 109.1(b)(4) with new language in section 100.23 that more fully explains what is meant by ''coordination with a candidate.'' Comments are sought on several different alternative versions of this provision. The proposed rule would add some new examples of coordination, although these would not constitute an exhaustive list. The examples include situations set out in section 441a(a)(7)(B) of the FECA where a person finances the reproduction, republication, display, distribution or other form of dissemination of the candidate's campaign materials, with several exceptions. The exceptions consist of situations where the campaign materials are used in communications that advocate the candidate's defeat, or that are incorporated into an exempt news story, commentary or editorial, or that are incorporated into a corporation's or labor organization's expression of its own views. *See* 11 CFR 100.7(b)(2), 114.3(c)(1) and Advisory Opinion 1996–48.

The new language in section 100.23(a)(1) would retain some portions of the language of current 11 CFR 109.1(b)(4), which is based on section 431(17) of the FECA, with regard to payments made in cooperation or consultation or concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of a candidate. Alternative 2–A would not provide separate definitions for each term contained in section 431(17). It incorporates both the statutory standard and language from the plurality opinion in *Colorado.* Alternatives 2–B, 2–C and 2–D would define the terms to provide guidance to the regulated community. However, the definitions in Alternative 2–B are broader and more inclusive than in Alternatives 2–C or 2–D. The definitions in Alternative 2–C would and to stress the mutuality of the plan of action connoted by the statutory terms which make up ''coordination.'' Alternative 2–D generally follows Alternative 2–C, except for other changes described below.

Alternatives 2–A, 2–B, and 2–C also propose to add new language to the definition of coordination in proposed section 100.23(a) based on the plurality opinion in *Colorado.* The plurality indicated that independent expenditures are those which are ''developed . . . independently and not pursuant to any general or particular understanding with [the candidates and their agents].'' *Colorado* at 2315. These alternatives indicate that coordination occurs when there is a general or particular understanding or arrangement with a candidate. Alternative 2–D of proposed section 100.23(a) excludes this new language in favor of the statutory language. Comments are sought concerning whether the new language should be added to the definition of ''coordination'' or whether the Supreme Court intended this phrase to be limited to its discussion of independent expenditures made by party committees.

In addition, comments are sought as to whether coordination between a person making an expenditure and a candidate or campaign committee only results from a specific agreement on a particular advertisement or communication, or other expenditure, or whether a more general understanding or arrangement is sufficient to constitute coordination.

In paragraph (a)(3), of new section 100.23, Alternative 3–A would continue the Commission's current approach of including payments based on information about the candidate's plans, projects or needs provided to the expending person by the candidate or the candidate's agents or authorized committee. However, Alternative 3–A of the revised rules would eliminate the current language regarding information provided ''with a view toward having an expenditure made. This alternative takes the view that the term ''with a view toward having an expenditure made'' requires a subjective determination of the candidate's or committee's intentions, and the receipt of such information from the candidate is sufficient to establish coordination. In contrast, Alternatives 3–B and 3–C would retain the phrase ''with a view toward having an expenditure made'' to provide further guidance in defining the statutory term ''for the purpose of influencing a federal election'' in light of the examples given in proposed section 100.23(a) (1), (2), and (3). Alternative 3–C would define what is not meant by ''coordination'' so as to clarify the limits of the term to the regulated community. Comments are sought as to whether an exchange of information regarding the expending person's plans, projects or needs also results in ''coordination.''

All the alternatives would also eliminate the current language indicating when expenditures will be ''presumed'' to be coordinated. This ''presumption'' has not provided sufficient certainty to the regulated community.

Proposed new section 100.23 also explains more fully who is considered to be an agent of a candidate. Alternative 4–A of paragraph (b) of this draft rule would indicate that agents include persons who during the same election cycle in which the payment is made hold executive, policymaking, or

other significant advisory or fundraising positions with the candidate's authorized committee; or have participated in strategic or policymaking discussions with the candidate or campaign officials; or provide campaign-related services such as polling, media advice, direct mail, fundraising or campaign research. Alternative 4–B of paragraph (b) of this draft rule would add an additional provision that agents must have an express or implied grant of authority from the principal to act on its behalf either generally or with regard to particular matters. However, under both of these alternatives the rules would specifically exclude entities that are not actively involved in campaign decision-making, such as messenger and delivery services, and other passive vendors. In addition, under proposed paragraph (c), as under current 11 CFR 109.1, coordination would not result merely from providing the expending person with Commission guidelines on independent expenditures.

Additional issues related to coordination by party committees are discussed below. These include the related questions of whether there should be a different definition of ''independent expenditure'' and a different standard as to what constitutes ''coordination'' for party committees than for individuals and other political committees.

Section 109.1—Independent Expenditure Definition

The proposed regulations would make one modification to 11 CFR 109.1(a), which defines ''person'' for purposes of making independent expenditures. The definition of ''person'' already includes political committees. Nevertheless, the attached rules would add a reference to party committees to recognize that, consistent with *Colorado*, party committees may make independent expenditures.

In paragraph (b)(4) of section 109.1, Alternative 5-A would modify the definition of the phrase ''made with the cooperation or with the prior consent of, or in consultation with, or at the request of suggestion of'' by referring the reader to the definition of ''coordination'' in 11 CFR 100.23. Alternative 5–B would eliminate paragraph (b)(4) of this section.

Section 110.7—Party Committee Coordinated Expenditures and Independent Expenditures

Section 110.7 of the Commission's regulations implements a statutory exception to the contribution limits set forth at 2 U.S.C. 441a. This exception allows national, state and subordinate committees of political parties to make expenditures up to specifically prescribed amounts on behalf of the general election campaigns of federal candidates without counting such expenditures against the committees' contribution limits. *See* 2 U.S.C. 441a(d). These expenditures are commonly referred to as ''coordinated'' because the FECA permits party committees to make such expenditures after extensive consultation with the candidates and their campaign staffs. Prior to the *Colorado* decision, the Commission's regulations at 11 CFR 110.7(a)(5) and (b)(4) also barred national, state and local party committees from making independent expenditures. As noted above, at an earlier point in this rulemaking, the Commission repealed paragraph (b)(4) of this section, although paragraph (a)(5), barring national party committees from making independent expenditures in the general election campaigns of Presidential candidates, remains in effect. See 61 F.R. 40961 (Aug. 7, 1996).

In *Colorado*, the Supreme Court's plurality opinion delivered by Justice Breyer (joined by Justices O'Connor and Souter) held that, ''The independent expression of a political party's views is 'core' First Amendment activity no less than is the independent expression of individuals, candidates, or other political committees. [Citation omitted]'' *Colorado* at 2316. The plurality stated, ''We therefore believe this Court's prior case law controls the outcome here. We do not see how a Constitution that grants to individuals, candidates, and ordinary political committees the right to make unlimited independent expenditures could deny the same right to political parties.'' *Id.* at 2317. The First Amendment rights of individuals and political committees to make independent expenditures were initially delineated by the Supreme Court in *Buckley* v. *Valeo*, 424 U.S. 1 (1976) (*Buckley*), and *Federal Election Commission* v. *National Conservative Political Action Committee*, 470 U.S. 480 (1985) (*NCPAC*), respectively. With respect to coordinated expenditures, the Supreme Court's *Colorado* decision did not modify or eliminate the existing statutory limits on coordinated expenditures. The plurality opinion did not reach the broader question of whether ''the First Amendment forbids congressional efforts to limit coordinated expenditures as well as independent expenditures.'' *Colorado* at 2319. However, those limits are the subject of pending judicial proceedings.

In light of the *Colorado* decision, the Commission is seeking comments on several proposed amendments to 11 CFR 110.7, including alternative language, regarding both coordinated and independent expenditures. First, the title of this section, and the references to ''expenditures'' found throughout, would be modified to clarify which portions of this section apply to expenditures which are coordinated with the candidate on whose behalf they are made, and which portions apply to independent expenditures. For the convenience of the reader, titles for each paragraph would also be added.

1. Independent Expenditures for Congressional Candidates

In light of the prior repeal of 11 CFR 110.7(b)(4), the attached proposed rules do not limit the total amount of money political party committees at all levels may devote to independent expenditures on behalf of their congressional candidates. However, funds used to make independent expenditures would continue to be subject to FECA requirements. Party committee expenditures on behalf of House and Senate candidates would not count towards the contribution limits when those expenditures are genuinely independent of the candidates in that election. Conversely, party committee expenditures on behalf of candidates which do not qualify as independent must be treated as either in-kind contributions subject to the limits of section 441a(a) or (h) of the Act (*See* 2 U.S.C. 441a(a)(7)(B)), or as coordinated expenditures subject to the limits of section 441a(d) of the Act, unless they qualify as exempt activities under 2 U.S.C. 431(8)(B)(v), (x) and (xii) and 431(9)(B)(iv), (viii) and (ix).

The *Colorado* opinion indicates that political party committees have the same rights to make independent expenditures as other persons covered by the FECA. *Colorado* at 2317. Consequently, under the proposed new rules, independent expenditures made by political party committees would be treated as subject to the same standards and conditions as independent expenditures made by other entities. This includes the same standards for avoiding coordination with candidates, as well as the same reporting requirements, disclaimers and contribution limits. Nevertheless, comments are requested as to whether different standards should apply to party committees.

The Petition for Rulemaking argued that party committees are in regular contact with their candidates, help develop candidate messages and campaign strategy, and routinely share

overlapping consultants, pollsters, fundraisers and other campaign agents. According to the petition, these consultations, discussions, and arrangements involve face-to-face meetings, telephone conversations, and exchanges of paper and electronic mail on a regular basis, sometimes daily, and take place at both the staff level and higher levels. If the party has such ties to a candidate, it would be difficult for the committees to achieve sufficient insulation from that candidate so as to avoid any general or particular understanding that would result in coordination, thereby destroying the independence of their expenditures. As Justice Kennedy stated, concurring in the result in *Colorado*, in most cases, the answer to the question of ''whether a party's spending is made 'in cooperation, consultation, or concert with' its candidate * * * will be yes * * *.'' *Colorado* at 2322. Nevertheless, the Court found it was possible for the Colorado Republican Party to make independent expenditures in the specific circumstances presented in the *Colorado* case. These circumstances included the fact that the expenditures were made months before the primary election, three individuals were vying for the nomination, and no general election candidate had yet been selected. *Id.* at 2315. It was also significant that the only ''politically relevant individuals'' to read the script were the state party chairman, executive director and political director. *Id.* In Advisory Opinion 1984–30, the Commission concluded that contacts during the primary campaign would raise a rebuttable presumption that general election expenditures would be based on the information about the candidate's plans, projects or needs raised in the course of such contacts.

Nevertheless, the Commission seeks comments as to whether and how a party committee could make expenditures which are genuinely independent of a candidate when the party committee has already made, or is in the process of making, coordinated expenditures or in-kind contributions for that candidate. For example, would it be feasible for a party committee to create a separate subdivision or other unit for the exclusive purpose of making independent expenditures, and to sufficiently insulate this unit from its regular staff and its daily campaign activities? Would this separate unit have to be established before the beginning of the election cycle, or before the first campaign-related discussions any party officials or staff have with the candidate's campaign staff? In the alternative, would it be sufficient for the party committee to create this organization at any time before the party's nominee is chosen? Does a party committee's ability to make independent expenditures end when it nominates a candidate? Once a party committee has coordinated with a particular candidate in a given election, would it ever be possible to cease coordinating and begin making independent expenditures with respect to that particular candidate and election?

Similarly, if party committees are affiliated, the question arises as to whether coordination by one party committee automatically destroys the ability of other affiliated party committees to make independent expenditures. In this regard, comments are sought as to whether there may be a significant distinction between the relationship between national, state and local committees on the one hand, and the relationship between the national committee and its House and Senate campaign committees? Another question concerns candidates who are nominated at state party conventions. If the candidate who is nominated faces little or no opposition at the convention, does this mean the party organization staging the convention has sufficiently coordinated with the nominee so as to preclude subsequent independent expenditures by the state or local party committee in connection with the general election campaign?

2. Independent Expenditures for Presidential Campaigns

In *Colorado*, the Supreme Court indicated that its decision involved only congressional races, and did not ''address issues that might grow out of the public funding of Presidential campaigns.'' *Id.* at 2314. Previously, in *NCPAC*, the Supreme Court addressed the constitutionality of one public-funding provision, section 9012(f) of the Presidential Election Campaign Fund Act. 26 U.S.C. 9001 *et seq.* This provision barred political committees from expending more than $1000 to further the election of publicly-funded Presidential candidates in the general election. The Supreme Court found 26 U.S.C. 9012(f) to violate the First Amendment to the extent that it limited independent expenditures by nonconnected political committees. *NCPAC* at 497. The Court emphasized the ''fundamental constitutional difference between money spent to advertise one's views independently of a candidate's campaign and money contributed to the candidate to be spent on his campaign. * * * [T]he absence of prearrangement and coordination undermines the value of the expenditure to the candidate, and thereby alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate.'' *Id.* at 497–98. However, this case did not involve political party committees.

For a number of reasons, the proposed rules in paragraph (a)(4) of section 110.7 would continue the current ban on national party committees making independent expenditures on behalf of the general election campaigns of Presidential candidates. One reason for retaining these regulations is that they may still be necessary to implement the provisions of 2 U.S.C. 441a(d), which were not invalidated by the Supreme Court. The rules recognize that it may be difficult, perhaps impossible, for a national party committee to be wholly independent of its presidential candidate if the chair of the national party was selected by the Presidential candidate or has worked closely with his or her campaign staff over a period of time. Accordingly, the Commission seeks comments regarding the extent of coordination between party committees and Presidential candidates, in practice. Sections 432(e)(3)(A)(i) and 441a(d)(2) of the FECA allow the national committee of a political party to serve as the principal campaign committee or authorized committee of its Presidential candidate. *See* 11 CFR 102.12(c)(1) and 9002.1(c). In such a case, it does not seem possible for party committees to operate independently of the candidate and the candidate's agents.

Comments are also sought on several other issues addressed in proposed paragraph (a)(4) of section 110.7. First, should the ban on independent expenditures be extended to include those made in connection with Presidential primaries? Secondly, should this provision explicitly bar congressional campaign committees, as well as state and local party committees, from making these independent expenditures? The Commission is considering whether coordination between a national party committee and its Presidential candidate destroys the ability of affiliated state or local party committees to make independent expenditures on behalf of that candidate. In the alternative, are such independent expenditures precluded only when the state or local party committee, itself, coordinates with the Presidential candidate's committee? Another approach would be to establish a rebuttable presumption that any party committee communications mentioning Presidential candidates are coordinated

with those candidates in both the primary and the general election.

Another issue concerns the role of public funding. Comments are sought on whether the ban on party committee independent expenditures for Presidential candidates should only apply to those party committees whose nominees accept public funding. Alternative 6–B of section 110.7(a) would implement this approach. In contrast, Alternative 6–A would cover all Presidential candidates. Comments are also sought on revising 11 CFR 110.7 and 9008.3(a)(4) to condition the grant of public funding for national nominating conventions on the party committee's and convention committee's agreement not to make independent expenditures for either the primary or general election campaigns of its Presidential and Vice Presidential candidates. Such a requirement, while not appearing in the attached draft rules, would be predicated on the assumption that nominating conventions are extensively coordinated with these candidates, thereby precluding the possibility of simultaneous or subsequent independent expenditures. However, this may not be true if the nomination is still being contested by the time of the convention.

3. Other Changes to Section 110.7

The Commission seeks comments on adding language to paragraph (c) of section 110.7 to set forth the Commission's current policy regarding the assignment of coordinated expenditure limits. The revised rule would state that whenever a party committee authorizes another party committee to use part or all of its coordinated expenditure limitation, the authorization must be in writing, must specify a dollar amount, and must be made before the committee so authorized actually makes the coordinated expenditure. *See* Campaign Guide for Political Party Committees (1996). This would apply to both the national committee and state committees. Consequently, it would replace the language in current paragraph (a)(4), that permits national committees of political parties to assign their spending limits but does not specify how this should be accomplished. Comments are requested as to whether copies of such written authorizations should be attached to the committees' disclosure reports.

New paragraph (d) of section 110.7 would indicate that the explanation of ''coordinated'' in 11 CFR 100.23 and 109.1(b)(4) would apply in determining whether expenditures are coordinated for purposes of the coordinated expenditure limits of 11 CFR 110.7. Please note that under the proposed rules, the Commission's standards for determining whether a communication by a party committee is a coordinated expenditure under 2 U.S.C. 441a(d) would continue to depend on whether it contains an electioneering message and mentions a clearly identified candidate.

Section 104.4(a)—Reporting Independent Expenditures

Paragraph (a) of this section sets out the reporting obligations of political committees making independent expenditures. The draft rules which follow would add a specific reference to party committees to make clear that national, state and subordinate committees of political parties would be subject to the same reporting requirements as other political committees. Consequently, other regulations which establish reporting requirements would apply in the same manner and to the same extent that they apply to other political committees making independent expenditures. *E.g.* 11 CFR 104.3(b)(3)(vii)(A) through (C) and 104.5(g).

Section 110.1(n) and 110.2(k)—Contributions to Committees Making Independent Expenditures

The Commission requests comments on proposed new paragraph (n) of section 110.1 and new paragraph (k) of section 110.2, which would replace current paragraphs (d)(2) of these sections regarding the application of the contribution limits to contributions to committees that make independent expenditures. These sections need to be updated because current paragraphs (d)(2) of each section recognize that non-party committees may make independent expenditures, but do not contemplate party committees doing so. Individuals may donate up to $20,000 to national party committees. Consequently, under the proposed new language, the $20,000 contribution limit would continue to apply when the recipient national party committee uses the contribution to make independent expenditures.

Section 110.11(a)—Party Committee Disclaimers

The Commission seeks comments on two changes to paragraph (a)(2) of section 110.11 regarding disclaimers for party committee communications. First, new language would be added to paragraph (a)(2)(i) to state that the required disclaimer for communications which constitute coordinated expenditures must indicate who authorized the communication. Accordingly, the present language in paragraph (a)(2)(ii) would be deleted. Currently, 11 CFR 110.11(a)(2)(ii) states that coordinated expenditures need not include an authorization statement if the communication is made before the party's candidate is nominated. However, in the event that the Commission decides to continue to treat party committee communications mentioning Presidential candidates as inherently coordinated, comments are sought as to whether paragraph (a)(2)(ii) should remain as it is now and not require party committees to state which Presidential candidates authorized these pre-primary communications.

Second, new paragraph (a)(2)(ii) would indicate that when party committees make independent expenditure communications, the disclaimer must state that the party committee paid for the communication, and that the communication is not authorized by any candidate or authorized committee. Given that independent expenditures contain express advocacy, they are subject to the disclaimer requirements of 2 U.S.C. § 441d.

The Commission welcomes comments on proposed new 11 CFR 100.23, the proposed amendments to 11 CFR 100.7(a), 104.4(a), 109.1(b), 110.1, 110.2, 110.7, and 110.11(a) as well as the issues raised in this notice.

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

These proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that the rules would conform to a recent Supreme Court decision by permitting, but not requiring, small entities to make independent expenditures. Therefore, no significant economic impact would result.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

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

11 CFR Part 109

Elections, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political committees and parties.

For the reasons set out in the preamble, it is proposed to amend Subchapter A, Chapter I of title 11 of the *Code of Federal Regulations* as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 would continue to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. Section 100.7 would be amended by adding new paragraph (a)(5) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

(a) * * *

Alternative 1–A

(5) Any payment made for a communication or anything of value that is made in coordination with a candidate, or a candidate's authorized committee or agent, or in coordination with a political committee or its agent, except as otherwise provided in 11 CFR 114.2(c).

Alternative 1–B

(5) Any payment made for a communication or anything of value that is made for the purpose of influencing any election for Federal office and that is made in coordination with a candidate, or a candidate's authorized committee or agent, or in coordination with a political committee or its agent, except as otherwise provided.

(End of Alternatives for § 100.7)

* * * * *

3. Part 100 would be amended by adding new section 100.23 to read as follows:

§ 100.23 Coordination (2 U.S.C. 431(17).

(a) Payments made in ''coordination'' with a candidate include:

Alternative 2–A

(1) Payments made by any person in cooperation, consultation or concert with, at the request or suggestion or direction of, or pursuant to any general or particular understanding or arrangement with a candidate or a candidate's authorized committee or agent;

Alternative 2–B

(1) Payments made by any person in cooperation, consultation or concert with, at the request or suggestion or direction of, or pursuant to any general or particular understanding or arrangement with a candidate or a candidate's authorized committee or agent, as defined below:

(i) *In cooperation or concert with* means acting, working or operating together, or conferring or discussing or jointly deciding or planning for one or more persons to take action(s);

(ii) *In consultation with* means providing information to one or more persons and obtaining their reactions, suggestions or responses;

(iii) *At the request, suggestion or direction of* means asking, ordering, requiring, indicating, telling, or otherwise expressly or impliedly expressing the hope or desire that one or more persons take action(s);

(iv) *Pursuant to any general or particular understanding or arrangement* means an express or implied agreement or intention for one or more persons to take action necessary to achieve a common goal;

Alternative 2–C

(1) Payments made by any person in cooperation, consultation or concert with, at the request or suggestion or direction of, or pursuant to any general or particular understanding or arrangement with a candidate or a candidate's authorized committee or agent as defined below. *See* the definition of person in 11 CFR 109.1(b)(1).

(i) *In cooperation with* means the act of persons working or operating together in the formation of a plan;

(ii) *In consultation with* means a meeting of persons to discuss, decide, or plan something;

(iii) *In concert with* means an agreement of two or more persons in a design or plan;

(iv) *At the request, suggestion or direction of* means asking, ordering, requiring, indicating, telling, or otherwise expressly or impliedly expressing the hope or desire that one or more persons take action(s);

(v) *Pursuant to any general or particular understanding or arrangement* means an express or implied agreement or intention for one or more persons to take action necessary to achieve a common goal;

Alternative 2–D

(1) Payments made by any person in cooperation, consultation or concert with, at the request or suggestion or direction of a candidate or a candidate's authorized committee or agent as defined below. *See* the definition of person in 11 CFR 109.1(b)(1).

(i) *In cooperation with* means the act of persons working or operating together in the formation of a plan;

(ii) *In consultation with* means a meeting of persons to discuss, decide, or plan something;

(iii) *In concert with* means an agreement of two or more persons in a design or plan;

(iv) *At the request, suggestion or direction of* means asking, ordering, requiring, indicating, telling, or otherwise expressly or impliedly expressing the hope or desire that one or more persons take action(s);

(End of Alternatives for Paragraph (a)(1))

(2) Payments made by any person to finance the dissemination, distribution, display, republication or reproduction, in whole or in part, of any broadcast or any written, graphic or other form of campaign materials prepared by the candidate or any agent or authorized committee of the candidate, but not including the use of those materials in communications that advocate the candidate's defeat or are incorporated into a news story, commentary or editorial exempted under 11 CFR 100.7(b)(2) or are incorporated into a corporation's or labor organization's expression of its own views under 11 CFR 114.3(c)(1); and

Alternative 3–A

(3) Payments made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, or the candidate's authorized committee or agents.

Alternative 3–B

(3) Payments made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, or the candidate's authorized committee or agents with a view toward having an expenditure made.

Alternative 3–C

(3) Payments made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, or the candidate's authorized committee or agents with a view toward having an expenditure made, but not including mere contacts with persons who are not empowered to commit their organizations, or which do not result in coordinated action with persons empowered to commit their organization, or which do not meet the definition of coordination as defined in (a)(1) of this section.

(End of Alternatives for Paragraph (a)(3))

(b) A candidate's agents include persons who during the same election cycle in which the payment is made—

Alternative 4–A

(1) Hold or have held executive, policymaking, or other significant advisory or fundraising positions with the candidate's authorized committee;

(2) Have participated in strategic or policymaking communications with the candidate or campaign officials; or

(3) Are providing or have provided campaign-related services such as polling, media advice, direct mail, fundraising or campaign research, unless such persons do not make decisions, or participate in decision-making, regarding the candidate's plans, projects or needs.

Alternative 4–B

(1) Have an express or implied grant of authority from the principal to act on its behalf either generally or only with regard to particular matters; and

(2) (i) Hold or have held executive, policymaking, or other significant advisory or fundraising positions with the candidate's authorized committee;

(ii) Have participated in strategic or policymaking communications with the candidate or campaign officials; or

(iii) Are providing or have provided campaign-related services such as polling, media advice, direct mail, fundraising or campaign research, unless such persons do not make decisions, or participate in decision-making, regarding the candidate's plans, projects or needs.

(End of Alternatives for Paragraph (b))

(c) Payments made in coordination with a candidate do not include payments by any person whose only contact with the candidate, candidate's authorized committee or agents is to receive Commission guidelines on independent expenditures.

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

4. The authority citation for part 104 would continue to read as follows:

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

5. Section 104.4 would be amended by revising paragraph (a) to read as follows:

§ 104.4 Independent expenditures by political committees (2 U.S.C. 434(c)).

(a) Every political committee, including a party committee, which makes independent expenditures shall report all such expenditures on Schedule E in accordance with 11 CFR 104.3(b)(3)(vii). Every person (other than a political committee) shall report independent expenditures in accordance with 11 CFR part 109.

* * * * *

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

6. The authority citation for part 109 would continue to read as follows:

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

7. Section 109.1 would be amended by revising paragraphs (b)(1) and (b)(4) to read as follows:

§ 109.1 Definitions (2 U.S.C. 431(17).

* * * * *

(b) * * *

(1) *Person* means an individual, partnership, committee (including a party committee), association, qualified nonprofit corporation under 11 CFR 114.10(c), or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (*See* part 114) but does not mean a labor organization, corporation not qualified under 11 CFR 114.10(c), or national bank.

* * * * *

Alternative 5–A

(4) *Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate* means coordination with the candidate prior to the publication, distribution, display or broadcast of the communication, as defined in 11 CFR 100.23.

Alternative 5–B

(No Corresponding Provision)

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

8. The authority citation for part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

9. In section 110.1, paragraph (d)(2) would be removed, paragraph (d)(1) would be redesignated as paragraph (d), and a new paragraph (n) would be added to read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

* * * * *

(n) Contributions to committees making independent expenditures. The limitations on contributions of this section also apply to contributions made to political committees making independent expenditures under 11 CFR part 109.

10. In section 110.2, paragraph (d)(2) would be removed, paragraph (d)(1) would be redesignated as paragraph (d), and a new paragraph (k) would be added to read as follows:

§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

* * * * *

(k) Contributions to multicandidate political committees making independent expenditures. The limitations on contributions of this section also apply to contributions made to multicandidate political committees making independent expenditures under 11 CFR Part 109.

11. Section 110.7 would be revised to read as follows:

§ 110.7 Party committee coordinated expenditures and independent expenditures (2 U.S.C. 441a(d)).

(a) *Presidential elections.* (1) The national committee of a political party may make coordinated expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party.

(2) The coordinated expenditures shall not exceed an amount equal to 2 cents multiplied by the voting age population of the United States.

(3) Any coordinated expenditure under paragraph (a) of this section shall be in addition to—

(i) Any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for President of the United States; and

(ii) Any contribution by the national committee to the candidate permissible under 11 CFR 110.1 or 110.2.

Alternative 6–A

(4) Political party committees may not make independent expenditures (*See* 11 CFR Part 109) in connection with an election campaign of a candidate for nomination or election to the office of President of the United States.

Alternative 6–B

(4) Political party committees affiliated with a publicly funded Presidential candidate may not make independent expenditures (*See* 11 CFR

Part 109) in connection with an election campaign of a candidate for nomination or election to the office of President of the United States.

(End of Alternatives for Paragraph (a)(4))

(5) Any coordinated expenditures made by the national, state and subordinate committees of a political party pursuant to paragraph (a) of this section on behalf of that party's Presidential candidate shall not count against the candidate's expenditure limitations under 11 CFR 110.8.

(b) *Other federal elections.* (1) The national committee of a political party, and a State committee of a political party, including any subordinate committee of a State committee, may each make coordinated expenditures in connection with the general election campaign of a candidate for Federal office in that State who is affiliated with the party.

(2) The coordinated expenditures shall not exceed—

(i) In the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(A) Two cents multiplied by the voting age population of the State; or

(B) Twenty thousand dollars; and

(ii) In the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(3) Any coordinated expenditure under paragraph (b) of this section shall be in addition to any contribution by a committee to the candidate permissible under 11 CFR 110.1 or 110.2.

(c) *Assignment of coordinated expenditure limits; compliance.* The national committee and State committees of a political party may make the coordinated expenditures specified in this section by designating another party committee as its agent, provided that before the coordinated expenditure is made, the national or State committee specifies in writing the amount the designated party committee may spend. For limitation purposes, ''State committee'' includes subordinate State committees. State committees and subordinate State committees combined shall not exceed the limits in paragraph (b)(2) of this section. To ensure compliance with the limitations, the State committee shall administer the limitation in one of the following ways:

(1) The State central committee shall be responsible for insuring that the coordinated expenditures of the entire party organization are within the limitations, including receiving reports from any subordinate committees making coordinated expenditures under paragraph (b) of this section, and filing consolidated reports showing all expenditures in the State with the Commission; or

(2) Any other method, submitted in advance and approved by the Commission which permits control over expenditures.

(d) *Definition of coordinated expenditure.* The provisions of 11 CFR 100.23 and 109.1(b)(4) will apply for purposes of determining whether an expenditure is coordinated under this section.

12. Section 110.11 would be amended by revising paragraph (a)(2) to read as follows:

§ 110.11 Communications; advertising (2 U.S.C. 441d).

(a) * * *

(2) *Independent and coordinated party expenditures.* (i) For a communication paid for by a party committee pursuant to 2 U.S.C. 441a(d), the disclaimer required by paragraph (a)(1) of this section shall identify the committee that makes the expenditure as the person who paid for the communication, regardless of whether the committee was acting in its own capacity or as the designated agent of another committee, and shall identify the candidate(s) or authorized committee(s) who authorized the communication.

(ii) For a communication made by a party committee which constitutes an independent expenditure, the disclaimer required by paragraph (a)(1) of this section shall state that the party committee paid for the communication and that the communication is not authorized by any candidate or candidate's committee.

* * * * *

Dated: April 30, 1997.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 97–11590 Filed 5–2–97; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 111 and 163

RIN 1515–AB77

Recordkeeping Requirements; Correction

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking, correction.

SUMMARY: This document makes corrections to the document published in the **Federal Register** on April 23, 1997, which set forth proposed amendments to the Customs Regulations relating to recordkeeping.

FOR FURTHER INFORMATION CONTACT: Stan Hodziewich, Regulatory Audit Division, Washington, D.C. at (202–927–0999) or Howard Spencer, Regulatory Audit Division, Atlanta Branch at (770–994–2273, Ext.158).

SUPPLEMENTARY INFORMATION:

Background

On April 23, 1997, Customs published in the **Federal Register** (62 FR 19704) a Notice of Proposed Rulemaking which covered recordkeeping requirements and reflected legislative changes to the Customs laws regarding recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. This document corrects some errors published in the NPRM.

Several errors involved the discussion under the **SUPPLEMENTARY INFORMATION** portion of the document. As part of the background discussion under the heading ''Recordkeeping Requirements'', in the center column of page 19705, in the first full paragraph which refers to section 163.4 and discusses drawback documentation retention requirements, the document misstates the period of time that drawback records may be necessary to be retained. Customs did not include the three-year period after exportation that the claimant could wait before filing the drawback claim in setting forth the number of years necessary to retain drawback documentation. Thus, the second sentence of the first full paragraph in the center column on page 19705 is incorrect. A drawback claimant has the ability to file a claim up to almost eight years from the date of importation: the export on which the claim is made may occur up to five years from the date of importation and the claim can be filed within three years from the date of exportation. The recordkeeping requirement runs from the date of payment, including a payment made under the accelerated payment program. If the claimant takes advantage of the full eight-year period and Customs pays the claim under the accelerated payment program, the supporting record must be kept three years from the payment date: a period

of about eleven years from the date of importation.

It is noted that the same sentence discussed above on page 19705 also contains a typographical error by repeating the same clause that is being corrected in this document twice at the end of the sentence.

An additional error occurred in the ''Other Sections Affected'' portion of the background discussion. In the third column of page 19706, in the second full paragraph, the document refers to the definition of records in ''§ 111.1(f)''. The listing of definitions in § 111.1 has been alphabetized and the reference to paragraph (f) was inadvertently retained. It should be removed. This oversight was also repeated in the text of the proposed amendment itself. In the center column of page 19708, in the proposed amendment of § 111.23(a), the reference to § 111.1(f) should read simply § 111.1.

Corrections of Publication

Accordingly, the document (FR Doc. 97–10130) published in the **Federal Register** on April 23, 1997 (62 FR 19704) is corrected as set forth below:

Corrections of the Background Section

1. On page 19705, in the center column in the first full paragraph, the second sentence should be removed and in its place, the following should be inserted: ''It is noted that with this retention period for drawback records, it is possible that the total retention requirement for drawback records could extend to about eleven years from the date of importation. (A drawback claimant has the ability to file a claim up to almost eight years from the date of importation: the export on which the claim is made may occur up to five years from the date of importation and the claim can be filed within three years from the date of exportation. The recordkeeping requirement runs from the date of payment, including a payment made under the accelerated payment program. If the claimant takes advantage of the full eight-year period and Customs pays the claim under the accelerated payment program, the supporting records must be kept three years from that payment date: a period of about eleven years from the date of importation.)''

2. On page 19706, in the third column, in the second full paragraph, in the fourth line, the reference to ''records in § 111.1(f)'' is corrected to read ''records in § 111.1''.

Correction to Proposed Regulation

1. On page 19708, in the center column, in § 111.23(a)(1), in the second and third lines, the phrase ''defined in § 111.1(f)'' is corrected to read ''defined in § 111.1''.

Dated: April 29, 1997.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 97–11545 Filed 5–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 253

RIN 1010–AC33

Oil Spill Financial Responsibility for Offshore Facilities

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period for proposed rule, and announcement of a public workshop.

SUMMARY: This notice extends to August 22, 1997, the deadline for submitting comments on the proposed rule on Oil Spill Financial Responsibility for Offshore Facilities (OSFR). Also, this notice announces that MMS will hold a public workshop on the proposed rule on June 5, 1997, at New Orleans, Louisiana.

DATES: We will consider all comments received by August 22, 1997, and we may not fully consider comments received after August 22, 1997. The public workshop will be held on June 5, 1997, at 9:00 a.m.

ADDRESSES: Mail or hand-carry written comments to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4700; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. We will hold the public workshop at the MMS Gulf of Mexico Region Office, 1201 Elmwood Park Boulevard, Room 111, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Ray Beittel, Performance and Safety Branch, at (703) 787–1591.

SUPPLEMENTARY INFORMATION: MMS was asked to extend the deadline for submitting comments on the proposed OSFR rule published on March 25, 1997 (62 FR 15639). The request explains that more time is needed to allow respondents time to prepare detailed and comprehensive comments.

MMS was also asked to sponsor a public workshop on the proposal for the purpose of clarifying certain parts of the proposal and answering technical questions on how it was developed.

Dated: April 29, 1997.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 97–11558 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

[Department of the Treasury Circular, Public Debt Series No. 1–93]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of the Treasury (''Treasury'' or ''Department'') is proposing for comment an amendment to 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). This proposed amendment makes the necessary changes to accommodate three decimal bidding, in .005 increments, and a reduction in the net long position reporting threshold amount for Treasury bill auctions. The proposed rule also makes certain technical clarifications and conforming changes.

DATES: Comments must be received on or before June 4, 1997.

ADDRESSES: This proposed amendment has also been made available for downloading from the Bureau of the Public Debt home page at the following address: www.publicdebt.treas.gov. Written comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street N.W., Room 515, Washington, D.C. 20249–0001. Comments may also be sent through the Internet to the Government Securities Regulations Staff at commoffc@bpd.treas.gov. When sending comments through the Internet, please use an ASCII file format and provide your full name and mailing address. Comments received will be available for public inspection and downloading from the Internet and for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Ken Papj (Director), Lee Grandy or Kurt Eidemiller (Government Securities Specialists), Bureau of the Public Debt,

Government Securities Regulations Staff, (202) 219–3632.

SUPPLEMENTARY INFORMATION: 31 CFR Part 356, also referred to as the uniform offering circular, sets out the terms and conditions for the sale and issuance by the Department of the Treasury to the public of marketable Treasury bills, notes, and bonds. The uniform offering circular, in conjunction with offering announcements, represents a comprehensive statement of those terms and conditions.[1] The proposed rule, when finalized, would amend sections 356.12 and 356.13 of the uniform offering circular and would provide a technical clarification in Appendix B to Part 356 (i.e., Appendix B, Section IV, Paragraph C).

A. Three Decimal Bidding in .005 Increments

In February 1995, Treasury began requiring competitive bids in note and bond auctions to be expressed as yields using three decimal places, rather than two decimal places, e.g., 7.123.[2] At that time, Treasury did not extend three decimal bidding to bill auctions because three decimal bidding in .001 percent increments provides a price unique to each discount rate only for bills with maturities of 360 days or more. Price uniqueness occurs when each separate discount rate produces a different (unique) price rounded to three decimal places, i.e., no two discount rates result in the same price. Price uniqueness is a function of the minimum bid increment allowed in auctions, price rounding conventions, and the number of days to maturity. For the reasons explained below, however, Treasury believes that it would now be appropriate to extend three decimal bidding to bill auctions.

Section 356.12(c)(1)(i) reflects the proposed change to three decimal bidding in .005 increments for Treasury bills. The third decimal will be expressed in minimum increments of one-half basis points (e.g., 5.320 or 5.325) in which the final decimal must be either zero or five. The proposed rule provides that three decimal bidding in .005 increments will be a requirement for all Treasury bill auctions—13-, 26-, and 52-week bills as well as all cash management bills (CMBs). The Department specifically requests comments as to whether three decimal bidding in one-half basis point increments should be extended to CMBs. Conducting all Treasury bill auctions, including CMBs, using the bidding convention as proposed may simplify the rules and result in an easier understanding of the requirements by auction participants.

Under the current two decimal bidding requirement, price uniqueness is maintained for CMBs with maturities of 36 days or more. If three decimal bidding in increments of one-half basis points is extended to CMBs, price uniqueness would be maintained with maturities of 72 days or more. However, Treasury does not consider this to be problematic given auction participants' experience with the non-price uniqueness of short term CMBs under the current bidding process. For all regular Treasury bill auctions, the proposed change would maintain price uniqueness since regular bills have maturities of 90 days or more.

The change from two decimal to three decimal half-basis point bidding for all Treasury bills is being proposed to promote more efficient and aggressive bidding in these auctions and is expected to lead to marginally higher auction revenues for Treasury. The Department believes that market participants would need very little time to begin half-basis point bidding for Treasury bills since it understands that most market participants currently trade these securities in minimum increments of one-half or one-quarter basis points. Treasury welcomes comments on the system changes and the lead time necessary to implement this new bidding process.

The requirement for competitive bids for Treasury note and bond auctions to be expressed in three decimals in .001 increments remains unchanged. Further, the restriction against using fractions still applies to all marketable security auctions.

A technical change to the note at the end of Appendix B, Section IV, Paragraph C is also being proposed. The proposed revision identifies the changes that have been made over the years in the bidding conventions for Treasury bill auctions. Treasury is not revising any of the examples of Appendix B since the proposed change to three decimal bidding will not require any changes in the applicable formulas for bills.

B. Decrease in Net Long Position Reporting Threshold

Section 356.13(a) reflects the proposed reduction in the net long position reporting threshold amount for all Treasury bill auctions (i.e., 13-, 26-, 52-week bills and CMBs) from $2 billion to $1 billion, while maintaining the $2 billion threshold amount for Treasury note and bond auctions. The net long position reporting threshold amount for bills, notes, and bonds will continue to be provided in the offering announcement for the particular security. As currently stated in section 356.10 of the uniform offering circular, the offering announcement takes precedence whenever any provision of the announcement is consistent with any provision of the circular. The Department specifically requests comments as to whether operationally this proposed $1 billion net long position reporting threshold amount should be established and maintained for all bill auctions or whether auction participants would prefer that the net long position reporting threshold amount be changed from time to time. Regardless, section 356.10 would continue to give Treasury the flexibility to change the net long position reporting threshold amount by providing the amount in the offering announcement. This reduction in the threshold amount is being proposed to more effectively achieve a Treasury financing objective of ensuring a broad distribution of a security issue, whereby no single bidder is awarded more than 35% of the public offering less the bidder's net long position as reportable under section 356.13.

Procedural Requirements

This proposed amendment does not meet the criteria for a ''significant regulatory action'' pursuant to Executive Order 12866.

Although this rule is being issued in proposed form to secure the benefit of public comment, the notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

Since no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.)* do not apply.

There is no new collection of information contained in this proposed rule, and therefore, the Paperwork Reduction Act does not apply. The collections of information of 31 CFR Part 356 have been previously approved by the Office of Management and Budget under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under control number 1535–0112. Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to,

[1] The uniform offering circular was published as a final rule on January 5, 1993 (58 FR 412). Amendments to the circular were published on June 3, 1994 (59 FR 28773), March 15, 1995 (60 FR 13906), July 16, 1996 (61 FR 37007), August 23, 1996 (61 FR 43626), October 22, 1996 (61 FR 54908), and January 6, 1997 (62 FR 846).

[2] Treasury Press Release was dated February 15, 1995. An amendment to the uniform offering circular was published on March 15, 1995 (60 FR 13906).

a collection of information unless it displays a valid OMB control number.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

For the reasons set forth in the preamble, 31 CFR Chapter II, Subchapter B, Part 356, is proposed to be amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq,* 12 U.S.C. 391

2. Section 356.12 is amended by revising paragraph (c)(1)(i) to read as follows:

§ 356.12 Noncompetive and competitive bidding.

* * * * *

(c) * * *

(1) * * *

(i) *Treasury bills.* A competitive bid must show the discount rate bid, expressed with three decimals in .005 minimum increments. The third decimal must be either a zero or a five, e.g., 5.320 or 5.325. Fractions may not be used.

* * * * *

3. Section 356.13 is amended by revising paragraph (a) to read as follows:

§ 356.13 Net long position.

(a) *Reporting net long positions.* When bidding competitively, a bidder must report the amount of its net long position when the total of all of its bids in an auction plus the bidder's net long position in the security being auctioned equals or exceeds the net long position reporting threshold amount. The net long position reporting threshold amount for any particular security will be as stated in the offering announcement for that security. (See § 356.10.) That amount will be $1 billion for bills, and $2 billion for notes and bonds, unless otherwise stated in the offering announcement. If the bidder either has no position or has a net short position and the total of all of its bids equals or exceeds the net long position reporting threshold amount, e.g., $1 billion for bills and $2 billion for notes and bonds, a net long position of zero must be reported. In cases where a bidder that is required to report the amount of its net long position has more than one bid, the bidder's total net long position should be reported in connection with only one bid. A bidder that is a customer must report its reportable net long position through only one depository institution or dealer. (See § 356.14(c).)

* * * * *

4. Appendix B, Section IV, Paragraph C is amended by revising the note at the end of the paragraph to read as follows:

IV. Computation of Purchase Price, Discount Rate, and Investment Rate (Coupon-Equivalent Yield) for Treasury Bills

* * * * *

C. Conversion of prices to discount rates for Treasury bills of all maturities: * * *

Note: Prior to April 18, 1983, bills were sold in price-basis auctions, in which discount rates calculated from prices were rounded to three places, using normal rounding procedures. Since that time, bills have been sold only on a discount rate basis. Discount rates bid were submitted with two decimals, e.g., 5.32, until 1997, when Treasury instituted a change to three decimal bidding in minimum increments of .005 percent, e.g., 5.320 or 5.325.

* * * * *

Dated: April 29, 1997.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 97–11582 Filed 5–2–97; 8:45 am]

BILLING CODE 4810–39–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–97–016]

RIN 2115–AE46

Special Local Regulations; North Charleston Fireworks, North Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the City of North Charleston's 25th Anniversary Fireworks. The event will occur on Friday, June 13, 1997, between the hours of 9:30 p.m. and 10:30 p.m. Eastern Daylight Time (EDT) on the North Charleston Reach of the Cooper River. The nature of the event and the closure of a portion of the Cooper River creates an extra or unusual hazard on the navigable waters of the Cooper River at North Charleston, SC. These regulations are necessary for the safety of life on the navigable waters during the event.

DATES: Comments must be received on or before June 4, 1997.

ADDRESSES: Comments may be mailed to Commander, U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401, or may be delivered to the Operations Office at the same address between 7:30 a.m. and 3:30 p.m. Monday through Friday, except federal holidays. The telephone number is (803) 724–7621.

The Group Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: ENS M.J. DaPonte, Project Manager, Coast Guard Group Charleston, SC at (803) 724–7621.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The proposed regulations are needed to provide for the safety of life during the City of North Charleston's 25th Anniversary Fireworks demonstration. These proposed regulations are intended to promote safe navigation on the Cooper River immediately before, during, and immediately after the fireworks demonstration by controlling the traffic entering, existing, and traveling within the regulated area. The anticipated concentration of commercial traffic and spectator vessels poses a safety concern which is addressed in these proposed special local regulations.

The proposed regulations would not permit the entry or movement of spectator vessels and other non-participating vessel traffic between two lines drawn directly across the Cooper River at latitudes 32–52.2N and 32–53N, on Friday, June 13, 1997 from 9 to 11 p.m. EDT. The proposed regulation would permit the movement of spectator vessels and other non-participants within the regulated area before the start of the fireworks at the discretion of the Coast Guard Patrol Commander.

In accordance with 5 U.S.C. 553, the comment period for this proposed rulemaking is limited to 30 days after publication in the **Federal Register,** as following normal rulemaking procedures would have been impractical. The information necessary to hold the event was not received until April 1, 1997, and there was not sufficient time remaining to publish a 60 day notice of proposed rulemaking or to provide for a delayed effective date.

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 name and address, identify this rulemaking (CGD07–97–016) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons desiring acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in the view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at 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 the time and place announced by a later notice in the **Federal Register.**

Regulatory Evaluation

The proposal is not a significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The proposed regulations would last for only two hours on June 13, 1997.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities because it will be in effect for only two hours in a limited area.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal in accordance with the principals and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action, and has tentatively determined pursuant to section 2.B.2.e(34)(h) of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination will be prepared after the comment period for this proposed rulemaking has expired.

List of Subjects in 33 CFR Part 100

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

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new temporary section 100.35T–07–016 is added to read as follows:

§ 100.35T–07–016 North Charleston Fireworks; Cooper River, SC.

(a) *Definitions:*

(1) *Regulated area.* The regulated area is formed between two lines drawn directly across the Cooper River at 32–52.2N and 32–53N. All coordinates referenced use Datum: NAD 83. The regulated area would encompass the width of the Cooper River between these two lines.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, SC.

(b) *Special Local Regulations.* (1) No person or vessel may enter, transit, or remain in the regulated area unless authorized by the Coast Guard Patrol Commander.

(2) The Coast Guard Patrol Commander may delay, modify, or cancel the fireworks as conditions or circumstances require. The Coast Guard Patrol Commander shall monitor the start of the fireworks with the event sponsor, to allow for a window of opportunity for inbound or outbound commercial traffic to transit the regulated area with minimal interference.

(3) At the conclusion of the fireworks demonstration, and at the discretion of the Patrol Commander, all vessels may resume normal operations.

(c) *Effective Date.* This section is effective from 9 to 11 p.m. on June 13, 1997.

Dated: April 16, 1997.

J.W. Lockwood,

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

[FR Doc. 97–11562 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD11–97–002]

RIN 2115–AA98

Anchorage Regulation; San Francisco Bay, California

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations for the existing explosive anchorage, Anchorage 14 within General Anchorage 9, in San Francisco Bay, California. This revision proposes to realign Anchorage 14 in a true north-south direction and move it northerly to include deeper water. This will allow vessels with drafts of 38 feet or greater laden with explosives, to safely anchor, while minimizing potential overcrowding of General Anchorage 9. This proposed anchorage amendment changes the position of Anchorage 14 to provide deeper water for explosive load activations while not tying up large areas of General Anchorage 9. The explosive limit of 3,000 tons net explosive weight (NEW) for Anchorage 14 will remain unchanged. A provision will be added, however, to allow the Captain of the Port to provide specific permission to exceed the limit.

DATES: Comments must be received on or before July 7, 1997.

ADDRESSES: Comments may be mailed to Commanding Officer, U.S. Coast Guard Marine Safety Office, Bldg. 14, Coast Guard Island, Alameda, CA 94501–5100, or may be delivered to Room 124 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (510) 437–3074. The Captain of the Port maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at Bldg. 14, Room 124, Coast Guard Island, Alameda.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robert Lee, Port Operations, Coast Guard Marine Safety Office San Francisco Bay, telephone (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or comments. Persons submitting comments should include their names and address, identify this rulemaking (CGD 11–97–002) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during this comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. 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

In the past, San Francisco Bay was a major explosive load out port due to the activities of the military facilities located or homeported within the area. During periods of military conflict, San Francisco Bay was a primary port call for vessels and barges entering and departing the port laden with military ordnance. These vessels and barges conducting military ordnance outloads were easily accommodated by explosive Anchorages 12 and 14. In the past, the vessels conducting explosive outloads were smaller and handled less cargo than those vessels now contracted by Military Sealift Command to transport military ordnance. The smaller ships, which handled less explosive cargo, did not require as large of a minimum safe distance, as calculated by the DOD Ammunition and Explosive Safety Standards Manual (DOD 6055.9–STD, October 1992), as do the larger vessels now hired to transport military ordnance. In addition to handling smaller explosive cargo loads, the drafts of the smaller vessels were much shallower than those of the larger ships now contracted to transport ordnance. Current local policy is to maintain a two-foot clearance under keel for vessels transiting the Bay. Since the water in the current Anchorage 14 is relatively shallow, anchoring a vessel of 38 feet draft or greater can be difficult depending on the number of other vessels anchored in Anchorages 9 and 14. Using explosive Anchorage 12 as an alternate anchorage is suitable for the depth of the water, but is not satisfactory to meet the safety distance requirements from inhabited shoreside areas and other vessels in General Anchorage 9. Therefore, it has periodically become necessary to create special anchorages for large deep draft vessels laden with explosives, in a location that might not be entirely within a charted explosive anchorage. In order to accommodate the larger vessels now using the anchorage and to alleviate the need to designate special anchorages, the Coast Guard is proposing that the anchorage grounds designated in 33 CFR 110.224(e)(10) be changed.

Additionally, the proposed movement of Anchorage 14 would mitigate the burden on commercial vessels looking for safe anchorage in General Anchorage 9, and would eliminate the need to establish special anchorages outside of established anchorages. This proposal will also allow for more usable space in General Anchorage 9 at times when the explosive anchorage is activated.

An analysis of past anchorage activations indicates that the vessels currently being chartered for the carriage of DOD explosive cargo are approximately 26,400 gross tons or greater. Each vessel has carried a load of 5.8 million pounds net explosive weight or more and required at least 42 feet of water to adequately maintain a 2 foot under keel clearance. In its current location explosive Anchorage 14 is limited in depth of available water such that vessels with a draft greater than 38 feet find it difficult to anchor and remain within the designated anchorage. Existing Captain of the Port policy places restriction on locations where lightering of tank vessels and bunkering of all commercial vessels can take place. Captain of the Port Advisory 4–95 allows lightering and bunkering to take place only in Anchorage 9. The current location of explosives Anchorage 12 and 14 does not always allow for the most effective use of space in General Anchorage 9, the only anchorage authorized for lightering and bunkering, when Anchorage 12 or 14 is activated.

Discussion of the Proposed Amendment

The regulation moves the anchorage, as currently configured in size and shape, to a new position where the centers of the semicircular end boundaries are located, respectively, at latitude 37°42′6″ N., longitude 122°19′48″ W. and latitude 37°43′5″ N., longitude 122°19′8″ W. (NAD 83). With this proposed movement, Anchorage 14 will include deeper water, while maintaining an effective area of safety for vessels laden with explosives with a net explosive weight of 3,000 tons or greater. This proposed regulation is designed to eliminate undue congestion and provide an effective area of safety in an area that can only accommodate a limited number of commercial vessels with drafts greater than 38 feet. Additionally, a provision will be added specifically giving the Captain of the Port the authority to permit vessels to exceed the 3,000 ton explosives limit.

Regulatory Evaluation

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

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include

small businesses and not-for-profit organizations that are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000. Because it expects the impact of this proposal to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not raise 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 of Commandant Instruction M16475.1B, as revised in 59 FR 38654, July 29, 1994, and 61 FR 13563, March 27, 1996, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. The environmental analysis checklist and Categorical Exclusion Determination will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES**.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend part 110, title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2071; 49 CFR 1.46; and 33 CFR 1.05–1(g). Section 110.1a and each section listed in it are also listed under 33 U.S.C. 1223 and 1231.

2. In section 110.224, note f to TABLE 110.224(d)(1) in paragraph (d) and paragraph (e)(10) are revised to read as follows:

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters, CA.

* * * * *

(d) * * *

TABLE 110.224(d)(1)

* * * * *

Notes: f. the maximum total quantity of explosives that may be on board a vessel using this anchorage shall be limited to 3,000 tons unless otherwise authorized with the written permission of the Captain of the Port.

* * * * *

(e) * * *

(10) *Anchorage No. 14.* In San Francisco Bay east of Hunters Point an area 1,000 yards wide and 2,760 yards long, the end boundaries of which are semicircles, with a radii of 500 yards and center, respectively at latitude 37°42′37″ N., longitude 122°19′48″ W. and latitude 37°43′29″ N., longitude 122°19′48″ W. (NAD 83); and the side boundaries of which are parallel tangents joining the semicircles. A 667 yard-wide forbidden anchorage zone surrounds this anchorage.

* * * * *

Dated: April 15, 1997.

J.M. MacDonald,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District (Acting).

[FR Doc. 97–11561 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI66–01–7242; FRL–5821–1]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 15, 1994, the Wisconsin Department of Natural Resources (WDNR) submitted an overwhelming transport petition to the United States Environmental Protection Agency (EPA) requesting temporary suspension of the automatic reclassification to Serious Nonattainment and the delay of the attainment date (from 1996 to 2007) for three ozone Moderate Nonattainment Counties (Manitowoc, Sheboygan, and Kewaunee). However, on August 26, 1996, the counties of Sheboygan and Kewaunee were redesignated to attainment. As a result, this overwhelming transport request is being applied only to Manitowoc County. The petition is supported with results from photochemical grid modeling. Approval of the temporary attainment date delay will suspend the automatic reclassification of Manitowoc County from Moderate to Serious. Final approval of the new attainment date is dependent upon the results of an attainment demonstration for both the upwind and downwind areas. Approval of the attainment date delay petition does not preclude the State from submitting a request for redesignation to attainment for the county, based on 3 years of clean air quality monitoring data.

DATES: Comments on this request and on the proposed EPA action must be received by June 4, 1997.

ADDRESSES: Written comments should be addressed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following location.

Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Rick Tonielli, Air Programs Branch, Regulation Development Section (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6068.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1994, the Wisconsin Department of Natural Resources submitted a petition to the EPA requesting temporary suspension of the automatic reclassification to serious nonattainment and the delay of the attainment date (from 1996 to 2007) for 3 ozone Moderate Nonattainment Counties (Manitowoc, Sheboygan, and Kewaunee). On May 15, 1996, the WDNR submitted a request for redesignation to attainment for the three moderate nonattainment areas based on 3 years of clean air quality data. On August 26, 1996, the counties of Sheboygan and Kewaunee were redesignated to attainment (61 FR 43668–43675). Manitowoc County was not redesignated to attainment due to violations of the ozone national ambient air quality standard (NAAQS) during the summer of 1996. As a result, this overwhelming transport request will be applied solely to Manitowoc County.

The November 15, 1994 petition from WDNR was submitted in response to EPA's September 1, 1994 guidance policy for areas affected by overwhelming transport. That Guidance, entitled ''Ozone Attainment Dates for Areas Affected by Overwhelming Transport'', describes the rationale used by EPA to temporarily revise the attainment date for areas affected by overwhelming transport, without bumping them up to a higher classification. In order for an area to qualify for an extension, the State must clearly demonstrate through modeling that transport from an area with a later attainment date makes it ''practicably impossible'' for the area in question to attain the standard by its attainment date. The policy further states that ''modeling must support the new attainment date, which should be as expeditious as practicable, but no later than the attainment date of the area causing the delay.'' The State must specify the new attainment date in its SIP.

The September 1, 1994 guidance policy further states that ''an area can request, and EPA can approve, an attainment date extension separate from the attainment demonstration''. In other words, an area can be granted a temporary delay in its attainment date by demonstrating overwhelming transport even though attainment demonstrations for upwind and downwind areas are not yet complete. The policy goes on to state that ''EPA will take rulemaking action on such requests to temporarily suspend the original attainment date. Final approval of an attainment date extension—with a newly specified attainment date—will depend on the results of the attainment demonstrations for both the upwind and downwind areas.'' Wisconsin is working toward completion of an attainment demonstration in conjunction with Illinois, Indiana, and Michigan, following the Phase I/Phase II Ozone Transport Assessment Group approach outlined in EPA's March 2, 1995 guidance memorandum from Mary Nichols entitled ''Ozone Attainment Demonstrations''. The goal of this approach is to reduce the amount of transported ozone across the eastern United States through the implementation of regional, as well as urban scale, emission reductions. The attainment demonstration for the Lake Michigan States, including Wisconsin, is due in mid-1997.

II. Review of Modeling Demonstration to Support Attainment Date Extension

The demonstration of the overwhelming transport was based on a protocol, dated September 23, 1994, that was developed by the Lake Michigan Air Directors Consortium (LADCO) for both the Western Michigan and Northeastern Wisconsin Moderate Nonattainment Areas petitioning for attainment date extensions. LADCO is an organization which provides technical support and guidance to the states of Illinois, Indiana, Michigan, and Wisconsin.

Methodology

The modeling was performed using the Urban Airshed Model-Variable (UAM–V). The UAM–V model was approved by EPA for regulatory use in the Lake Michigan region. The model used boundary ozone conditions based on observed data. Wind field data were based on predictions from the CALRAMS prognostic meteorological model. Emissions were based on the Lake Michigan Ozone Study (LMOS) inventory. Details of the modeling input are included in the Technical Support Document and in the State submittal.

The modeling analysis consisted of two basic steps:

(1) UAM–V runs were used to demonstrate the effectiveness of mandatory control measures using 1996 Clean Air Act control measures and growth (Strategy 1). This strategy contains a variety of emission reduction measures for both stationary and mobile sources, as well as for formulation of gasoline. Runs were conducted for four 1991 LMOS episodes: (1) June 26–28, (2) July 17–19, (3) August 25–26, and (4) June 20–21.

(2) When step 1 failed to show attainment in the Moderate Nonattainment areas, the State demonstrated overwhelming transport by determining the contribution made by the three Moderate Nonattainment counties to the peak ozone concentrations seen in the Wisconsin Moderate Nonattainment Areas. This was done by repeating Step 1 while zeroing out the NO_X and anthropogenic volatile organic compound (VOC) emissions in the Moderate Nonattainment area and running UAM–V for LMOS episodes 1 and 3. Episodes 1 and 3 were chosen because the highest predicted and observed ozone concentrations in northeastern Wisconsin occurred during those episodes. Additionally, the predominant wind flow during these two episodes was from the southwest, which allowed an examination of transport from the upwind Chicago and Milwaukee severe nonattainment areas.

TABLE 1.—PREDICTED OZONE CONCENTRATIONS

[Parts per billion]

	Domain-wide peak			WI moderate nonattainment area peak	
	Basecase	Step 1	Step 2	Step 1	Step 2
Episode 1:					
June 26	[1] 165	[2] 158	[3] 158	[4] 137	137
June 27	151	143	143	102	104
June 28	142	134	134	105	106
Episode 2:					
July 17	148	141	.....	98	.....
July 18	162	157	.....	109	.....
July 19	160	155	.....	88	.....
Episode 3:					
August 25	128	127	127	93	92
August 26	158	150	150	136	[5] 138
Episode 4:					
June 20	137	132	.....	73	.....
June 21	126	123	.....	68	.....

*Basecase—includes no emission reduction strategies.

[1] The maximum Basecase ozone concentration predicted for the modeling domain (the area being modeled, which includes upwind areas as well as the moderate nonattainment areas), 165 ppb, occurred during Episode 1, and was located just east of Milwaukee, over Lake Michigan.

[2] The maximum domain-wide Strategy 1 ozone concentration, 158 ppb, occurred during Episode 1, and was located just east of Milwaukee, over Lake Michigan.

[3] The maximum domain-wide Strategy 1 ozone concentration with Wisconsin Moderate Area emissions zeroed out was 158 ppb, occurred during Episode 1, and located just east of Milwaukee, over Lake Michigan.

[4] The maximum WI Moderate Nonattainment Area ozone concentration with Strategy 1 emissions was 137 ppb and occurred during Episode 1. This concentration was predicted in Sheboygan County.

[5] The maximum WI Moderate Nonattainment Area Strategy 1 ozone concentration with Wisconsin Moderate Area emissions zeroed out was 138 ppb and occurred during Episode 3. This concentration was predicted in Manitowoc County.

Results

The numerical results of the step 1 and step 2 modeling are presented in Table 1. The numbers in the table were taken from plots of modeled output, (included in the State submittal) showing the spatial distribution of ozone concentrations for the various episodes and control assumptions.

Table 1 clearly shows that the domain-wide peak concentrations and the Moderate Nonattainment Area peak concentrations are unaffected by emissions from Sheboygan, Manitowoc, and Kewaunee Counties. In each of the two episodes modeled with zeroed-out emissions for the three counties, the peak concentrations in those counties remained essentially unchanged and on a few days, resulted in slightly higher concentrations.

III. Proposed Rulemaking Action and Solicitation of Public Comment

The State submittal demonstrated that emissions from the Wisconsin Moderate Nonattainment Area did not contribute to the exceedances predicted in that area for Episodes 1 and 3. It further demonstrated that the exceedances are due to transport from upwind areas. Two of the three counties originally in the moderate nonattainment area have since been redesignated to attainment based on 3 years of clean air quality data. Consequently, this petition applies only to Manitowoc County. Although the modeling analysis submitted by the State examined the impact of zeroing out emissions from all three counties, the results from that analysis remain valid now that the petition applies only to Manitowoc County. In other words, if zeroing out emissions in three counties had minimal domain-wide or local impact, zeroing out emissions from one county would also have minimal impact. Therefore, Manitowoc County could not demonstrate modeled attainment of the Ozone National Ambient Air Quality Standards by the required attainment date, November 15, 1996, due to overwhelming transport from upwind areas that have a later attainment date of November 15, 2007. Because the upwind areas (e.g., Chicago and Milwaukee) do not have approved modeling analyses demonstrating that the WI Moderate Nonattainment Area could show attainment by a specific date, the EPA is proposing to approve the request to temporarily allow the Manitowoc County moderate nonattainment area to use the upwind area's attainment date of November 15, 2007. Approval of a permanent delay of the attainment date will be dependent on the results of the attainment demonstration due in mid-1997 for both the upwind and downwind areas, along with the additional provisions detailed in part II(B) of the attachment to the September 1, 1994, guidance memorandum.

The demonstration made by the State which shows that the current SIP emission reduction measures would be sufficient to achieve attainment by the moderate area attainment date but for the overwhelming amount of transported pollutants into the area is based on modeling results. Approval of the attainment date delay petition does not preclude the State from submitting a request for redesignation to attainment for Manitowoc County based on air quality monitoring data.

Public comments are solicited on EPA'S proposed rulemaking action. Public comments received by June 4, 1997 will be considered in the development of EPA's final rulemaking action.

General Provisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Regulatory Process

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 economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (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 economic impact on any small entities.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532, 1533, and 1535, 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 the state implementation plan or plan revisions approved in this section, the State has elected to adopt the program provided for under section 110 of the Clean Air Act. The rules and commitments being approved under this section may bind State, local, and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to

State, local, or tribal governments, or to the private sector, result from this action. The EPA has also determined that this 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. Approval of Wisconsin's emissions inventories does not impose any new requirements or have a significant economic impact on small entities.

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 July 7, 1997.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Volatile organic compounds, Nitrogen oxides.

Authority: 42 U.S.C. 7401–7671(q).

Dated: April 16, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97–11628 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–47

RIN 3090–AG39

Utilization and Disposal of Real Property

AGENCY: Office Of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the section of the regulations issued by the General Services Administration (GSA) pertaining to the responsibilities of disposal agencies with respect to appraisals. This action is necessary because it clarifies and strengthens the intended effect of this rule which is to ensure the reliability, integrity, and confidentiality of appraisals of real property.

DATES: Comments must be received on or before July 7, 1997.

ADDRESSES: Written comments should be sent to the Office of Property Disposal (PR), General Services Administration, Washington, DC 20405

FOR FURTHER INFORMATION CONTACT: Norman Miller, Director, Redeployment Services Division (202) 501–0067.

SUPPLEMENTARY INFORMATION:

A. GSA has determined that this is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of the rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for public comment, therefore the Regulatory Flexibility Act does not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 501 *et seq.*

List of Subjects in 41 CFR Part 101–47

Government property management; Surplus Government property.

Therefore, it is proposed that 41 CFR part 47 be amended as set forth below:

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for 41 CFR Part 47 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 101–47.303–4 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 101–47.303–4 Appraisal.

* * * * *

(c) The disposal agency shall have the property appraised by experienced and qualified persons familiar with the types of property to be appraised by them. If the property is eligible for inclusion on the National Register of Historic Places, the appraisal should consider the effect of historic covenants on fair market value. Any person engaged to collect or evaluate information pursuant to this subsection shall certify that there is no interest, direct or indirect, of said person, in the property which would conflict in any manner with the preparation and submission of an impartial appraisal report.

(d) *Appraisal confidentiality.* Appraisals, appraisal reports, appraisal analyses, and other pre-decisional documents obtained in accordance with subpart 101–47.3 are confidential and for the use of authorized personnel of Government agencies having a need for such information. Further, such information shall not be divulged prior to the delivery and acceptance of the deed.

Dated: February 3, 1997.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 97–11538 Filed 5–2–97; 8:45 am]

BILLING CODE 6820–23–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 97–94; FCC 97–84]

Streamline the Equipment Authorization Process

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this Notice of Proposed Rule Making (NPRM) the Commission proposes to amend the rules to simplify our existing equipment authorization processes; deregulate the equipment authorization requirements for certain types of equipment; and provide for electronic filing of applications for equipment authorization. These actions will greatly reduce the complexity and burden of the Commission's equipment authorization requirements.

DATES: Comments must be filed on or before July 21, 1997, and reply comments August 18, 1997. Persons wishing to comment on the information collections should submit comments July 21, 1997.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained

herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W. Washington, D.C. 20554, or via the Internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Julius P. Knapp at (301) 725–1585 x 201 or John Reed at (202) 418–2455. Internet: jknapp@fcc.gov or jreed@fcc.gov, Office of Engineering and Technology, Federal Communications Commission. For additional information concerning the information collections, or copies of the information collections contained in this *NPRM* contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, ET Docket 97–94, FCC 97–84, adopted March 13, 1997, and released March 27, 1996. The item proposes to: simplify our existing equipment authorization processes; deregulate the equipment authorization requirements for certain types of equipment and provide for electronic filing of applications for equipment authorization.

This Notice contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

The full text of this Commission decision, including the proposed rules appendix, is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of NPRM

1. By this action, the Commission proposes to amend the rules to: simplify our existing equipment authorization processes; deregulate the equipment authorization requirements for certain types of equipment; and provide for electronic filing of applications for equipment authorization. These actions will greatly reduce the complexity and burden of the Commission's equipment authorization requirements. Further, these steps will improve the efficiency of the equipment authorization process so that products can be introduced to the market more rapidly.

2. The Commission's equipment authorization program has been a resounding success in controlling interference. Today, hundreds of millions of radio transmitters, consumer products and electronic devices all share the airwaves with remarkably little interference. At the same time, we note that the current equipment authorization procedures have evolved over the course of more than 25 years. We observe that the current multiplicity of equipment authorization processes has resulted in an extensive and complicated set of regulations. Manufacturers are often confused as to the requirements and procedures they must follow, which can sometimes lead to delays in introducing products to the market. Accordingly, we are initiating this proceeding on our own motion to provide a simpler, less burdensome path for products to be marketed in the United States. We recognize that many parties have an interest in these rules. We intend to solicit as broad a range of comments and alternative suggestions as possible. Our specific proposals are discussed below.

3. The FCC rules specify technical requirements for radio and electronic equipment to control radio frequency interference. In order to ensure compliance with the technical requirements, the rules generally require the equipment to be authorized in accordance with one of the procedures in Part 2 Subpart J of the rules. The procedures are: type acceptance, certification, notification, verification and declaration of conformity. The type acceptance and certification procedures are similar in many respects. Accordingly, we are proposing to eliminate the type acceptance procedure and incorporate into the certification procedure those requirements that continue to be necessary for equipment used in the authorized services. We believe it is appropriate to maintain use of the term certification because this term is used internationally for similar procedures. We recognize that there are several similar rule sections under the type acceptance and certification procedures, such as the requirements for information that must be included in an application and for permissive changes. We propose generally to supplement the existing certification rules with any additional information that may continue to be needed for equipment used in the authorized radio services. We invite comments on these proposals.

4. The notification procedure was initially established in the 1980s for equipment that no longer warranted type acceptance or certification, but still posed sufficient risk of noncompliance to monitor the introduction of new products. We have found little benefit from the notification procedure. Accordingly, we are proposing to delete the notification procedure. We are generally proposing that equipment formerly subject to notification would instead be subject to either the DoC or verification procedure, with our specific proposals given below. We invite comment on the continued need for the notification procedure.

5. We observe that the verification and DoC procedures are also similar in that they are both manufacturer self-authorization procedures. However, there are several important differences. We are proposing to maintain the DoC and verification procedures. The DoC procedure was established only recently and any further changes at this time would be disruptive. Further, we note that the verification procedure provides a means to authorize equipment that imposes very little burden on manufacturers. We believe such a procedure is appropriate for equipment that has an excellent record of compliance, where the measurement methods are well known and understood, and it is relatively easy to determine the party responsible for compliance. Nevertheless, we invite comment as to whether we should maintain DoC and verification as separate procedures or whether there may be some benefit in combining these procedures in some fashion.

6. We recognize that these proposed changes raise a number of additional issues. We are therefore proposing to discontinue maintenance of the Radio Equipment List. We are proposing that under the new combined certification procedure the fee will be $895 for devices operating under Parts 15 and 18 of the rules and $450 for everything else. Both charges will be applied for products that contain devices that require certification under either Part 15 or 18 and other rule parts, excluding telephone equipment registration under Part 68 for equipment that is widely available on the market we are proposing to require submittal of a sample to the Commission for testing within 14 days of request. To accomplish this, we are proposing to require manufacturers to provide a voucher upon request for purchase of a sample equipment at a retail outlet. We would also like to take this opportunity to clarify the rules that apply to corporate mergers, buyouts, acquisitions, etc. involving grantees of equipment authorization. Section 2.929 of the rules states that an equipment authorization issued by the Commission may not be assigned, exchanged, or in any other way transferred to a second party. Section 2.935 states that in the

case of a transfer of control of the grantee of an equipment authorization, as in the case of sale or merger of the grantee, notice of such transfer must be received by the Commission not later than 60 days subsequent to the consummation of the agreement effecting the transfer of control. We are proposing to combine these rules into one and clarify that the party assuming responsibility for the equipment may file a single application covering all the affected equipment. Comments are invited on each of these proposals.

7. We have not reviewed the requirements for many types of equipment for 10 years or longer. We believe that submittal and review of equipment authorization applications to the Commission is no longer warranted for certain equipment where the technical requirements are met with little difficulty, the test methods are widely understood, interpretive questions arise infrequently, and there has been an excellent record of compliance. Accordingly, we are proposing to relax the equipment authorization requirements for various types of equipment based on our experience in reviewing applications and our assessment of the appropriate procedure required to ensure continued compliance. Our specific proposals are as follows:

a. Relax the requirements from certification or notification to the DoC procedure for the following Part 15 unintentional radiators: CB receivers; superregenerative receivers; all other Part 15 receivers; and, TV Interface Devices (including video cassette recorders and TV video games), except that we will require certification for cable system terminal devices to ensure against marketing of such devices for theft of cable service. We will continue to require certification for scanning receivers to ensure that they meet the Congressionally mandated requirement of Section 15.121 that they do not tune frequencies allocated to the Domestic Public Cellular Radio Telecommunications Service.

b. Relax the requirements for Part 18 consumer ISM (industrial, scientific and medical) equipment from certification to the DoC procedure. This includes such devices as consumer microwave ovens, RF lighting devices, and ultrasonic jewelry cleaners.

c. Relax the requirements for wildlife tracking and ocean buoys operating under Part 5 from notification to verification.

d. Relax the requirements for Part 101 point-to-point microwave transmitters from notification to the DoC procedure.

e. Relax the requirements for Part 73 standard broadcast (AM transmitters), FM transmitters, television transmitters, and antenna phase monitors from notification to verification.

f. Relax the requirements for Auxiliary Broadcast aural STLs, aural intercity relays, aural STL boosters, aural intercity relay boosters, TV STLs, TV intercity relays, TV translator relays and TV microwave boosters from notification to the DoC procedure.

g. Relax the requirements for Part 78 Cable Television Relay fixed transmitters from notification to the DoC procedure.

h. Relax the requirement for Part 80 INMARSAT equipment from notification to verification.

i. Relax the requirement for Part 87 406 Mhz emergency locator transmitters from notification to verification.

j. No changes for equipment that is currently subject to either the DoC or verification procedures. Specifically, the following equipment would remain subject to verification: digital devices (other than personal computer equipment); FM and TV broadcast receivers; non-consumer ISM equipment; and stand-alone cable input selector switches. Personal computer equipment can continue to be authorized under the DoC procedure.

8. We propose to retain the certification requirements for Part 15 intentional radiators, including spread spectrum devices, cordless telephones, remote control and security devices, field disturbance sensors, unlicensed PCS (Personal Communications Service) devices and NII (National Information Infrastructure) devices. We are proposing to shift all equipment currently subject to type acceptance to the certification procedure. This is simply an administrative change and will not lower the threshold of review for compliance with the technical requirements. We invite comments on our specific proposals for changing the equipment authorization requirements for various equipment. In particular, we solicit information as to whether any equipment currently subject to certification or notification should be relaxed to a different procedure than we have proposed. We also invite recommendations as to whether any equipment proposed to be subject to certification should be relaxed to the DoC or verification procedures. We will permit applicants to file under the existing procedures for a period of up to two years. We will also discontinue accepting applications for certification of personal computer equipment at that time since such equipment can be authorized under the DoC procedure. We solicit comments on this proposed transition plan.

9. We are committed to continually improving the processing of applications for equipment authorization that are required to be submitted to the Commission. We believe the existing process can be streamlined significantly by providing for the electronic filing of such applications. At this time we do not know precisely when we will initiate electronic filing of applications for certification. The Commission will issue a public notice announcing the acceptance of electronically filed applications at the appropriate time. We are in this notice proposing to recognize electronic signatures on applications. There are also a number of other issues that we believe should be examined before implementing electronic filing of applications.

10. It appears that the most effective means to implement electronic filing would be through the use of the Internet. Initial system design proposes that an application would be completed via an Internet web page located on an FCC Internet server. Attachments, including all exhibits required by the Commission's rules such as manuals, diagrams, photographs, etc., would be copied to a specified FCC file server using file transfer protocol (ftp). Exhibits would follow a standard submission format, and be submitted using tagged image format (tif) files and/or portable document format (pdf) files. Fees would be paid either by check or by credit card. We request comments on this general approach.

11. We are considering whether to require that *all* equipment authorization applications be filed electronically. While we recognize that not all applicants would have on-site access to equipment that would permit electronic filing, we believe that a majority of equipment authorization applicants are on the ''cutting edge'' of technology, and would have ready access to equipment and software to permit them to file electronically. We invite comment on the possible complete elimination of paper applications.

12. The Commission frequently receives requests to examine and copy applications for equipment authorization after they have been granted. If implemented, the proposed electronic filing initiative would result in digitized storage of all equipment authorization application information. We are considering how we can best make the applications available to the public once they are granted. While all application information could be made available via the Internet, we are

concerned that the volume of information contained in each application could cause an overall degradation of service to users. An alternative would be to provide via the Internet the information that users consider most useful, such as the application Form 731, and designate an outside contractor that could provide the remaining information upon request. Specific comments are requested on this approach and whether certain other basic information such as the measurement report should be made available over the Internet. We also solicit views on the vehicle and media that is most beneficial for distributing application information.

Initial Regulatory Flexibility Analysis

13. As required by Section 603 of the Regulatory Flexibility Act,[1] the Commission has prepared an Initial Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (''NPRM''). Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

14. Need For and Objectives of the Proposed Rule. This rule making proceeding is initiated to obtain comment regarding proposals to improve the Federal Communications Commission equipment authorization program for telecommunications equipment and electronics products. The Commission seeks to simplify and streamline the equipment authorization process for telecommunications equipment and electronics products; deregulate the equipment authorization requirements for certain equipment; and implement electronic filing of applications.

15. Legal Basis. The proposed action is authorized under Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

16. Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply. For the purposes of this NPRM, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[2] Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[3]

17. The Commission has not developed a definition of small entities applicable to RF equipment manufacturers. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, an RF equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern.[4] Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[5] The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are manufacturers of RF devices. However, we believe that many of the companies that manufacture the RF devices that will be affected by this rulemaking may qualify as small entities. We seek comments to this IRFA regarding the number of small entities to which the proposed rule pertains.

18. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. We are proposing to eliminate the equipment authorization process called notification which requires filing of information with the Commission. We are also proposing to eliminate type acceptance as a separate procedure and instead incorporate the essential requirements into our certification procedure. A number of types of equipment that are currently subject to an equipment authorization by the Commission will be permitted to be self-authorized by the manufacturer. We also plan to implement electronic filing for applications for equipment authorization that will be filed with the Commission. We expect that these actions will result in a significant decrease in the overall recordkeeping requirements.

19. Significant Alternatives to Proposed Rule Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives. The actions proposed in this proceeding will result in a significant decrease in equipment authorization applications that must be filed with the Federal Communications Commission. We believe that small entities will benefit from these proposals because in many cases they will no longer be required to file applications with the Commission. Also, small entities will benefit from the simpler regulations and streamlined process for equipment that continues to require authorization by the FCC. We seek comments to this IRFA regarding these tentative conclusions.

20. Federal Rules Which Overlap, Duplicate or Conflict With These Rules. None.

Paperwork Reduction Act Information

21. This NPRM contains modified information collections subject to the Paperwork Reduction Act of 1995. The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The following is supplementary information regarding the modified information collections contained in this NPRM :

OMB Approval Number: 3060–0057.

Title: Application for Equipment Authorization, Section 2.911.

[1] 5 U.S.C. § 603.

[2] *See* 5 U.S.C. § 601(3) (incorporating by reference the definition of ''small business concern'' in 5 U.S.C. § 632).

[3] 15 U.S.C. § 632.

[4] 13 CFR § 121.201, (SIC) Code 3663.

[5] U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663.

Form No.: FCC Form 731.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit; Small businesses or organizations.

Number of Respondents: 3,000.

Estimated Time Per Response: 24 hours.

Total Annual Burden: 72,000 hours.

Needs and Uses: Equipment testing is performed, and data is gathered, to provide information to aid in controlling interference to radio communications. A completed application combined with descriptive information, test data, and occasionally a test sample documents the compliance of the subject equipment with the FCC Rules, and may also be used to aid in enforcement of the Rules. This NPRM proposes a streamlining of the equipment authorization process to provide for approval of certain equipment under the less burdensome Declaration of Conformity process. The number of respondents and corresponding burden hours are therefore expected to be reduced as a result of this NPRM.

OMB Approval Number: 3060–0636.

Title: Equipment Authorization—Declaration of Conformity, Parts 2 and 15.

Form No.: None.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit; Small businesses or organizations.

Number of Respondents: 6,600.

Estimated Time Per Response: 19 hours.

Total Annual Burden: 125,400 hours.

Needs and Uses: Data collected is used to investigate complaints of harmful interference to radio communications, and to verify manufacturer's or supplier's compliance with the Rules. The information collected is essential to controlling potential interference to radio communications. This NPRM proposes a streamlining of the equipment authorization process to provide for approval of certain equipment under the less burdensome Declaration of Conformity process. An increase in the number of respondents and burden hours for this collection is proposed, concurrent with a decrease in the respondents and burden hours reported under OMB 3060–0057. A net decrease in burden hours is anticipated as a result of the NPRM.

List of Subjects in 47 CFR Part 2

Authorization, Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10717 Filed 5–2–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period and Notice of Public Hearings on Proposed Endangered Status for the Preble's Meadow Jumping Mouse (Zapus Hudsonius Preblei)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings and extension of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that public hearings will be held on the proposed determination of endangered status for the Preble's meadow jumping mouse (*Zapus hudsonius preblei*). To accommodate the public hearings, the comment period on the proposal will be extended. The Preble's meadow jumping mouse, a small rodent of the family Zapodidae, is known to occur only in four counties in Colorado and two counties in Wyoming. All interested parties are invited to submit comments on this proposal.

DATES: Public hearings will be held as follows: 6:30 to 8:30 p.m. on Monday, May 19, 1997, in Cheyenne, Wyoming; 7:00 to 9:00 p.m. on Wednesday, May 21, 1997, in Colorado Springs, Colorado; and, 7:00 to 9:00 p.m. on Thursday, May 22, 1997, in Denver, Colorado. Registration will begin one hour prior to each hearing. Comments will be accepted until July 28, 1997.

ADDRESSES: The public hearings will be held at the following locations: the Laramie County Library, 2800 Central Avenue, Cheyenne, Wyoming; the 3rd Floor Hearing Room, El Paso County Office Building, 27 East Vermijo, Colorado Springs, Colorado; and, the Hunter Education Classroom, Colorado Division of Wildlife, 6060 Broadway, Denver, Colorado. Written comments and materials should be sent to the Colorado Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service's Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: LeRoy W. Carlson, Colorado Field Supervisor, telephone 303/275–2370 (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

The Preble's meadow jumping mouse, a small rodent in the family Zapodidae, is known to occur in only four counties in Colorado and two counties in Wyoming. Historical surveys document its former presence in five additional counties in Colorado and three additional counties in Wyoming. The Preble's meadow jumping mouse lives primarily in heavily vegetated riparian habitats. Habitat loss and degradation caused by agricultural, residential, commercial, and industrial development imperil its continued existence. This proposal, if made final, would extend protection of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) to the Preble's meadow jumping mouse.

On March 25, 1997, the Service published a proposed rule (62 FR 14093) to list the Preble's meadow jumping mouse as an endangered species without critical habitat.

Public Comments Solicited

The Service has scheduled hearings on May 19, 21, and 22, 1997, with registration beginning 1 hour prior to each hearing (see **DATES** and **ADDRESSES** above). Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement to be presented to the Service at the start of the hearing. In the event that there is a large audience, the time allotted for oral statements may have to be limited.

Oral and written statements concerning the proposed rule will receive equal consideration by the Service. There are no limits to the length of written comments presented at the hearing or mailed to the Service. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Preble's meadow jumping mouse;

(2) The location of any additional populations of the Preble's meadow jumping mouse;

(3) Additional information concerning the range, distribution, and population size of the species; and

(4) Current or planed activities which may adversely affect known populations of Preble's.

Legal notices and news releases announcing the date, time, and location of the hearings are being published in newspapers concurrently with this **Federal Register** notice.

The previous comment period on this proposal is scheduled to close on May 27, 1997. To accommodate these hearings, the Service extends the comment period. Written comments may now be submitted until July 28, 1997, to the Service office identified in the **ADDRESSES** section above. All comments must be received before the close of the comment period to be considered.

Author: The author of this notice is Peter Plage, Colorado Field Office (see **ADDRESSES** above), telephone 303/275–2370.

Authority: Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 28, 1997.

Terry T. Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 97–11567 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD35

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on the Proposed Rule to List the Pallid Manzanita as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of reopening of the comment period on the proposed threatened status for *Arctostaphylos pallida* (pallid manzanita) which was published in the **Federal Register** on August 2, 1995. The comment period has been reopened to acquire additional information from interested parties, and to resume the proposed listing actions.

DATES: The public comment period closes June 4, 1997.

ADDRESSES: Written comments and materials concerning this proposal should be sent directly to the Field Supervisor, Sacramento Field Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received will be available for inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dwight Harvey (see **ADDRESSES** section) at (916) 979–2725.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1995, the Service published a rule proposing threatened status for *Arctostaphylos pallida* (60 FR 39309–39314). The original comment period closed on September 25, 1995. No public hearing was requested. The Service was unable to make a final listing determination on this species because of a limited budget, other endangered species assignments driven by court orders, and higher listing priorities. In addition, a moratorium on listing actions (Public Law 104–6), which took effect on April 10, 1995, stipulated that no funds could be used to make final listing determinations or critical habitat determinations.

After funding was restored, the Service proceeded with a final determination for this species by reopening the comment period from February 25, 1997 until March 27, 1997 (62 FR 8417, February 25, 1997). During this period, the Service received a request that the comment period be reopened an additional 30 days in order that all interested and affected parties have sufficient opportunity to submit their comments in writing.

Pallid manzanita is found only in the northern Diablo Range of California. It occupies 13 sites in Alameda and Contra Costa Counties. The two largest populations are located at Huckleberry Ridge and Sobrante Ridge. The plants are found in manzanita chaparral habitat that is frequently surrounded by oak woodlands and coastal scrub. The plants are threatened by shading and competition from native and non-native plants, fire suppression, habitat fragmentation, hybridization, disease, herbicide spraying, and unauthorized tree cutting.

The Service particularly seeks information concerning:

(1) The known or potential effects of fire suppression and general fire management practices on the pallid manzanita and its habitat.

In addition, the Service seeks information that has become available in the last two years concerning:

(2) Other biological, commercial, or other relevant data on any threats (or lack of thereof) to the species; and

(3) The size, number, or distribution of populations of the species.

Written comments may be submitted through June 4, 1997 to the Service office in the **ADDRESSES** section.

Any comments received by the closing date will be considered in the final decision on this proposal.

Author: The primary author of this notice is Dwight Harvey (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 28, 1997.

Thomas J. Dwyer,

Acting Regional Director, Portland, OR.

[FR Doc. 97–11572 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 62, No. 86
Monday, May 5, 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

Forest Service

Eastern Region; Legal Notice of Appealable Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Eastern Region will publish notice of decisions subject to administrative appeal under 36 CFR Part 217 in the legal notice section of the newspaper listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR 217 and 36 CFR 215 shall begin May 1, 1997.

FOR FURTHER INFORMATION CONTACT: JAMES SMALLS, Regional Appeals and Litigation Coordinator, Eastern Region, Reuss Federal Plaza, 310 West Wisconsin, Avenue, Milwaukee, Wisconsin 53203, Area Code 414–297–1371.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Eastern Region will give legal notice of decisions subject to appeal under 36 CFR Part 217 and 36 CFR Part 215 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. As provided in 36 CFR 217.8(2) and 36 CFR 215.13(a), the timeframe for appeal shall be based on the date of publication of a notice of decision in the primary newspaper.

Decisions by the Regional Forester

Journal/Sentinel, published daily in Milwaukee, Milwaukee County, Wisconsin, for decisions affecting National Forest System lands in the States of Illinois, Indiana and Ohio, Michigan, Minnesota, Missouri, New Hampshire and Maine, Pennsylvania, Vermont and New York, West Virginia, Wisconsin and for any decision of Region-wide impact.

Allegheny National Forest, Pennsylvania

Forest Supervisor Decisions:

Warren Times Observer, Warren, Warren County, Pennsylvania

District Ranger Decisions:

Bradford District: Bradford Era, Bradford, McKean County, Pennsylvania

Marienville District: The Derrick, Oil City, Pennsylvania

Ridgway District: Ridgway Record, Ridgway, Elk County, Pennsylvania

Chequamegon-Nicolet National Forests, Wisconsin

Forest Supervisor Decisions:

Milwaukee Journal Sentinel, published daily in Milwaukee, Milwaukee County, Wisconsin

District Ranger Decisions:

Glidden-Hayward District: The Glidden Enterprise, published weekly in Glidden, Ashland County, Wisconsin and Sawyer County Record, published weekly in Hayward, Sawyer County, Wisconsin

Medford District: The Star News, published weekly in Medford, Taylor County, Wisconsin

Park Falls District: Park Falls Herald, published weekly in Park Falls, Price County, Wisconsin

Washburn District: The Daily Press, published daily in Ashland County, Ashland, Wisconsin

Eagle River-Florence Districts: The Daily News, published daily except Saturday, Rhinelander, Wisconsin

Lakewood-Laona Districts: The Daily News, published daily except Saturday, Rhinelander, Wisconsin

Chippewa National Forest, Minnesota

Forest Supervisor Decisions:

Bemidji Pioneer, published daily in Bemidji, Beltrami County, Minnesota

District Ranger Decisions:

Blackduck District: The American, published weekly in Blackduck, Beltrami County, Minnesota

Cass Lake District: Cass Lake Times, published weekly in Cass Lake, Cass County, Minnesota

Deer River and Marcell Districts: Western Itasca Review, published weekly in Deer River, Itasca County, Minnesota

Walker District: The Pilot/Independent, published weekly in Walker, Cass County, Minnesota

Green Mountain National Forest, Vermont

Forest Supervisor Decisions:

Rutland Herald, published daily in Rutland, Rutland County, Vermont.

District Ranger Decisions: Note: the Rutland Herald is the paper of record for all District Ranger decisions. Legal notices are filed with the following papers depending on the location of the project.

Manchester District: Bennington Banner, published daily in Bennington, Bennington County, Vermont; Manchester Journal, published weekly in Bennington County, Vermont and Brattleboro Reformer, published daily in Brattleboro, Windham County, Vermont

Middlebury District: Addison County Independent, published twice a week in Middlebury, Addison County, Vermont

Rochester District: Burlington Free Press, published daily in Burlington, Chittenden County, Vermont; Valley Reporter, published weekly in Washington County, Vermont and Randolph Herald, published daily in Windsor County, Vermont

Finger Lakes National Forest, New York

Forest Supervisor Decisions:

Ithaca Journal, published daily in Ithaca, Tompkins County, New York

Hiawatha National Forest, Michigan

Forest Supervisor Decisions:

Escanaba Daily Press, published daily in Escanaba, Delta County, Michigan
Mining Journal, published daily in Marquette, Marquette County, Michigan
Evening News, published daily in Sault Ste. Marie, Chippewa County, Michigan
St. Ignace News, published weekly in St. Ignace, Mackinac County, Michigan

District Ranger Decisions:

Rapid River District: Daily Press, published daily in Escanaba, Delta County, Michigan
Manistique District: Daily Press, published daily in Escanaba, Delta County, Michigan; Pioneer Tribune, published daily in Manistique County, Michigan, and Mining Journal, published daily in Marquette, Marquette County, Michigan
Munising District: Mining Journal, published daily in Marquette, Marquette County, Michigan
Sault Ste. Marie District: Evening News, published daily in Sault Ste. Marie, Chippewa County, Michigan
St. Ignace District: Evening News, published daily in Sault Ste. Marie, Chippewa County, Michigan and St. Ignace News, published weekly in St. Ignace, Mackinac County, Michigan

Hoosier National Forest, Indiana

Forest Supervisor Decisions:

Sunday Herald-Times, published in Bloomington, Monroe County, Indiana.

District Ranger Decisions:

Brownstown District: Sunday Herald-Times, published in Bloomington, Monroe County, Indiana.
Tell City District: The Perry County News, published in Tell City, Perry County, Indiana

Huron-Manistee National Forests, Michigan

Note: 1st Newspaper listed is mandatory—others optional

Forest Supervisor Decisions:

Cadillac Evening News, published daily in Cadillac, Wexford County, Michigan; Lake County Star, published weekly in Baldwin, Lake County, Michigan; Ludington Daily News, published daily in Ludington, Mason County, Michigan; Alcona County Review, published weekly in Harrisville, Alcona County, Michigan; Manistee News Advocate, published daily in Manistee, Manistee County, Michigan; Oscoda County Herald, published weekly in Mio, Oscoda County, Michigan; Crawford County Avalanche, published weekly in Grayling, Crawford County, Michigan; Oscoda Press, published weekly in Oscoda, Iosco County, Michigan; Fremont Times-Indicator, published weekly in Fremont, Newaygo County, Michigan; Oceana-Herald Journal, published daily in Hart, Mason County, Michigan; Muskegon Chronicle, published daily in Muskegon, Muskegon County, Michigan; Grand Rapids Press, published daily in Grand Rapids, Kent County, Michigan and Big Rapids Pioneer, published daily in Big Rapids, Mecosta County, Michigan

District Ranger Decisions:

Baldwin District: Lake County Star, published weekly in Baldwin, Lake County, Michigan and Ludington Daily News, published daily in Ludington, Mason County, Michigan
Cadillac District: Cadillac Evening News, published daily in Cadillac, Wexford County, Michigan; Manistee News Advocate, published daily in Manistee, Manistee County, Michigan and Lake County Star, published weekly in Baldwin, Lake County, Michigan
Harrisville District: Alcona County Review, published weekly in Harrisville, Alcona County, Michigan
Manistee District: Manistee News Advocate, published daily in Manistee, Manistee County, Michigan
Mio District: Oscoda County Herald, published weekly in Mio, Oscoda County, Michigan and Crawford County Avalanche, published weekly in Grayling, Crawford County, Michigan
Tawas District: Oscoda Press, published weekly in Oscoda, Iosco County, Michigan
White Cloud District: Fremont Times-Indicator, published weekly in Fremont, Newaygo County, Michigan and Oceana-Herald Journal, published daily in Hart, Mason County, Michigan

Mark Twain National Forest, Missouri

Forest Supervisor Decisions:

Rolla Daily News, published in Rolla, Phelps County, Missouri

District Ranger Decisions:

Ava/Cassville District: Springfield News Leader, published daily in Springfield, Greene County, Missouri
Cedar Creek District: Fulton Sun, published daily in Fulton, Callaway County, Missouri
Doniphan District: Prospect News, published weekly in Doniphan, Ripley County, Missouri
Eleven Point District: Current Wave, published weekly in Eminence, Shannon County, Missouri
Rolla District: Houston Herald, published weekly, (Thursdays) in Houston, Texas County, Missouri
Houston District: Houston Herald, published weekly (Thursdays) in Houston, Texas County, Missouri
Poplar Bluff District: Daily American Republic, published daily in Poplar Bluff, Butler County, Missouri
Potosi District: The Independent-Journal, published Thursday in Potosi, Washington County, Missouri
Fredericktown Ranger District: The Democrat-News published Thursdays in Fredericktown, Madison County, Missouri
Salem District: The Salem News, published Tuesday and Thursday in Salem, Dent County, Missouri
Willow Springs District: West Plains Daily Quill, published daily in West Plains, Howell County, Missouri

Monongahela National Forest, Elkins, West Virginia

Forest Supervisor Decisions:

The Elkins Intermountain, published daily in Elkins, Randolph County, W.V.
Cheat District: the Parsons Advocate, published weekly in Parsons, Tucker County, W.V.
Gauley District: The Richwood News Leader, published weekly in Richwood, Nicholas County, W.V.
Greenbrier District: The Pocahontas Times, published weekly in Marlinton, Pocahontas County, W.V.
Marlinton District: The Pocahontas Times, published weekly in Marlinton, Pocahontas, County, W.V.
Potamac District: The Grant County Press, published weekly in Petersburg, Grant County, W.V.
White Sulphur District: The Register-Herald, published daily in Beckley, Raleigh County, W.V.

Nicolet National Forest, Rhinelander, Wisconsin

Forest Supervisor Decisions:

The Daily News, published daily except Saturday, Rhinelander, Wisconsin

District Ranger Decisions:

Eagle River/Florence Districts: The Daily News, published daily except Saturday, Rhinelander, Wisconsin
Lakewood/Laona Districts: The Daily News, published daily except Saturday, Rhinelander, Wisconsin

Ottawa National Forest, Michigan

Forest Supervisor Decisions:

Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan and for
Forest Supervisor decisions pertinent to only the Iron River Ranger District, The Reporter, published in Iron River, Iron County, Michigan

District Ranger Decisions:

Bergland District, Bessemer District, Kenton District, Ontonagon District, and Watersmeet District: Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan
Iron River District, The Reporter, published in Iron River, Iron County, Michigan

Shawnee National Forest, Illinois

Forest Supervisor Decisions:

Southern Illinoisian, published daily in Carbondale, Jackson County, Illinois

District Ranger Decisions:

Elizabethtown District, Jonesboro District, Murphysboro District and Vienna District: Southern Illinoisian, published daily in Carbondale, Jackson County, Illinois

Superior National Forest, Minnesota

Forest Supervisor Decisions:

Duluth News-Tribune, published daily in Duluth, St. Louis County, Minnesota

District Ranger Decisions:

Gunflint Ranger District: Cook County News-Herald, published weekly in Grand Marias, Cook County, Minnesota
Kawishiwi Ranger District: Timberjay, published weekly in Tower, St. Louis County, Minnesota
LaCroix Ranger District: Mesabi Daily News, published daily in Virginia, St. Louis County, Minnesota
Laurentian Ranger District: Mesabi Daily News, published daily in Virginia, St. Louis County, Minnesota; and Lake County News-Chronicle, published weekly in Two Harbors, Lake County, Minnesota
Tofte Ranger District: Duluth News-Tribune published daily in Duluth, St. Louis County, Minnesota

Minnesota Inter-Agency Fire Center:

Grand Rapids Herald Review, published bi-weekly in Grand Rapids, Itasca County, Minnesota

Wayne National Forest, Ohio

Forest Supervisor Decisions:

The Athens Messenger, published in Athens, Athens County, Ohio

District Ranger Decisions:

Athens District: Athens Messenger (same for Marietta Unit), published in Athens, Athens County, Ohio
Ironton District: The Ironton Tribune, published in Ironton, Lawrence County, Ohio

White Mountain National Forest, New Hampshire and Maine

Forest Supervisor Decisions:

The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire

District Ranger Decisions:

Ammonoosuc Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire
Androscoggin Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire
Evans Notch Ranger District: The Lewiston Sun, published daily in Lewiston, County of Androscoggin, Maine
Pemigewasset Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire
Saco Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire

Midewin National Tallgrass Prairie

Prairie Supervisor Decisions:

The Herald-News, published daily in Joliet, Will County, Illinois

Dated: April 23, 1997.

Micheal Miller,

Acting Regional Forester.

[FR Doc. 97–11403 Filed 5–2–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Florida

AGENCY: Natural Resources Conservation Service (NRCS) in Florida, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG or the NRCS in Florida for review and comment.

SUMMARY: It is the intention of NRCS in Florida to issue a revised conservation practice standard Agrichemical Handling Facility, (Code 203), a revised conservation practice standard Waste Treatment Lagoon, (Code 359); a revised conservation practice standard Waste Utilization, (Code 633); and a new conservation practice Closure of Waste Impoundments, (Code 208) in Section IV of the FOTG.

DATES: Comments will be received on or before June 4, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to T. Niles Glasgow, State Conservationist, Natural Resources Conservation Service (NRCS), PO. Box 141510, Gainesville, Florida 32614–1510. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Florida will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Florida regarding disposition of those comments and a final determination of change will be made.

Dated: April 24, 1997.

Jerry R. Joiner,

State Conservationist, Natural Resources Conservation Service, Gainesville, Florida.

[FR Doc. 97–11406 Filed 5–2–97; 8:45 am]

BILLING CODE 3410–MC–M

DEPARTMENT OF COMMERCE

Bureau of the Census

The Census Advisory Committee (CAC) on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, and the CAC on the Hispanic Population; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a joint meeting followed by separate and concurrently held (described below) meetings of the CAC on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander

Populations, and the CAC on the Hispanic Population. The joint meeting will convene on May 22–23, 1997 at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, Virginia 22314.

Each of these Committees is composed of nine members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the population totals from Census 2000 and on ways that decennial census data can be disseminated to maximize their usefulness to these communities and other users.

The Committees will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of their members to provide advice and recommendations during the research and development, design, planning, and implementation phases of Census 2000.

The agenda for the May 22 combined meeting that will begin at 9:00 a.m. and end at 5:00 p.m. is as follows: (1) Introductory Remarks and Census Update; (2) What Are the Results From the Race and Ethnic Targeted Test?; and (3) Decision-Making Process for OMB DirectiveNumber 15.

The agendas for the four committees in their separate and concurrently held meetings are as follows:

The CAC on the African American Population: (1) election of chair-elect; (2) questions regarding multiracial category; (3) review of background materials; (4) review of Committee recommendations and responses; and (5) draft recommendations.

The CAC on the American Indian and Alaska Native Populations: (1) election of chair-elect; (2) Internet node/address update; (3) review of background materials; (4) review of Committee recommendations and responses; (5) geographic programs; (6) update on Hawaiian homelands; and (7) draft recommendations.

The CAC on the Asian and Pacific Islander Populations: (1) election of chair-elect; (2) update on Hawaiian homelands; (3) review of background materials; (4) review of Committee recommendations and responses; (5) questionnaires in languages other than English; and (6) draft recommendations.

The CAC on the Hispanic Population: (1) election of chair-elect; (2) issues from the last meeting; (3) review of background materials; (4) review of Committee recommendations and responses; and (5) draft recommendations.

The agenda for the May 23 combined meeting that will begin at 9:00 a.m. and end at 3:30 p.m. is as follows: (1) How Can the Census Bureau Work With Organizations in Your Community to Promote the Census So That It Goes Beyond Awareness and Encourages Participation?; (2) How Do We Recruit and Maintain the Staff Throughout the Census Process?; (3) A Conversation: Census 2000 Content Submission On Dress Rehearsal Questionnaire; (4) A Conversation: Advisory Committees; (5) Committee Recommendations; and (6) Public Comment.

The agendas for the four committees in their separate and concurrently held meetings are as follows:

The CAC on the African American Population: (1) Committee discussions and (2) recommendations.

The CAC on the American Indian and Alaska Native Populations (AIAN): (1) Committee discussions; (2) video on the AIAN focus groups; and (3) recommendations.

The CAC on the Asian and Pacific Islander Populations (API): (1) Committee discussions; (2) video on the API focus groups; and (3) recommendations.

The CAC on the Hispanic Population: (1) Committee discussions and (2) recommendations.

All meetings are open to the public, and a brief period is set aside on May 23 during the closing session for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 3039, Federal Building 3, Washington, DC 20233, at least three days before the meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Individuals wishing additional information regarding these meetings or who wish to submit written statements may contact the Committee Liaison Officer on (301) 457–2308, TDD (301) 457–2540.

Dated: April 29, 1997.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 97–11624 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

The Census Advisory Committee on the American Indian and Alaska Native Populations; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by P.L. 94–409, P.L. 96–523, and P.L. 97–375), we are giving notice of a meeting of the Census Advisory Committee on the American Indian and Alaska Native Populations. The meeting will convene on May 21, 1997 at the Bureau of the Census, Francis Amasa Walker Conference Center, Federal Building 3, Suitland, Maryland 20746.

The Committee is composed of nine members appointed by the Secretary of Commerce. The Committee provides an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the population totals from Census 2000 and on ways that decennial census data can be disseminated to maximize their usefulness to these communities and other users.

The Committee will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of its members to provide advice and recommendations during the research and development, design, planning, and implementation phases of Census 2000.

The agenda for the meeting on May 21 that will begin at 12:00 noon and adjourn at 4:45 p.m. is as follows: (1) discussion of the enumeration plans for the American Indian and Alaska Native tribal and village populations and (2) development of recommendations.

The meeting is open to the public, and a brief period is set aside on May 21 during the closing session for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 3039, Federal Building 3, Washington, DC 20233, at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer.

Individuals wishing additional information regarding this meeting or who wish to submit written statements may contact the Committee Liaison

Officer on (301) 457–2308, TDD (301) 457–2540.

Dated: April 29, 1997.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 97–11625 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 35–97]

Foreign-Trade Zone 143—Sacramento, California Area; Foreign-Trade Subzone 143A—C. Ceronix, Inc.; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Sacramento-Yolo Port District, grantee of FTZ 143, requesting authority to expand Subzone 143A at the gaming/recreational machine video monitor manufacturing plant of C. Ceronix, Inc., in Auburn, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 21, 1997.

Subzone 143A was approved on March 12, 1996 (Board Order 807, 61 FR 11607, 3/21/96). The subzone currently consists of 3.6 acres (3 buildings, 27,100 sq. ft.) located at 12265, 12329, 12331 Locksley Lane, Auburn, California 95603.

Ceronix is now planning to relocate its manufacturing facilities to a larger site (21 acres) located at 13350 New Airport Road in Auburn. The new site contains one building (59,000 sq. ft.), and up to four additional buildings (111,000 sq. ft.) are planned.

Ceronix is authorized to manufacture and assemble high-resolution color video display monitors for the gaming and recreational industries under zone procedures within Subzone 143A. This proposal does not request any new manufacturing authority under FTZ procedures in terms of products or components, but it does involve a proposed increase in the plant's level of production under FTZ procedures corresponding to the increase in plant size.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment (original and 3 copies) is invited from interested parties (see FTZ Board address below). The closing date for their receipt is July 7, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 21, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, Sacramento-Yolo Port District, 1251 Beacon Boulevard, Suite 200, West Sacramento, CA 95691.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, D.C. 20230.

Dated: April 28, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–11654 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 34–97]

Foreign-Trade Zone 138—Columbus, OH; Application for Foreign-Trade Subzone Status; Globe Metallurgical, Inc. (Ferroalloys and Silicon Metals); Beverly, OH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Rickenbacker Port Authority, grantee of FTZ 138, requesting special-purpose subzone status for the ferroalloys and silicon metals manufacturing plant of Globe Metallurgical, Inc. (Globe) in Beverly, Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 21, 1997.

Globe's plant (235,000 mfg. sq.ft./40 acres) is located at County Road 32 on the Muskingum River, in Beverly (Washington County), Ohio, some 110 miles southeast of Columbus. The facility (153 employees) produces ferroalloys (primarily magnesium ferrosilicon) and silicon metals. Some of the materials used in the production process are sourced abroad including carbon electrodes, magnesium ingots, calcium silicon, calcium barium, and mischmetals. Foreign materials account for some 30 percent of the value of total materials. Currently, some 13 percent of production is exported.

Globe also plans to source from abroad certain ferrosilicon fines (scrap) to be used in new production of magnesium ferrosilicon alloys for export. On production of magnesium ferrosilicon alloys for the domestic market, the company plans to use domestic ferrosilicon fines.

Zone procedures would exempt Globe from Customs duty payments on foreign materials used in production for export. On domestic shipments of silicon metals, the company would be able to defer Customs duty payments (duty rate—5.8%) until formal Customs entry is made. On domestic shipments of ferrosilicon alloys, the company would be able to choose the duty rate that applies to the finished product (1.5%), instead of the rates otherwise applicable to the foreign materials (duty rates range from 1.9% to 5%). (FTZ regulations require that foreign materials subject to antidumping orders be placed in privileged foreign status upon admission to a zone or subzone (§ 400.33(b)(2)).) The application indicates that the savings from zone procedures will help improve the international competitiveness of the Globe plant and will help increase exports.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 7, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 21, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, 37 North High Street, 4th Floor, Columbus, Ohio 43215.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: April 28, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–11655 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–840]

Notice of Final Determination of Sales at Less Than Fair Value: Engineered Process Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete, from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Louis Apple, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1769, respectively.

THE APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations, published in the **Federal Register** on May 11, 1995 (60 FR 25130).

FINAL DETERMINATION: We determine that engineered process gas turbo-compressor systems (''EPGTS''), whether assembled or unassembled, and whether complete or incomplete, from Japan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (Notice of Preliminary Determination and Postponement of Final Determination: Engineered Process Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete from Japan (61 FR 65013, December 10, 1996) (''Preliminary Determination'')), the following events have occurred.

In January 1997, respondents Mitsubishi Heavy Industries, Ltd. (''MHI'') and Mitsubishi Corporation (''MC'') submitted supplemental questionnaire responses to the Department.

In February 1997, we verified the questionnaire responses of MHI and MC in Tokyo and Hiroshima, Japan, and Houston, Texas. On March 10 and 11, 1997, the Department issued its reports on verification findings.

On February 18, 1997, per the Department's instructions in the preliminary determination, MHI, MC, and the petitioner, Dresser-Rand Company, submitted comments on the issue of ''affiliation.'' On February 21 and 24, 1997, MC and MHI, respectively, requested the Department to strike certain portions of the petitioner's submission on affiliation because it allegedly contained untimely new factual information. After reviewing the petitioner's submission, the Department determined on March 13, 1997, that certain information presented therein constituted new factual information, untimely filed, under section 353.31(a)(1)(i) of the Department's regulations, and informed the petitioner that unless otherwise discussed in the Department's verification reports, the information at issue would not be considered for purposes of the final determination.

On February 28, 1997, per the Department's instructions in the preliminary determination, the petitioner and MHI submitted comments on the scope of the investigation, and suspension of liquidation instructions.

The petitioner, MHI, and MC submitted case briefs on March 18, 1997, and rebuttal briefs on March 24, 1997. The Department held a public hearing for this investigation on April 1, 1997.

Scope of Investigation

The products covered by this investigation are turbo-compressor systems (*i.e.*, one or more ''assemblies'' or ''trains'') which are comprised of various configurations of process gas compressors, drivers (*i.e.*, steam turbines or motor-gear systems designed to drive such compressors), and auxiliary control systems and lubrication systems for use with such compressors and compressor drivers, whether assembled or unassembled, and whether complete or incomplete. One or more of these turbo-compressor assemblies or trains, may be combined. The systems covered are only those used in the petrochemical and fertilizer industries, in the production of ethylene, propylene, ammonia, urea, methanol, refinery and other petrochemical products. This investigation does not encompass turbo-compressor systems incorporating gas turbine drivers, which are typically used in pipeline transmission, injection, gas processing, and liquid natural gas service.

The scope of this investigation excludes spare parts that are sold separately from a contract for an EPGTS. Parts or components imported for the revamp or repair of an existing EPGTS, or otherwise not included in the original contract of sale for the EPGTS of which they are intended to be a part, are expressly excluded from the scope.

Compressors are machines used to increase the pressure of a gas or vapor, or mixture of gases and vapors. Compressors are commonly classified as reciprocating, rotary, jet, centrifugal, or axial (classified by the mechanical means of compressing the fluid), or as positive-displacement or dynamic-type (classified by the manner in which the mechanical elements act on the fluid to be compressed). Subject compressors include only centrifugal compressors engineered for process gas compression, *e.g.*, ammonia, urea, methanol, propylene, or ethylene service.

Turbines are classified (1) As steam or gas; (2) by mechanical arrangement as single-casing, multiple shaft, or tandem-compound (more than one casing with a single shaft); (3) by flow direction (axial or radial); (4) by steam cycle, whether condensing, non-condensing, automatic extraction, or reheat; and (5) by number of exhaust flows of a condensing unit. Steam and gas turbines are used in various applications. Only steam turbines dedicated for a turbo-compressor system are subject to this investigation.

A motor and gear box may be used as a compressor driver in lieu of a steam turbine. A control system is used to monitor and control the operation of a turbo-compressor system. A lubrication system is engineered to support a subject compressor and steam turbine (or motor/gear box).

A typical EPGTS consists of one or more compressors driven by a turbine (or in some cases a motor drive). A compressor is usually installed on a base plate and the drive is installed on a separate base plate. The turbine (or motor drive) base plate will typically also include any governing or safety systems, couplings, and a gearbox, if any. The lube and oil seal systems for the turbine and compressor(s) are usually mounted on a separate base plate.

The scope of this investigation covers both assembled and unassembled EPGTS from Japan. Because of their large size, EPGTS and their constituent parts are typically shipped partially assembled (or unassembled) to their destination where they are assembled and/or completed prior to their commissioning.

The scope of this investigation also covers ''complete and incomplete'' EPGTS from Japan. A ''complete'' EPGTS covered by the scope consists of all of the components of an EPGTS (*i.e.*, process gas compressor(s), driver(s), auxiliary control system(s) and lubrication system(s)) and their constituent parts, which are imported from Japan in assembled or unassembled form, individually or in combination, pursuant to a contract for a complete EPGTS in the United States. An ''incomplete'' EPGTS covered by the scope of this investigation consists of parts of an EPGTS imported from Japan pursuant to a contract for a complete EPGTS in the United States, which taken altogether, constitute at least 50 percent of the cost of manufacture of the complete EPGTS of which they are a part. (*See Comment 1* of the ''Interested Party Comments'' section of this notice for discussion on the definition of ''incomplete EPGTS'' covered by the scope of this investigation and the methodology the Department will use to calculate the cost of manufacture.)

EPGTS imported from Japan as an assembly or train (*i.e.*, including turbines, compressors, motor and gear boxes, control systems and lubrication systems, and auxiliary equipment) may be classified under Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 8414.80.2015, which provides for centrifugal and axial compressors. The Customs Service may view the combination of turbine driver and compressor as ''more than'' a compressor and, as a result, classify the combination under HTSUS subheading 8419.60.5000.

Compressors for use in EPGTS, if imported separately, may also be classified under HTSUS subheading 8414.80.2015. Parts for such compressors, including rotors or impellers and housing, are classified under HTSUS subheading 8414.90.4045 and 8414.90.4055.

Steam turbines for use in EPGTS, if imported separately, may be classified under the following HTSUS subheadings: 8406.81.1020 (steam turbines, other than marine turbines, stationary, condensing type, of an output exceeding 40 MW); 8406.82.1010 (steam turbines, other than marine turbines, stationary, condensing type, exceeding 7,460 Kw); 8406.82.1020 (steam turbines, other than marine turbines, stationary, condensing type, exceeding 7,460 Kw, but not exceeding 40 MW); 8406.82.1050 (steam turbines, other than marine turbines, stationary, other than condensing type, not exceeding 7,460 Kw); 8406.82.1070 (steam turbines, other than marine turbines, stationary, other than condensing type, exceeding 7,460 Kw, but not exceeding 40 MW). Parts for such turbines are classified under HTSUS subheading 8406.90.2000 through 8406.90.4580.

Control and other auxiliary systems may be classified under HTSUS 9032.89.6030 (''automatic regulating or controlling instruments and apparatus: complete process control systems'').

Motor and gear box entries may be classified under HTSUS subheading 8501.53.4080, 8501.53.6000, 8501.53.8040, or 8501.53.8060. Gear speed changers used to match the speed of an electric motor to the shaft speed of a driven compressor, would be classified under HTSUS subheading 8483.40.5010.

Lubrication systems may be classified under HTSUS subheading 8414.90.4075.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation (''POI'')

The POI is April 1, 1995 through May 31, 1996.

Product Comparisons

Although the home market was viable, in accordance with section 773 of the Act, we based normal value (''NV'') on constructed value (''CV'') because we determined that the merchandise sold in the home market during the POI was not sufficiently similar to that sold in the United States to permit proper price-to-price comparisons.

Fair Value Comparisons

To determine whether MHI's sales of EPGTS to the United States were made at LTFV, we compared constructed export price (''CEP'') to NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice.

Constructed Export Price

Pursuant to section 772 of the Act, the basis for the fair value comparison is the price at which the merchandise is first sold to an unaffiliated purchaser in the United States or for export to the United States. MHI reported its sale to MC, a Japanese trading company, as an export price (''EP'') sale on the grounds that MC is an unaffiliated purchaser and, at the time of sale, MHI knew that the merchandise was intended for export to the United States. However, based on our examination of the sales documentation provided by MHI and MC and our findings at verification, which demonstrate that MC and its U.S. subsidiary, Mitsubishi International Corporation (''MIC''), acted as MHI's selling agents in the U.S. transaction under investigation, we have determined for purposes of this final determination that the proper basis for the fair value comparison is the sale by MHI, through MC/MIC, to the U.S. customer. Because MHI made this transaction through agents acting on its behalf and thus subject to its control, we determined that MHI and MC/MIC are affiliated within the meaning of section 771(33) of the Act. Because the function of MC/MIC, as U.S. sales agents, is beyond that of a ''processor of sales-related documentation'' and a ''communications link'' with the unaffiliated U.S. customer, we determined that the use of CEP is appropriate in the final determination of this case (*see* Final Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany, 61 FR 38166, 38175–76 (July 23, 1996) (''LNPPs from Germany'')). (*See Comment 2* in the ''Interested Party Comments'' section of this notice for discussion of principal-agency relationship between MHI and MC/MIC.)

In accordance with sections 772(b) and (c) of the Act, we calculated CEP based on a packed, FOB Japanese port, duty paid price, inclusive of spare parts, to an unaffiliated customer in the United States through a Japanese trading company affiliated by virtue of an agency relationship with the Japanese producer. We excluded from this price any post-POI price amendments, in accordance with our standard practice. (*See LNPPs from Germany* 61 FR at 38181–2). We made a deduction from the starting price for MIC's cost of the non-subject parts which were included in the U.S. sale. (*See Comment 5* of the ''Interested Party Comments'' section of this notice.)

We also made further deductions from CEP pursuant to section 772(c) and (d) of the Act based on the same methodology used in the preliminary determination with the following exceptions:

1. We deducted the product liability expense which was reported in the respondent's January 27, 1997, U.S. sales listing.

2. We deducted performance testing cost as a direct selling expense. We reclassified the reported performance testing cost from a manufacturing cost to a direct selling expense based on verification findings which demonstrated that this type of test was optional and only undertaken at the specific request of the customer in the

contract governing the sale. (*See* March 11, 1997, Report on the Verification in Tokyo, Japan and Houston, Texas of Mitsubishi Heavy Industries, Ltd. (''MHI'') and Mitsubishi Heavy Industries America (''MHIA'') (''MHI Sales Verification Report'') at 31.)

3. We also deducted indirect selling expenses incurred by MHI that related to economic activity in the United States, including certain selling expenses incurred in Japan on the U.S. sale. (*See Comment 6* in the ''Interested Party Comments'' section of this notice.) (*See* also April 24, 1997, Memorandum to the File Re: Office of Accounting Constructed Value and Constructed Export Price Adjustments for Final Determination)(''Calculation Memorandum'').)

4. We also deducted U.S. import duties as well as selling expenses incurred by MC/MIC (see Comment 5 of the ''Interested Party Comment'' section of this notice).

Normal Value

For the reasons outlined in the ''Product Comparisons'' section of this notice, we based NV on CV.

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of MHI's cost of materials, fabrication, selling, general, and administrative expenses (''SG&A''), and profit, plus U.S. packing costs.

We based CV on the same methodology used in the preliminary determination with the following exceptions:

1. We increased cost of manufacture (''COM'') to include the inventory loss related to the U.S. sale.

2. We recalculated the home market direct and indirect selling expense rates based on only the home market sales made in the ordinary course of trade. (*See Comment 6* in the ''Interested Party Comments'' section of this notice.)

3. We recalculated CV profit based on only the home market sales made in the ordinary course of trade.

4. We increased the COM of not only the U.S. sale, but also that of the home market sales, to account for the excess of affiliated suppliers' COP over the transfer price charged to MHI. (*See Comment 16* in the ''Interested Party Comments'' section of this notice.)

Price to CV Comparisons

In comparing CEP to CV, we deducted from CV the weighted-average home market direct selling expenses, including imputed credit and installation-related expenses, pursuant to section 773(a)(8) of the Act. (*See Comment 10* in the ''Interested Party Comments'' section of this notice.)

Currency Conversion

We made currency conversions into U.S. dollars based on the rate applicable on the date of the U.S. sale due to a sustained movement in the exchange rate, as calculated by the Department using the methodology outlined in Policy Bulletin 96–1: Currency Conversions, 61 FR 9434 (March 8, 1996) (''Policy Bulletin 96–1'').

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the rolling average of rates for the past eight weeks. When we determine a fluctuation existed, we substitute the benchmark for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this methodology, *see Policy Bulletin 96–1.*) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of such an adjustment period was warranted in this case because the Japanese yen underwent a sustained movement. (*See Comment 15* of the ''Interested Party Comments'' section of this notice.)

Verification

As provided in section 782(i) of the Act, we verified the information submitted by MHI and MC for use in our final determination. We used standard verification procedures, including examination of relevant accounting and sales/production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Scope of Investigation.

The scope of this investigation covers EPGTS used in the petrochemical and fertilizer industries, whether assembled or unassembled, and whether complete or incomplete. (See Initiation of Antidumping Investigation of Sales at Less Than Fair Value: EPGTS, Whether Assembled or Unassembled, and Whether Complete or Incomplete, from Japan (61 FR 28164, June 4, 1996)(''Initiation'').)

Since the initiation of this investigation, the petitioner and MHI have debated two scope-related issues: (1) The definition of ''incomplete'' EPGTS, and (2) the end uses of the EPGTS covered by the scope. For purposes of the preliminary determination, we clarified the scope of this investigation to include, among other things: (1) EPGTS used in the production of refinery products, and (2) ''incomplete'' EPGTS if the EPGTS parts (otherwise referred to as ''components'' or ''subcomponents'') imported from Japan pursuant to a contract for a complete EPGTS in the United States, taken altogether, constitute at least 50 percent of the cost of manufacture of the complete EPGTS of which they are a part. (*See* Preliminary Determination at 65015.) Both of these issues, the parties' comments, and the Department's position are summarized below. For a complete discussion and analysis of these issues, *see* April 24, 1997, Memorandum to Jeffrey Bialos, Principal Deputy Assistant Secretary for Import Administration, from The Team Re: Scope Issues (''April 24, 1997, Scope Decision Memorandum'').

1. Definition of Incomplete EPGTS

The petitioner asserts that the intent of the petition was to cover turbo-compressor ''systems'' engineered (custom made) for a particular plant process, and typically sold as a single unit at a single negotiated price, whether complete *or* incomplete. According to the petitioner, the intent of the petition was to include incomplete EPGTS and incomplete components if sold as part of a complete EPGTS. In order to define a subject incomplete EPGTS for purposes of the final determination, the petitioner argues that the Department should combine a ''cost-based'' test with an ''essential components'' test. Specifically, the petitioner maintains that the Department should amend its preliminary scope language to indicate that imports of EPGTS compressors, steam turbines, or any collection of components from Japan accounting for at least 50 percent of the total cost of manufacture of the EPGTS are subject merchandise. In the petitioner's opinion, this two-pronged approach is simple to administer, avoids circumvention and is consistent with the intent of the petition and the record throughout this investigation.

The petitioner believes that many of the problems identified by the Department in the final determination of LNPPs from Germany and Japan which discouraged the Department from pursuing an ''essence'' test and

encouraged it to pursue a ''cost-based'' test (*e.g.*, the difficulty in identifying the ''essence'' of a LNPP, given the great number of parts and subcomponents; the insignificant portion of total value of the LNPP represented by many of the critical elements identified by the petitioner) are not present in this case. According to the petitioner, there are four major components (*i.e.*, compressor, driver (steam turbine or motor/gear), control system, and lubrication system); however, the compressor and turbine are the heart of the turbo-compressor system both in terms of both function and manufacturing cost.[1] The petitioner cites several cases where the Department applied essence criteria to define the scope of the investigation where, as here, the essential components were readily identifiable and dedicated for use in the complete product.

On the other hand, if the design and engineering of the turbo-compressor system takes place in Japan, but the compressor is subcontracted to another country, the petitioner maintains that it is appropriate to invoke the 50 percent cost-based test to determine whether the incomplete EPGTS should be covered by the scope of the investigation. This would also address the situation where an incomplete compressor is imported, to be assembled after importation with other components, or where the foreign manufacturer produces and supplies nearly an entire turbo-compressor system, but neither the compressors nor the steam turbines are complete upon importation. Because individual components do not constitute an incomplete EPGTS unless they are used to fulfill an EPGTS contract, the petitioner notes that if the Japanese producer is supplying only individual components to be included in a system manufactured by a U.S. or third country supplier, the system will not be of Japanese origin and the components will not be covered.

According to the petitioner, the purpose for establishing a two-part test is to avoid, whenever possible, the complexity of a cost-based test and to remove any incentive for a foreign manufacturer to circumvent the ''essence'' test by shipping its compressors or steam turbines in incomplete form. The petitioner notes further that its proposed two-prong approach places no undue burden on the importer to determine whether the components imported from Japan are essential components or account for 50 percent of the cost of manufacture of a system, and prevents the suspension of liquidation of non-scope merchandise unless the foreign producer and U.S. importer do not comply in a timely manner with the Department's certification requirements.

The petitioner also requests that the Department further define the calculation methodology to be applied in the performance of the cost-based test, asserting that all design and engineering costs, overhead, testing costs, installation costs, and other manufacturing expenses incurred in Japan with respect to the complete EPGTS (including the costs of any production assists provided by the Japanese manufacturer to U.S. or third country subcontractors) should be included in the Japan content portion of the cost-based test. Accordingly, the petitioner requests that the certification provided to Customs in the case of merchandise alleged to be outside the scope of any order in this case be amended to include such costs explicitly.

Lastly, while the petitioner acknowledges that the Department's industry support determination was based on the producers of complete turbo-compressor systems, the petitioner asserts that the producers of complete EPGTS also produce incomplete EPGTS, and there is no evidence that there are producers of incomplete EPGTS, including compressors and turbines, in the United States other than those that the Department considered in its industry support determination. The petitioner also claims that complete and incomplete systems constitute a single like product, and hence, support of only producers of complete systems in the Department's industry support analysis is adequate. The petitioner further maintains that it is irrelevant whether supporters of the petition produced incomplete EPGTS, so long as they accounted for an adequate percentage of production of the domestic like product, which includes both complete and incomplete systems.

MHI argues that only complete systems are covered by the scope of this investigation because only complete systems were subject to the Department's industry support determination made prior to initiation, and that determination cannot be revisited. MHI asserts that the Department identified the domestic like product to be a complete system and based its determination of industry support on the conclusion that the petition was filed on behalf of the domestic industry. To the extent that the Department finds that its industry support determination covered something other than complete systems, MHI argues that, at a minimum, the Department should not define a subject incomplete EPGTS in terms of individual components, as suggested by the petitioner's proposed ''essential components'' test, because this would unlawfully expand the scope of the proceeding to include merchandise (*i.e.*, compressors and steam turbines) for which the Department did not make a determination of industry support.

Further, MHI objects to the Department's use of a cost-based approach to define ''incomplete EPGTS'' for which liquidation would be suspended and, instead, proposes the adoption of a ''merchandise-based'' approach whereby an incomplete system would be defined as two or more system components, at least one of which is a compressor and all of which are made in Japan. In MHI's opinion, the use of a cost-based approach is inappropriate and unworkable because: (1) It does not ensure that the order will cover only the merchandise produced by a domestic industry for which the Department made its determination of industry support; (2) it fails to identify subject merchandise in terms of facts known at the time of importation; (3) there is uncertainty with respect to the final cost of manufacture and the types of expenses that should be included when calculating the final cost of manufacture of the complete system; and (4) it is unlikely that the Japanese producer will have available at the time of importation enough information about the final cost of the system to allow it to complete the requisite certification, particularly if the Japanese producer is providing only a portion of a system which will be assembled or completed with non-subject equipment produced by unaffiliated non-Japanese manufacturers. In addition, MHI contends that even though a cash deposit would not be required for EPGTS entries accompanied by a certification that they constitute less than 50 percent of the cost of manufacture of the complete system, the Department unlawfully has directed Customs to suspend liquidation of allegedly non-subject merchandise pending its determination of the final cost of the system. According to MHI, duties may be imposed only on subject merchandise, and the Department does not avoid this issue by waiving the cash deposit requirement for merchandise certified to be outside the scope of the order.

[1] According to the petitioner, the compressor and turbine together account for 80–90 percent of the total system cost.

For these reasons, MHI asserts that the Department must adopt the above-described ''merchandise-based'' definition of a subject incomplete EPGTS for which liquidation would be suspended. In MHI's view, its approach is more consistent with the Department's methodology in past cases where essence criteria were used to define incomplete merchandise covered by the scope. Also, MHI maintains that a merchandise-based definition eliminates the problems inherent in both the Department's and the petitioner's suggested definition of an ''incomplete'' system. Under MHI's definition, single components would fall outside the scope, eliminating the possibility that the scope could violate the Department's industry support determination. Further, it would allow foreign manufacturers, U.S. importers, the Department, and the Customs Service to determine at the time of importation whether an entry is subject to the order and, thus, remove unnecessary administrative burdens on all parties.

In addition, MHI contends that the petitioner's concern about circumvention (which, in MHI's opinion, is not a valid concern in this case) does not justify the cost-based test which would unlawfully expand the scope of the investigation. Citing various past cases, MHI points out that the Department has consistently rejected scope expansions based on speculative allegations of circumvention and relied on the circumvention provisions of the antidumping law to provide relief even for petitioners who have direct evidence of circumvention.

DOC Position

We disagree with both the petitioner and respondent. In our Preliminary Determination, we explained that because of their large physical size, EPGTS are typically imported into the United States in either partially assembled or disassembled form, perhaps in multiple shipments over an extended period of time, and may require the addition and integration of non-subject parts prior to, or during, the installation process in the United States. Consequently, we stated that we were concerned that because of the great number of parts involved, there is the potential that the Customs Service may inadvertently liquidate entries of subject merchandise based on its lack of completeness at the time of importation. Therefore, for suspension of liquidation purposes, we preliminarily decided to use the cost-based test described above to determine what constitutes a subject incomplete EPGTS. We noted that this approach has been used in past cases with similar fact patterns. (See, e.g., LNPPs from Germany and Japan, 61 FR 38166, 38139, July 23, 1996).

In order to determine whether the imported merchandise constitutes a subject incomplete EPGTS through the performance of the cost-based test, we stated in our preliminary determination that we would have to wait until all of the parts comprising an EPGTS are imported and the complete EPGTS is produced. Thus, we suspended liquidation of all importations of EPGTS parts from Japan at the preliminary cash deposit/bond rate unless a certification was provided by the foreign manufacturer/exporter that the parts to be imported, when taken altogether, constitute less than 50 percent of the cost of manufacture of the complete EPGTS of which they are a part.

For entries accompanied by the appropriate certification, we directed the Customs Service to suspend liquidation at a zero deposit/bond rate. We also required parties to provide to the Department in advance of the entry with a copy of this certification along with the following information which would be subject to the Department's review and verification at a later date, if necessary: (1) The number of the sales contract pursuant to which the parts are imported, (2) a description of the parts included in the entry, (3) the actual cost of the imported parts, (4) the most recent cost estimate for the complete EPGTS and historical variance between estimated and actual costs, (5) a schedule of parts shipments to be made pursuant to the particular EPGTS contract, if more than one shipment is relevant, and (6) a schedule of EPGTS production completion in the United States. (See Preliminary Determination, 61 FR at 65018; and January 23, 1997, Letter from Louis Apple to James Cannon *et al.* re: Clarification of Preliminary Suspension of Liquidation Instructions * * * (''January 23, 1997, Suspension of Liquidation Instructions Clarification Letter.'')

The scope of this investigation unambiguously covers EPGTS, whether assembled or unassembled, and whether complete or incomplete. As stated above, because of their large physical size, EPGTS are typically imported into the United States in either partially assembled or disassembled form, perhaps in multiple shipments over an extended period of time, and may require the addition and integration of non-subject parts prior to, or during, the installation process in the United States. Given this fact, the Department, in its pre-initiation analysis, included ''incomplete'' EPGTS within the scope of the investigation to avoid creating loopholes for enforcement (including those arising from differing degrees of completeness of the imported merchandise) should an order result from this investigation. (See October 8, 1996, Memorandum to Jeffrey Bialos, Principal Deputy Assistant Secretary from The Team Re: Scope.) We were, and still are, concerned that because of the great number of parts involved, the Customs Service may inadvertently liquidate entries of subject merchandise based on a lack of completeness at the time of importation. The inclusion of the term ''incomplete'' in the scope, however, raised the issue of how to define the minimum level of incompleteness on which the Customs Service should suspend liquidation in order to maintain the effectiveness of any order that may be issued. For purposes of the preliminary determination, we defined this minimum level to be 50 percent of the cost of manufacture of the complete EPGTS. This approach has been used in past cases with similarly complex merchandise and importation processes (see LNPPs from Germany and Japan).

Further, contrary to MHI's suggestions, we note that from the Department's standpoint, it is not, and never has been, the individual components or subcomponents of the system per se that are at issue, but the combination of these components or subcomponents (*i.e.*, the extent of an ''incomplete system'') imported pursuant to a contract for a complete EPGTS in the United States that would constitute covered merchandise whether by cost, essence, or some other approach (*i.e.*, the sum of importations pursuant to a contract for a highly engineered and integrated turbo-compressor system, not the individual importations of the components or subcomponents, themselves.)

In formulating our decision for purposes of the final determination, we made the following observations. First, the intent of the petition was to include incomplete EPGTS. (*See, e.g.*, petition at 6 * * *'' [T]his petition encompasses turbo-compressor systems, * * * whether assembled or unassembled and whether complete or incomplete at the time of entry'' (emphasis added).) In this regard, we note our authority to clarify the scope of an investigation, in general, and in a manner which reflects the intent of the petition, in particular. (See, e.g., LNPPs from Germany 61 FR at 38169 (July 23, 1996); *Minebea Co., Ltd.* v. *United States*, 782 F. Supp. 117, 120 (CIT 1992) (the Department uses its ''broad discretion to define and clarify the scope of an antidumping

investigation in a manner which reflects the intent of the petition'').)

Second, incomplete EPGTS have been covered by the scope of this investigation since our initiation. (See Initiation at 28165 * * * ''The scope of this investigation includes incomplete and unassembled systems.''); and Preliminary Determination at 65013, 65015).)

Third, our industry support determination did not preclude us from considering less than complete systems in the scope of the investigation. Our industry support determination was based on the domestic like product which was defined as complete systems, including individual components/subcomponents and combinations of components/subcomponents to the extent they are designed and dedicated to a specific system typically designed to contract specifications. (See Initiation, 61 FR at 28164.) This follows from the fact that specific components per se are not covered by the scope of the investigation unless they are included in the contract for the initial system designed and dedicated for use in the complete system. Therefore, a showing of industry support by U.S. manufacturers of components or subcomponents who do not manufacture or sell complete systems was not necessary. We note further that our definition of like product with respect to our industry support determination is consistent with the International Trade Commission's definition of like product in its preliminary injury determination.[2] (See USITC Publication 2976 (July 1996) at 8–10.)

In order to determine the level of industry support for the petition, the Department contacted five U.S. companies identified by the petitioner as producers of EPGTS, including Dresser-Rand Company, and requested that they provide production data on the number of compressor casings, (*i.e.*, compressor shells which, by definition, are not complete systems), and the number and value of complete systems produced. Based on the information we received from these producers and that contained in the petition, we concluded that the producers who supported the petition accounted for more than 50 percent of the total production of the domestic like product. (See Initiation; May 28, 1996, Memorandum from Mary Jenkins and Howard Smith to The File Re: Industry Support; and May 28, 1997, Initiation Checklist.) We note that there is no evidence on the record indicating that there were U.S. producers of the like product other than the five producers contacted by the Department that should have been considered in its pre-initiation industry support analysis.

Fourth, while both the petitioner and MHI seem to agree that as a practical matter, an incomplete EPGTS must include a compressor (as it is the most critical component which typically accounts for over 50 percent of the manufacturing cost of a complete EPGTS) we do not believe that this 50 percent threshold is reached in a situation where only a compressor is imported pursuant to a contract for a multi-train EPGTS system which includes multiple compressors, turbines, and other components.

Further, there are other difficulties inherent in accepting either the petitioner's or MHI's approach. Because of the large number of parts involved, the disassembly inherent in the importation process, and the potential for multiple shipments, an ''essence'' approach is difficult to administer by Customs without a comprehensive list of parts (identified at the most minimal level of disassembly realistically possible) comprising the essential complete component(s), which has not been provided by the petitioner or respondent. While the petitioner defines certain parts of a compressor and turbine in its attempt to define ''incomplete compressors and turbines'' covered by the scope in the petition,[3] the parts identified do not represent such a comprehensive list. Also, respondent's approach does not resolve the question of whether the critical component(s) would constitute subject merchandise if it were incomplete in some minor way.

In addition, we note that MHI's definition of ''incomplete,'' which must include at least a complete compressor, restricts the scope much further than the petition, the Department's initiation, and preliminary determination. It would also allow an exporter to circumvent any order resulting from this investigation, simply by subcontracting the manufacture of the system compressor to another country.

In sum, we believe that the approach pursued in the preliminary determination is reasonable, predictable, administrable, and consistent with our industry support determination. Under this approach, an imported incomplete system is covered by the scope of this investigation to the extent that its parts (imported pursuant to a contract for an EPGTS) comprise a certain minimum percentage of the cost of manufacture of the complete system. In response to MHI's argument that we would not know at the time of importation whether the imported incomplete merchandise was subject to duty, we acknowledge that in order to perform the cost-based test, we will have to wait until all of the parts/components comprising the system are imported and the complete system is produced, and that we will suspend liquidation on all imported EPGTS parts in the meantime. However, in the case of multiple shipments of components and component parts, the necessity for all shipments to be completed before the Department could determine whether or not the imported merchandise was subject to any order that may be issued in this case would also be relevant to the essence approach, in that the identification of the critical component(s) could only take place after all importations have been made.

Further, by suspending liquidation at a zero cash deposit rate if the Japanese producer/exporter provides the appropriate certification and the requisite data substantiating the certification that the cost of the imported parts satisfies the 50 percent test, we believe that the importer would be relieved of the financial burden of posting cash deposits which would otherwise be required and not reimbursed until such time as the Department was able to make a determination as to whether the imported parts constituted subject merchandise (*i.e.*, after the EPGTS is completed in the United States). At the same time, this approach provides sufficient safeguards to protect U.S. firms from potentially dumped subject merchandise.

With respect to the respondent's concern that the Japanese producer may not know the final costs of the system so as to be able to certify accurately that the cost of the parts comprising the incomplete system is less than 50 percent of the cost of manufacture of the

[2] The ITC found preliminarily that complete and incomplete systems are part of the same domestic like product based on application of its semi-finished products analysis. The ITC stated that: (1) there is no independent use for an incomplete system other than to be assembled into a specific and complete system and, therefore, an incomplete system is dedicated for use in that EPGTS system; (2) incomplete and complete systems share many of the same characteristics and functions; and (3) there does not appear to be an established price for incomplete systems because complete systems are manufactured pursuant to a contract; thus, there are no independent sales or markets). *See* USITC Publication 2976 (July 1996) at 8–10.

[3] The petitioner defines incomplete compressors and turbines for purposes of the petition as follows: ''An incomplete compressor * * * consists of either half of the casing * * * or the casing and end-caps * * * or * * * the rotor, whether or not mounted * * *.'' ''An ''incomplete'' steam turbine * * * includes (1) either half of the turbine casing, whether or not mounted on a platform; or (2) the turbine rotor, whether or not mounted in the casing.'' *See* petition at 7 and 9.

complete system if he is providing only a portion of the complete system, we note that if an affiliate is supplying the additional parts to complete the system pursuant to a contract in the United States, we would naturally require that the Japanese producer/exporter provide, with the assistance of its affiliate, the actual final costs of the complete system. If an unaffiliated party is involved in the completion of the system in the United States, we would require that the Japanese producer/exporter include in its cost calculation the estimated or actual price for the parts supplied by the unaffiliated party. If the Japanese producer were supplying only individual components outside of a contract for a complete system (*i.e.*, not ''pursuant to a contract for a complete EPGTS''), then its merchandise would *not* be covered by the scope of the investigation and the issue is moot.

Therefore, for purposes of the final determination, we continue to define ''incomplete'' EPGTS covered by the scope as we did in our preliminary determination. Further, we appreciate the parties' concerns over the methodology to be used to calculate the cost of manufacture of the incomplete system in order to administer the cost-based test. Consequently, we have determined that it is appropriate to calculate this cost of manufacture inclusive of all costs incurred by the producer in Japan, including design and engineering, materials, overhead, quality control testing, and other manufacturing costs such as engineering assists provided to U.S. or third country subcontractors. In addition, we intend to issue suspension of liquidation instructions pursuant to the final determination similar to those issued in connection with the preliminary determination with some modification. Specifically, we will modify these instructions, as follows: (1) To suspend liquidation of EPGTS parts at a zero cash deposit/bond rate if the interested party (*i.e.*, the Japanese producer/exporter or U.S. importer) provides the requisite data substantiating its claim that the cost of the imported EPGTS parts satisfies the 50 percent test within the context of a scope inquiry proceeding; (2) to require that the requisite data substantiating the interested party's claim, followed by an appropriate certification, be provided to the Department instead of to the Customs Service; (3) to include the cost calculation methodology described above; (4) to require the provision of certain additional information; and (5) to require that if the foreign producer/exporter finds that the costs reported to the Department were understated and that the cost of manufacture of the imported elements will be over 50 percent of the cost of manufacture of the EPGTS of which they are a part, that the party inform the Department immediately. *See* ''Suspension of Liquidation'' section of this notice for details.

2. EPGTS Used in the Production of Refinery Products

MHI argues that the Department unlawfully expanded the scope of the investigation after initiation to include EPGTS used in the production of refinery and other petrochemical (downstream) products because this expansion included products outside the Department's determination of industry support which cannot be revisited after the initiation phase of an investigation. MHI contends that the record strongly suggests that the Department's industry support determination was made only with respect to the production of EPGTS used in the production of five specific chemicals listed in the petition: ethylene, propylene, ammonia, urea or methanol.

The petitioner contends that the Department properly clarified the scope of the investigation to include EPGTS for use in the production of refinery and other petrochemical products. The petitioner asserts that the petition was intended to cover all EPGTS, not only the five end uses specified in the notice of initiation. The petitioner also asserts that the Department's scope clarification does not conflict with the Department's industry support determination because the producers consulted by the Department in its industry support determination constitute the universe of EPGTS suppliers, including EPGTS used in the production of refinery and other petrochemical products.

DOC Position

We disagree with MHI for the reasons already outlined in our October 8, 1996, decision memorandum on this topic. In that memorandum, we stated that the petition was intended to cover EPGTS used to produce refinery products, as well as the other end uses already specified in the notice of initiation. It was never the Department's intention to revise the scope to exclude merchandise which the petition intended to cover. Rather, in an attempt to draft a clear and concise scope definition, the Department altered the original scope language in the petition, inadvertently limiting the end uses of the subject merchandise beyond what was intended by the petition. We noted that the Department has the discretion to clarify the scope at any time during the investigation in general, and in a manner which reflects the intent of the petition, in particular. (See, e.g., LNPPs from Germany, 61 FR at 38169; and Minebea Co., Ltd. v. United States.)

Accordingly, we clarified the scope to include EPGTS used in the production of refinery products. We noted that this clarification did not conflict with our industry support determination prior to the initiation of this investigation. Our industry support determination related to the production of EPGTS systems used generally in the petrochemical and fertilizer industries, without distinction based on the type of application within these industries (*e.g.*, refinery, ethylene, etc.). (*See* October 8, 1996 Memorandum to Jeffrey Bialos from the Team Re: Scope.) Moreover, there is no evidence on the record to indicate that there were U.S. producers of EPGTS used in the manufacture of refinery products other than those contacted by the Department in its industry support determination that should have been considered in the Department's analysis. As stated in our May 28, 1996 Initiation Checklist, ''* * * we contacted all known producers and asked them to provide production data * * *.'' (See also Initiation, 61 FR at 28164.)

Therefore, for purposes of the final determination, we find no reason to depart from our original decision to clarify the scope of the investigation to include EPGTS used in the production of refinery products.

Comment 2: Agency vs. Reseller.

Throughout this investigation, the petitioner and MHI have argued over whether EP or CEP methodology should be used to establish the basis for the U.S. starting price. In this case, MHI sold subject merchandise to MC (a Japanese trading company) which, in turn, sold merchandise to the U.S. customer through MIC (MC's U.S. subsidiary). MHI reported its sale to MC as an EP transaction on the grounds that MC is allegedly an unaffiliated reseller and, at the time of sale, MHI knew that the merchandise was intended for export to the United States (*i.e.*, the ''trading company'' rule). In our preliminary determination in this investigation, we determined that MC and MIC were acting as MHI's selling agents, not as independent resellers, in the transaction under investigation. This determination was made based on our preliminary examination of the sales documentation provided by MHI, which showed that MHI played an integral role in the U.S. sale. Accordingly, we determined preliminarily that the

proper basis for the fair value comparison was the sale by MHI, through MC/MIC, to the U.S. customer. Because MHI made this transaction through a U.S. agent which was acting on its behalf, we preliminarily determined that the use of CEP, rather than EP, was appropriate. (See Preliminary Determination, 61 FR at 65013.)

The petitioner, MHI, and MC submitted extensive comments in their case and rebuttal briefs on this topic for purposes of the final determination. These comments and the Department's position are summarized below. For a complete discussion and analysis, see April 24, 1997, Memorandum to Jeffrey Bialos, Principal Deputy Assistant Secretary for Import Administration, from The Team Re: Whether MC and its U.S. Subsidiary, MIC, Acted as Agents of MHI or Independent Resellers in the U.S. Sale Made to (the U.S. Customer), and the Consequences of this Finding in Determining the Appropriate Basis for U.S. Price (''April 24, 1997, Agency Decision Memorandum'').

The petitioner argues that the Department should continue to treat the U.S. sale as a CEP sale in the final determination on the grounds that MC/MIC and MHI are ''affiliated persons'' under section 771(33)(G) of the Act because in the negotiation and sale of MHI's EPGTS to the U.S. customer, MC and MIC acted as sales agents.[4] The petitioner states that the record evidence, augmented by verification findings, establishes that MHI was integrally involved throughout the sales negotiation process and that MC/MIC acted as agents for the producer, not as independent purchasers/resellers. The petitioner points to various facts on the record which reveal that MHI effectively controlled the price and all other material terms of sale which were ultimately agreed upon with the U.S. customer such as: (1) There were both direct and indirect communications between MHI and the U.S. customer throughout the transaction; (2) there were no significant differences between MIC's bid proposals to the U.S. customer for the subject merchandise which were ultimately accepted by the U.S. customer and those prepared by MHI for MC/MIC; (3) inquiries from the U.S. customer on the cost impact of proposed specification changes, both in the pre-and post-sale period, were relayed by MIC directly to MHI and MHI issued cost impact reports to the U.S. customer via MIC, except in one case in which MHI dealt directly with the customer; and (4) MC and MIC do not possess the necessary technical capacity or expertise regarding cost, price, production/delivery schedules and post-sale servicing to negotiate the U.S. sale.

Further, the petitioner asserts that both under pre- and post-URAA antidumping law and practice, MC and MIC would be considered affiliated parties as MHI's agents, and thus their sales would warrant CEP treatment. In addition, the petitioner notes that the ''trading company'' rule does not apply to transactions between affiliated parties or between agents and principals, such as the transaction at issue in this case.

MHI argues that the Department's decision to treat MHI's U.S. sale as a CEP sale in the preliminary determination based on its finding that MC/MIC acted as MHI's U.S. selling agents, contradicts the statute, Department practice, and the facts of this investigation. MHI contends that the Department's preliminary analysis was flawed for several reasons. First, MHI maintains that MHI's/MC's relationship fails to meet the criteria for establishing an agency relationship and the record establishes that MC was a purchaser of MHI's merchandise. While MHI admits that some of the facts on the record may show that MHI and MC acted cooperatively in making the U.S. sale, MHI asserts that this cooperation does not diminish the fact that MHI and MC were still independent companies, each seeking to maximize its own profit, and does not provide a basis for determining that an agency relationship existed. Citing Restatement (Second) of Agency section 12–14 (1957) (''Restatement''), MHI asserts that a principal/agency relationship is characterized by three criteria, all of which must be met in order for an agency relationship to exist, but none of which are met in this case: (1) The agent must have authority to alter the principal's legal relationship to third parties; (2) the agent must have a fiduciary duty to the principal or must act primarily for the benefit of the principal; and (3) the principal must have the right to control the conduct of the agent with respect to matters entrusted to him. Among other things, MHI points out that the pre- and post-contract correspondence reviewed by the Department confirms that, especially as to commercial matters, the U.S. customer dealt almost exclusively with MIC; no documents on the record establish that MC bound or was able to bind MHI to the U.S. customer or to any other third party. MHI points to other facts on the record to demonstrate that MHI and MC acted as independent companies, each operating on its own behalf and not controlling the other.

Further, MHI explains that if the factors enumerated in section 14J of the Restatement (which assist in distinguishing an agent from a reseller) are applied to the facts of this case, it reveals that MC was a purchaser and reseller of MHI's merchandise. MHI points out: (1) The sales documentation on the record demonstrates that only MIC had direct communication with the customer on commercial matters prior to and after sale, and MHI was involved in post-sale logistical and technical negotiations with the U.S. customer; (2) the sales documentation submitted by MHI established that title and risk of loss was transferred from MHI to MC; (3) MC's scope of supply to the U.S. customer differed from MHI's scope of supply to MC; (4) MC had the right to retain the difference between what it paid to MHI and the revenue it received from the U.S. customer; (5) MC had the right to deal with the goods of persons other than MHI, as evidenced by examples of head-to-head competition between the two companies in sales of subject and non-subject merchandise during the POI; and (6) while MHI's identity was disclosed to the U.S. customer because of the custom-built nature of the goods and the fact that the manufacturers are specified in the customer's request for quotation, MIC dealt directly with the U.S. customer in its own name, and not on MHI's behalf.

Second, MHI contends that the rejection of prices between unaffiliated parties for purposes of calculating CEP contradicts the language and the logic of the Act. MHI asserts that the Department has no legal authority to reject the sale price between two unaffiliated parties and to resort to CEP methodology, even if it finds an agency relationship based on cooperative marketing. MHI explains that under pre-URAA law (section 771(13) of the Act), the Department was permitted to collapse a principal and its agent for purposes of determining U.S. price. According to MHI, the URAA (section 771(33) of the Act, as explained in the Statement of Administrative Action (SAA) at 153) repealed this provision and replaced it with the requirement that prices may be rejected only between affiliated parties. MHI argues that in order for the Department to make a determination of affiliation, it must find that ''control,'' as defined under section 771(33) of the Act, exists outside

[4] The petitioner also argues that MHI and MC/MIC are otherwise affiliated within the meaning of section 771(33)(F) of the Act. That is, even assuming MC and MIC did not act as agents for MHI, the petitioner maintains that the overall corporate relationship between the companies, including equity ownership, common directors, and numerous other ties establish that MC and MIC were, in effect, controlled by MHI.

and independent of the transaction under investigation. According to MHI, ''control'' must be interpreted as the ability to force another party to act against its own economic interests.

Third, MHI asserts that the Department's departure in its preliminary determination from the ''trading company'' rule without explanation was improper. MHI states that under normal practice, the Department will treat a respondent's sale to a trading company as a U.S. sale if the foreign manufacturer knows at the time of sale that the merchandise is destined for the United States. While MHI reported its U.S. sale in line with this settled practice, MHI asserts that the Department rejected it without explanation.

Fourth, MHI argues that the U.S. sale meets the requirements of an EP sale in accordance with section 772(a) of the Act and the Department's proposed regulations (19 CFR 351.401). MHI contends that its U.S. sale is an EP sale because: (1) MHI sold the merchandise to MC prior to exportation; no inventorying was required or performed; and (2) MHI's U.S. economic activity for this sale was *de minimis* and its U.S. affiliate, MHIA, at most functioned as a communications link with MHI's head office and Hiroshima plant on technical issues. Because MHI's U.S. sale has none of the characteristics of a CEP sale, MHI concludes that it should be treated as an EP sale.

Finally, MHI maintains that the existence of an agency relationship does not convert a sale to CEP that would otherwise be classified as an EP transaction. MHI argues that nothing in the Act or the Department's proposed regulations support the conclusion that the involvement of an unaffiliated party (even if characterized as an agent) itself, warrants CEP methodology. MHI points out that considering a sale between a principal and end user through an unaffiliated selling agent as a CEP transaction ignores the purpose for distinguishing EP and CEP transactions and results in distortive antidumping analysis. MHI explains that the adjustments to CEP which are not relevant to EP exist to eliminate distortions caused by selling functions and associated profits accruing to the manufacturer by reason of sales activities in the United States. In this case, however, MHI asserts that no U.S. activities or profits accrue to the manufacturer where it does not operate in the United States. Since the sale between the manufacturer and the end user is an arm's-length border price, albeit negotiated through the agent, no purpose is served by treating the transaction as CEP merely based on the agent's involvement. Nothing in the nature of the agency relationship suggests that the agent's commission from the manufacturer would not be at arm's length. MHI states further that under CEP analysis, the agent's commission would not be treated as a circumstance of sale adjustment, but as affiliated party activity that must be deducted, with profit, from CEP to ''construct'' an EP.

According to MHI, if the Department utilizes CEP methodology for this sale, in effect, it would mandate that commissions *per se* cannot be made at arm's length and would fail to recognize a fundamental distinction between affiliation and agency, namely that agents may be either affiliated or unaffiliated with their principals. According to MHI, this distinction is reflected in the different definitions of control that exist in common law with respect to agents and the antidumping statute's treatment of affiliation. MHI explains that in common law, a principal's ''control'' over an agent focuses on manifestations of consent between the parties; thus, the agent remains free to engage in arm's-length negotiations with the principal over its compensation and other terms of the agency. MHI explains further that, in contrast, the scope of ''control'' as it relates to affiliated parties under the Act extends to the very terms of the parties' relationship and whether or not the controlling party can induce the controlled party to accept economic terms that the controlled party would not otherwise accept. MHI points out that in this latter context the Act requires the Department to disregard the price (or commission) established between the parties because that price is assumed not to be at arm's length. Where, however, the principal has no control over the terms of agency the agent accepts, no reason exists for the Department to disregard that commission. Thus, without other indicia of affiliation, MHI contends that applying a CEP methodology to a principal/agent relationship, thereby equating agency with affiliation, violates the intent of the EP/CEP distinction and distorts the antidumping analysis. Accordingly, MHI argues that a sale by a principal through an unaffiliated selling agent to an unaffiliated U.S. end user should be treated as an arm's-length EP transaction where the commission accrued by the agent is accounted for as a circumstance of sales adjustment.

Like MHI, MC contends that MC and MIC acted as resellers and not as sales agents for MHI in the U.S. transaction at issue because: (1) The required characteristics of an agency relationship are not fulfilled, and (2) the parties' commercial behavior, sales documentation and internal accounting records are consistent with a purchase/resale relationship. According to MC, the price between MHI and MC is the relevant U.S. price (pursuant to the ''trading company'' rule) because MHI knew that the ultimate destination of the merchandise was the United States and MHI and MC are unaffiliated parties.

Specifically, MC asserts that under U.S. law, an agency relationship has several required characteristics which are not present in the transaction under investigation. For example, it cannot exist without an explicit agreement from the principal authorizing the agent to act on his behalf in a specified context, and explicit consent by the agent to act on the principal's behalf and only at the principal's direction; and the agent does not act independently, pursuing his own economic interests, but rather is acting exclusively to promote the interests of the principal. According to MC, in a typical sales agent relationship, the agent's job is to locate potential customers for the principal. The principal makes all commercial decisions and takes whatever profits accrued from the transaction. The agent is compensated based on the principal/agent agreement. By contrast, resellers, while they must cooperate with the seller to conduct business, they are independent in their actions, take on more initiative and responsibility, and bear more risk in the transaction than an agent does. Specifically, resellers (1) Take title to the goods, (2) carry the risk of loss, and (3) are compensated based on the spread or mark-up that they can achieve independently on a resale. Based on the behavior of the parties in the transaction and the documentation on the record, MC maintains that MC and MIC acted as independent resellers in the U.S. sale at issue. MC points out that if MC and MIC had been acting as sales agents in the transaction at issue, MHI would have: (1) Asked MIC or MC to solicit possible customers for MHI; (2) negotiated all commercial terms and entered into the contract with the customer; and (3) received the profit from the transaction, while MC/MIC would have merely received a commission pursuant to the agency agreement. According to MC, the record demonstrates that the sale at issue did not occur in this manner.

Moreover, MC states that the legal documentation and internal accounting records of the transaction at issue likewise confirm that MC/MIC acted as

independent purchasers and resellers. MC asserts that the legal documentation shows that MC and MIC each took title to the MHI turbo-compressor equipment, bore the risk of loss and were fully responsible for the further completion of the sale at issue. MC also asserts that MC's and MIC's internal accounting records reflect purchase and sale transactions, show that the price received from the resale customer is higher than the price paid by MC/MIC to its supplier, and do not report any commission.

Finally, like MHI, MC disagrees with the petitioner's argument that the alleged agency relationship between MHI and MC is grounds for a finding of affiliation. MC maintains that by its nature, a transaction-specific agency relationship could not rise to the level of permanence, significance, and control necessary to support a finding of affiliation that is suggested by the Department's proposed regulations.

DOC Position

We agree with the petitioner. We determine that a principal and agent in a sales transaction, even if unrelated in a broader corporate sense, are ''affiliated'' within the meaning of section 771(33) of the Act. For the purpose of determining U.S. price, the pre-URAA law (section 771(13)) included an explicit reference to principal-agent relationships in the definition of ''exporter'' and, in practice, sales agents and their principals were deemed affiliated for the purpose of calculating U.S. price. (See, e.g., Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from South Africa, 60 FR 22550 (May 8, 1995) (''Furfuryl Alcohol from South Africa''); Electrolytic Manganese Dioxide from Japan: Final Results of Antidumping Administrative Review, 58 FR 28551 (May 14, 1993) (''Electrolytic Manganese Dioxide from Japan'').) In the URAA, Congress repealed this provision and replaced it with the new definition of ''affiliated persons'' in section 771(33) of the Act. While there is no explicit reference to agents in new section 771(33), we nevertheless interpret the new definition to include agents for several reasons. First, the legislative history is clear that Congress intended to expand, not limit, the definition of ''affiliated persons'' beyond that which existed under the pre-URAA law. Second, the new law defines an affiliated party to include ''any person who controls any other person'' or ''any person which is legally or operationally in a position to exercise restraint or direction over another person.'' Thus, this definition covers principal-agent relationships because, by definition, a principal controls its agent. The agent may act only to the extent its actions are consistent with the authority granted by the principal. Thus, control of the principal over its agent is the hallmark of an agency relationship. (See Restatement, section 14.)

While we agree that an agent may negotiate at arm's length the terms of an agency agreement, we disagree with MHI that this leads to the conclusion that there is no control within the meaning of section 771(33). With respect to activities undertaken pursuant to the agency (*e.g.*, the sale of merchandise), the principal unquestionably controls the agent. Further, the very narrow definition of control proffered by MHI (*i.e.*, the ability to force another party to act against its own economic interests) is inconsistent with the Act. The Act defines control as the ability, legally or operationally, to direct or restrain the acts of another. It is irrelevant whether that control is exercised to the benefit or detriment of the controlled party.

In light of this interpretation, we believe that, contrary to the respondents' assertions, the ''trading company'' rule does not apply in cases where, as here, an agency relationship exists. This rule provides that when a foreign producer sells subject merchandise to an *unaffiliated* trading company in the home market with knowledge that the merchandise will be sold for exportation to the United States, the producer's price to the unaffiliated trading company (and thus EP) is the appropriate basis for U.S. price. (See Forged Steel Crankshafts from Japan, 52 FR 36984, October 2, 1987.) In a case where the trading company acts as the foreign producer's selling agent, however, the foreign producer and trading company would be considered *affiliated* by virtue of their principal-agent relationship. The trading company rule has been rejected in past cases with similar factual patterns where an agency relationship exists between the producer and trading company. (See Color Television Receivers, Except for Video Monitors, from Taiwan, 53 FR 49706, 49711, December 9, 1988.)

Based on our analysis of the facts of record, we find that MC/MIC were acting as agents on MHI's behalf in the U.S. sale at issue. The analysis of whether a relationship constitutes an agency is case-specific and can be quite complex; there is no bright line test. For example, although agency relationships are frequently established by a written contract, this is not essential. Under general principles of agency, the focus of the analysis is whether it is agreed that the agent is to act primarily for the benefit of the principal, not for itself. (*See* Restatement, sections 1 cmt.b. and 26 cmt.a. *See also* sections 14J and 14K.)

The Department has examined allegations of an agency relationship in only a few cases and has focused on a range of criteria including: (1) The foreign producer's role in negotiating price and other terms of sale; (2) the extent of the foreign producer's interaction with the U.S. customer; (3) whether the agent/reseller maintains inventory; (4) whether the agent/reseller takes title to the merchandise and bears the risk of loss; and (5) whether the agent/reseller further processes or otherwise adds value to the merchandise. *See, e.g.*, Furfuryl Alcohol from South Africa, 60 FR 22550; Electrolytic Manganese Dioxide from Japan, 58 FR 28551.

In this case, based on an examination of these and other pertinent criteria outlined in the April 24, 1997, Agency Decision Memorandum, we found that an agency relationship existed between MHI and MC/MIC in the sales transaction at issue. In particular, we note that the record evidence demonstrates that MHI effectively controlled the price, among other terms of sale, in the transaction with the U.S. customer. The evidence also shows that MHI conducted some marketing of its product to the U.S. customer in the pre-sale period, and that its identity was disclosed throughout the sales documentation governing the sale in a manner indicative of a principal-agent relationship. In addition, MC/MIC did not maintain inventory of, or further process, the subject merchandise. Although MC/MIC took title to the merchandise and bore the risk of loss, and that most of MHI's contact with the customer during the pre-sale period was indirect and limited to technical matters, we believe that based on the totality of the circumstances, that MC/MIC was under MHI's control in the transaction at issue and, therefore, an agency relationship existed.

Therefore, we determine that MHI and MC/MIC are ''affiliated'' within the meaning of section 771(33) of the Act by virtue of their principal-agent relationship, not on the basis of the broader corporate relationship between the parties. Having determined that the parties are affiliated, we then considered whether the EP or CEP methodology was appropriate. Based on the extensive role of MC/MIC in the U.S. sales process, we have used CEP methodology in the final determination.

Comment 3: Corporate Affiliation under Sections 771(33)(F) and (G) of the Act.

The petitioner contends that MHI and MC/MIC are affiliated within the meaning of section 771(33)(F) of the Act. The petitioner contends further that because of their interlocking corporate relationship, MHI and MC are legally or operationally in a position to exercise restraint or direction over the other, and that the record contains sufficient evidence of common control between the two companies. The petitioner urges the Department to evaluate the indicia of control (*i.e.*, corporate grouping, joint venture agreement, debt financing, close-supply relationship) described in the SAA cumulatively within the context of control by a corporate group.

Further, the petitioner believes, contrary to respondents, that ''control'' within the meaning of section 771(33) of the Act, does not require that one party has the power to coerce another to act against its own interest and that this power extends beyond a particular transaction. The petitioner states that no statutory principle embodies this requirement. The petitioner believes that ''control'' within a particular transaction is particularly important in cases, such as the instant one, where there are few individual transactions and a producer may have strong influence over the ultimate purchaser by virtue of longstanding relationships.

MHI maintains that MHI and MC do not satisfy the requirements for ''control'' specified in sections 771(33)(F) and (G) of the Act and, therefore, should not be treated as affiliated parties in the Department's final antidumping analysis. MHI believes that to justify a finding of control, the Department must: (1) Be able to identify the controlling party and the controlled party; (2) examine MHI's and MC's corporate relationship outside the confines of a specific transaction; and (3) find evidence of the ability to exercise economic coercion where one party can force the other party to act against its own interest. MHI asserts that it is unlawful and illogical to conclude, as the petitioner does, that affiliated parties exercise mutual control, or that control can be diffused among a group of companies, the membership of which is not defined legally. According to MHI, the Department must determine that MHI controls MC, or MC controls MHI, or some identifiable third party controls them both. Moreover, MHI states further that this determination must be made in light of business and economic reality, suggesting that the control relationship must be significant and not easily replaced.

Further, MHI maintains that its analysis of the facts in this investigation shows that MHI and MC did not have the ability to exercise restraint or direction under the control indicia enumerated in the SAA.

Like MHI, MC claims that MC and MHI do not qualify as ''affiliated'' persons under section 771(33) of the Act based on an analysis of their relationship in terms of each of the control indicia enumerated in the SAA. MC asserts that the affiliation issue was already examined in the final determination of LNPPS from Japan (61 FR 38156–38157) where the Department ruled that the potential indicators of control between MHI and MC taken individually were an insufficient basis of finding control, and that the record facts with respect to MC's/MHI's relationship and their relationship with third parties have not changed so as to warrant a reversal of that decision.

MC also repeats many of the same arguments and similar facts stated by MHI regarding the issue.

DOC Position

The Department invited comments on this issue in its preliminary determination and evaluated the relevant facts in this case in the context of the control standard set forth in section 771(33) of the Act and the SAA. (*See* April 24, 1997, Memorandum to Jeffrey P. Bialos, Principal Deputy Assistant Secretary for Import Administration, from Louis Apple Re: Summary of Evidence on the Record of the Investigation Regarding Potential Affiliation of MHI and MC.) In the facts and circumstances of this case, however, we have determined that the Department does not need to render a determination on this issue because we have already found an agency relationship to exist and, on that basis, have found the parties to be affiliated pursuant to section 771(33) of the Act. Accordingly, as noted in *Comment 2* above, the Department used CEP methodology for this sale and has deducted the U.S. import duties and actual selling expenses incurred by MC/MIC pursuant to our practice set forth in Furfuryl Alcohol from South Africa.

Comment 4: Level of Trade (''LOT'')/CEP Offset.

The petitioner contends that MHI should not receive either a LOT adjustment or a CEP offset because it did not establish that its U.S. transaction with MC/MIC is at a different LOT from its home market sales. According to the petitioner, the record does not demonstrate that there are any quantitative or qualitative differences between MHI's home market and U.S. selling functions. The petitioner believes that, given the technical complexity of the subject merchandise and the importance of customer specifications to each sale, the same set of selling functions (*e.g.*, bid preparation, warranty, and installation supervision) were performed by MHI for its EPGTS sales in both the home market and the United States. In support of this argument, the petitioner cites to the Notice of Proposed Rulemaking and Request for Public Comment explaining section 351.412(c)(2) of the Department's proposed regulations, which states: ''where the selling functions and activities are substantially the same, however, sales normally will be considered to have been made at the same level of trade.''

MHI contends that if the Department determines that CEP is the appropriate basis for United States price, and collapses the activities of MHI with those of MC/MIC, the Department should grant MHI a CEP offset. MHI contends that it qualifies for a CEP offset because: (1) Its CV is at a different LOT from its U.S. sale; (2) no data exist to examine the price comparability between different home market LOTs; and (3) the U.S. sale occurs at a less advanced stage of distribution than its home market sales. In the alternative, MHI asks the Department to base the calculation of SG&A and profit for CV upon the home market sale to the trading company (*i.e.*, MC), because that sale is allegedly at a LOT that is comparable to its U.S. sale.

MHI asserts that its home market sales include certain selling functions not found in its sale to MC/MIC (*e.g.*, initial customer contact, sales support operations, and delivery), and that its home market sales occur at a more advanced stage of distribution than its sale to MC/MIC. Citing Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, 61 FR 51406, 51409 (1996), among other cases, MHI argues that because the adjustments to CEP under section 772(d) of the Act will create a LOT that is at a less advanced stage of distribution than MHI's LOT in the home market. Accordingly, MHI maintains that the Department should calculate a LOT adjustment to MHI's CV in the form of a CEP offset, if it does not base CV selling expenses and profit exclusively on MHI's home market sale to a trading company.

DOC Position

We agree with the petitioner. In accordance with section 773(a)(1)(B)(i) of the Act and the SAA accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. at 829–831 (1994), to the extent practicable, the Department will calculate NV based on sales at the same

LOT as the U.S. sale(s). When the Department is unable to find sale(s) in the comparison market at the same LOT as the U.S. sale(s), the Department may compare sales in the United States to foreign market sales at a different LOT. Pasta from Italy, 61 FR at 30330–30331. The LOT of NV is that of the starting-price sales in the home market. When NV is based on CV, the LOT is that of the sales from which we derive SG&A and profit.

For both EP and CEP, the relevant transaction for LOT is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the EP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses specified in section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by, or on behalf of, the affiliated importer and, as such, they tend to occur after the transaction between the exporter and importer for which we construct CEP. Because the expenses deducted under section 772(d) of the Act represent selling activities in the United States, the deduction of these expenses normally yields a different LOT for the CEP than for the later resale (which we use for the starting price). Movement charges, duties, and taxes deducted under section 772(c) do not represent activities of the affiliated importer, and we do not remove them to obtain the CEP LOT.

In order to determine whether foreign market sales are at a different LOT than U.S. sales, the Department examines whether the foreign market sales have been made at different stages in the marketing process, or the equivalent, than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and the respondent's sales occur somewhere along this chain. In the United States this is generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the foreign market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT. Customer categories or descriptions (such as trading company or end-user) are useful in identifying different LOTs, but are insufficient to establish that there is a difference in the LOT without substantiation. An analysis of the chain of distribution and of the selling functions substantiates or invalidates claimed customer classification levels. If the claimed customer levels are different, the selling functions performed in selling to each level should also be different. Conversely, if customer levels are nominally the same, the selling functions performed should also be the same. Different stages of marketing necessarily involve differences in selling functions, but differences in selling functions (even substantial ones) are not alone sufficient to establish a difference in the LOT. A different LOT is characterized by purchasers at different places in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When sales in the U.S. and foreign market cannot be compared at the same LOT, an adjustment to NV may be appropriate. Section 773(a)(7)(A) provides that, after making all appropriate adjustments to EP or CEP and NV, the Department will adjust NV to account for differences in these prices that are demonstrated to be attributable to differences in the LOT of the comparison sales in the foreign market.

With respect to the CEP offset, the statute also permits an adjustment to NV if it is compared to U.S. sales at a different LOT, provided the NV is more remote from the factory than the CEP sales, and we are unable to determine whether the difference in LOT between CEP and NV affects the comparability of their prices.

This latter situation can occur where there is no foreign market LOT equivalent to the U.S. sales level, or where there is an equivalent foreign market level, but the data are insufficient to support a conclusion on price effect. Where different functions at different LOTs are established under section 773(a)(7)(A)(i), but the data available do not form an appropriate basis for determining a LOT adjustment under section 773(a)(7)(A)(ii), the Department will make a CEP offset adjustment under section 773(a)(7)(B), which is the lower of: (1) The indirect selling expenses on the foreign market sale; or (2) indirect selling expenses deducted from the CEP starting price under section 772(d)(1)(D).

In applying these principles to the facts in this case, we began by removing from the CEP starting price the expenses specified in section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by, or on behalf of, MC/MIC in connection with the first sale to an unaffiliated customer in the United States. In this regard, we identified: direct and indirect selling expenses incurred by MIC for initial customer contacts, sales negotiations, communications, and shipping logistics in the United States to the unaffiliated customer; installation-related expenses incurred by MHI in the United States following shipment of the subject merchandise to the unaffiliated U.S. customer; and, indirect selling expenses incurred by MHIA relating to U.S. office maintenance and technical support.

Next, we sought to compare the distribution systems used by MHI for its U.S. and home market sales, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT. In reviewing the selling functions performed by MHI for both the U.S. and home market sales transactions, we considered all types of selling activities, both claimed and unclaimed, that had been performed. As noted above, it is the Department's preference to examine selling functions on both a qualitative and quantitative basis. While MHI and MC provided information on the nature of the varying selling functions performed for the sales transactions in both the U.S. and home markets, respondents did not provide the Department with data quantifying these selling activities. Further, at verification, such information could not be derived from records and accounting systems maintained by respondents in the ordinary course of business.

When we examined the CEP transaction between MHI and MC/MIC, we identified the following selling functions performed by MHI: sales negotiation and bid preparation; maintenance of sales office; technical specification development and monitoring; parts procurement activities; shipping arrangements; performance testing; and warranty extension. When we reviewed MHI's home market sales during the POI, we did not consider the one sale found to be outside the ordinary course of trade (*i.e.*, below the cost of production). Instead, we focused upon the two remaining sales which were nominally made at different customer levels—that is, trading company and end-user. However, when we analyzed the selling functions at both levels, we found that they were basically the same. Specifically, MHI performed the following selling functions in connection with both home market sales: initial customer contact; sales negotiation and bid preparation; maintenance of sales offices; technical

specification development and monitoring; parts procurement activities; shipping arrangements; and warranty extension. The only selling function that might have been different between the two sales was installation activity. However, we have treated the expense relating to installation activity as a direct selling expense for which we have made a circumstances of sale adjustment pursuant to section 353.56(a) of our regulations. (*See* Memorandum to Case File, April 24, 1997.)

As a result of this analysis, we have determined that an examination of MHI's selling functions in the home market does not validate the claimed customer classification levels. Therefore, we have determined that MHI's home market sales in the ordinary course of trade are not made at different LOTs, and we have based our calculation of SG&A and profit for CV upon these sales. (*See* ''Constructed Value'' section of this notice for more details.)

Finally, we compared the LOT of the CEP sale to the LOT of CV. Here, again, we found no significant difference. Indeed, with only two exceptions, MHI did perform the same selling functions on its home market sales that it did on its CEP transaction with MC/MIC. These functions, as noted above, included: sales negotiation and bid preparation; maintenance of sales office; technical specification development and monitoring; parts procurement activities; shipping arrangements; and warranty extension. The only exceptions concern (1) Initial customer contact and (2) performance testing. As explained above, initial customer contact for the CEP sale was performed by, or on behalf of, MC/MIC. Therefore, this expense (and the profit associated with it) was deducted from the CEP starting price pursuant to section 772(d) of the Act. In connection with its home market sales, while MHI claimed to have performed initial customer contact functions, the Department was unable to verify the accuracy of this claim.

With respect to performance testing conducted for the CEP transaction, the expense relating to this selling function is insignificant when compared to the total sales value of the CEP transaction (*see* Memorandum to the Case File, dated April 24, 1997). This difference in selling function between the U.S. and home markets is, therefore, not significant for purposes of our LOT analysis.

In conclusion, our analysis of the record evidence regarding the distribution systems in the foreign market and the United States (including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT) does not reveal sufficient differences to justify either a LOT adjustment or a CEP offset. Although there appear to be differences associated with customer categories, these differences are not borne out by an analysis of the selling functions for the home market and CEP sale, which are largely the same. *See Gray Portland Cement and Clinker from Mexico,* 62 FR 17148, 17155–58 (1997).

Comment 5: MC's/MIC's Expenses and Value of Non-Subject Parts.

The petitioner argues that all actual expenses incurred by MC/MIC in the U.S. transaction which were not deducted in the preliminary determination should be deducted in the final determination in accordance with section 772 (c) and (d) of the Act. These expenses include U.S. Customs duties paid by MIC and selling expenses incurred by MC/MIC which are associated with U.S. economic activity. In addition, the petitioner maintains that the Department should continue to deduct the value of non-subject parts from the CEP starting price based on the amount ultimately charged to the U.S. customer, rather than MIC's actual costs because there is no evidence that the former amount was not at arm's length.

MHI argues that the petitioner's suggested adjustments to U.S. price should be rejected because: (1) CEP methodology is not warranted in this case for the reasons it explained in *Comment 2* above; and (2) by using the MHI-to-MC price as the basis for starting price and thus applying EP methodology, the Department would substantively accommodate the adjustments proposed by the petitioner. MHI points out that all of MC's/MIC's expenses for the U.S. sale are included in the difference between the MHI's price to MC and MIC's price to the U.S. customer.

DOC Position

We agree with the petitioner, in part. Based on our decision in *Comment 3* above, we have deducted from CEP all actual expenses incurred by MC/MIC in the transaction, including U.S. import duties, selling expenses associated with U.S. economic activity, and MIC's cost of non-subject parts from the CEP starting price.

Comment 6: U.S. Indirect Selling Expenses Incurred in Country of Manufacture.

The petitioner contends that certain items that were reported as part of MHI's indirect selling expenses were actually directly related with US sales activities and as such should be deducted from CEP. The petitioner identifies those items as pre-bid meetings, travel, and salesman visits. Because the nature of the subject merchandise in this investigation requires technical design to the customer's specifications, the petitioner asserts that the above-noted selling expenses incurred by MHI were necessarily attributable to the commercial activity in the United States and, therefore, should be deducted accordingly. To support this assertion, the petitioner cites Pasta from Italy, 61 FR at 30352. In the absence of information sufficient to identify these expenses as direct expenses, the petitioner argues that the Department should reduce CEP by MHI's corporate indirect selling expense rate, or at a minimum, deduct all of the Japanese indirect selling expenses reported by MHI.

In contrast, MHI asserts that, first, it is improper for the petitioner to base its argument on the assumption that CEP methodology is warranted in this case. Further, MHI asserts that it is the Department's practice to deduct from CEP only those U.S. selling expenses actually incurred in the United States. In support of this assertion, MHI cites to the Department's decisions in Calcium Aluminate Flux from France, 61 FR 40396, 40397 (August 2, 1996) (''Flux from France''), and Certain Internal-Combustion Industrial Forklift Trucks from Japan, 62 FR 5592 (February 6, 1997) (''Forklift Trucks from Japan''). According to MHI, there is no evidence on the record in this investigation which connects MHI's reported indirect selling expenses with U.S. economic activity.

DOC Position

We agree with petitioner that certain of the indirect selling expenses incurred by MHI for the U.S. sale are associated with economic activity that occurred in the United States. Specifically, during verification, we identified certain pre-bid expenses, including travel expenses, that are appropriately included in our deduction of CEP expenses. We have accounted for these expenses in our final CEP calculations. (See Calculation Memorandum.)

Comment 7: Other Unclaimed Expenses.

The petitioner argues that certain other direct selling expenses allegedly related to shipment logistics should be deducted on the grounds that they are necessarily attributable to U.S. economic activity.

MHI disagrees. It contends that the Department verified that the expenses at issue either were not incurred or were

properly reported as part of cost of production for the U.S. sale. Therefore, MHI asserts that no deduction to CEP for these expenses is warranted.

DOC Position

We disagree with the petitioner. As MHI correctly points out, we verified that the expenses at issue either were not incurred or were properly reported as part of cost of production for the U.S. sale. (*See* March 11, 1997 MHI Verification Report at 32.) Therefore, we have not made any adjustments to CEP for the alleged direct selling expenses.

Comment 8: Mitsubishi Heavy Industries America (MHIA Houston) Selling Expenses.

The petitioner asserts that MHI improperly allocated MHIA Houston's reported selling expenses over both U.S. and non-U.S. sales, thereby understating the selling expenses incurred by MHIA Houston for the U.S. sale. The petitioner argues that MHIA Houston's selling expenses should be allocated over total U.S. sales of turbo-machinery given that a significant portion of MHIA expenses were allocated to such sales and MHIA's small size effectively precludes it from servicing sales in non-U.S. markets. Therefore, the petitioner requests that the Department reject MHI's allocation formula and allocate MHIA Houston's selling expenses over U.S. sales only.

MHI disagrees, arguing that the Department verified that MHIA Houston was involved in sales to countries other than the United States. According to MHI, while the market for turbo-machinery is worldwide, Houston is a major center for turbo-compressor manufacturers and plant contractors. Therefore, it is not unusual for meetings to take place in Houston for sales of turbo-machinery to both U.S. and non-U.S. markets. Based on these factors, MHI asserts that its allocation methodology for MHIA Houston's selling expenses is reasonable and accurate, and should be accepted for the final determination.

DOC Position

We agree with MHI. At verification, we reviewed documentation showing that MHIA was involved in technical support activities relevant to both U.S. and non-U.S. sales. We also verified the accuracy and completeness of the indirect selling amount reported by MHI. (*See* March 11, 1997 MHI Verification Report at 30.) Therefore, we have deducted MHIA's indirect selling expenses.

Comment 9: U.S. Credit Expense.

A. General Calculation Methodology

The petitioner asserts that the Department should reject the portion of MHI's claimed U.S. credit expense which reflects credit income for payment received prior to shipment (*i.e.,* progress payment) and, for purposes of the final determination, calculate credit expense equal to the corporate interest rate multiplied by the final payment amounts times the number of days between shipment and payment, divided by the number of days in the calendar year (*i.e.,* 365). According to the petitioner, the progress payments on which MHI's reported credit income is based are improperly characterized by MHI as a negative credit expense; rather, these payments are a form of working capital financing. Further, citing Cellular Mobile Telephones and Subassemblies from Japan, 50 FR 45,447, 45,455 (October 31, 1995), the petitioner argues that the Department does not include progress payments received in its calculation without evidence of interest revenue resulting from these payments. The petitioner notes that only if the Department considers the cost to MHI of financing EPGTS as work-in-process during the period between the dates of sale and shipment should the Department offset that cost with the interest income imputed for progress payments.

MHI and MC request that the Department continue to calculate MHI's credit expense for the U.S. sale inclusive of the pre-shipment credit income at issue. According to MHI, the inclusion of imputed credit benefit for payments received prior to shipment and imputed credit expense for payments received after shipment reflect MHI's total cost of extending credit to its U.S. customer. MHI asserts that if the Department were to calculate credit as the petitioner suggests, it would result in a credit expense adjustment that fails to fairly measure MHI's opportunity cost of extending credit to the U.S. versus home market customers. MHI explains that, in this instance, the payment terms for the U.S. sale require the U.S. customer to make advance payments (or progress payments) prior to the shipment of merchandise while payment terms for home market sales do not require pre-shipment or progress payments. According to MHI, failure to include both payments received before and after shipment of merchandise would ignore the payment terms specific to the U.S. sale. Additionally, MHI points out that the petitioner fails to recognize that MHI's cost of financing production is comparable for both its U.S. and home market sales. Because MHI incurs its production costs for both U.S. and home market sales in yen, MHI asserts that the imputed cost of financing these sales would be comparable. Thus, MHI maintains that the calculation methodology adopted by the Department in the preliminary determination, but for the short-term interest rate used (*see* Comment 9(B) below), correctly measures MHI's opportunity cost of extending credit on behalf of its U.S. sale.

MC also disagrees with the petitioner, arguing that the Department considers production costs in its credit expense analysis only when the terms of sale call for the payment of significant capital outlays (up-front) prior to production and shipment, which did not happen in the case of the U.S. sale. Further, MC takes issue with the petitioner's argument that a credit income adjustment is allowed only if interest revenues on pre-shipment payments were obtained, maintaining that imputed credit expense amounts are calculated regardless of the presence or absence of actual borrowings.

DOC Position

We agree with respondents and have calculated U.S. imputed credit expenses inclusive of the credit income at issue in the final determination.

The intent of making a circumstances of sale adjustment for imputed credit expenses incurred in the U.S. and comparison markets is to adjust for differences in the payment terms extended to customers in the two different markets. In this case, ignoring the imputed credit income in the calculation of U.S. credit expense would result in a credit expense adjustment which would fail to accurately measure MHI's opportunity cost of extending credit to U.S. versus home market customers. We note that the Department has calculated credit using both pre- and post-shipment payments in past cases involving large, customized equipment with relatively long production periods. (See Mechanical Transfer Presses from Japan: Final Results of Administrative Review, 61 FR 52,910, 52,914 (1996).) In certain other past cases such as LNPPS from Japan, the Department has determined it to be appropriate to offset production financing costs with progress payments, as suggested by the petitioner, because there were multiple progress payments relevant to sales in both the U.S. and comparison market and an unusually long production period associated with the subject merchandise. In this case, however, only one progress payment

was made for a relatively small portion of the total contract price, the production period was not unusually long (*i.e.*, approximately one year), and no progress payments are applicable to MHI's home market sales made during the POI.

Therefore, we have determined that there is no need to use an alternative calculation methodology which would offset credit income associated with progress payments with production financing costs or one that would exclude credit income altogether from the calculation.

B. Short-term Interest Rate

MHI argues that in calculating imputed credit expenses for the U.S. sale the Department should use the actual cost of the short-term borrowing reported by MHI. MHI maintains that the Department's decision in the preliminary determination to use a dollar-denominated short-term interest rate appears to be an automatic application of matching the currency of the interest rate used to the currency of the sale. According to MHI, this approach does not conform with economic rationale in this case where most of MHI's short-term debt was denominated in yen. In support of recalculating U.S. credit expense using the interest rate based on yen-denominated borrowings, MHI cites to (1) *LMI–La Metalli Industriale, S.p.A. v. United States*, 912 F.2d. 455 (Fed. Cir. 1990) (*LMI*) in favor of using the interest rate for imputed credit calculations that is in accordance with ''commercial'' reality, and (2) *United Engineering & Forging v. United States*, 779 F. Supp. 1375 (Ct. Int'l Trade 1991), *aff'd*, 996 F.2d. 1236 (Fed. Cir. 1993) (United Engineering) in favor of using the lowest rate at which the respondent has borrowed or to which respondent has access. Therefore, MHI requests that the Department use the lowest interest rate to which the respondent would have access, *i.e.*, the reported yen-denominated interest rate, in calculating the imputed U.S. credit expense in the final determination.

Further, MHI takes issue with the Department's reliance on the rationale outlined in LNPPs from Japan for using a dollar-denominated short-term interest rate in the preliminary determination of this case. MHI asserts that the Department's reasoning for the use of such a rate captures the value of the credit to the customer, rather than the cost to the seller of extending credit, which is contrary to the calculation of the LTFV margin which is made from the seller's perspective. Specifically, MHI states that if the Department is attempting to measure the value of the theoretical loan from the seller to the buyer during the period between shipment and payment from the buyer's perspective, then the interest rate used should be the rate in which the receivable is denominated. However, because the antidumping law seeks to calculate a dumping margin based on the seller's expenses, MHI maintains that the rate in which the receivable is denominated is irrelevant. Instead, MHI argues that the Department must calculate the cost of this theoretical loan from the seller's perspective. To do so, MHI contends that the Department must examine MHI's actual cost of capital, which in this case is denominated in yen.

The petitioner argues that the Department correctly applied a U.S. dollar-denominated interest rate to compute MHI's imputed credit expense on the U.S. sale. The petitioner asserts that the *LMI* decision on which MHI relies was based on whether the chosen interest rate comports with ''usual and reasonable commercial behavior.'' Therefore, the petitioner argues that it is necessary to consider the circumstances as a whole and not merely conclude that the lowest interest rate should be used. According to the petitioner, the circumstances in this investigation are as follows: (1) The foreign producer has borrowings in U.S. dollars; (2) the U.S. sale is in U.S. dollars; and (3) over one year elapses between the date of shipment and the date of payment. Based on these conditions, the petitioner finds it reasonable to use a U.S. dollar-denominated rate for purposes of calculating U.S. credit expense. In support of its argument, the petitioner cites LNPPs from Japan.

DOC Position

We agree with the petitioner and have calculated U.S. credit expense based on the U.S. dollar-denominated interest rate in the final determination. As noted in the final determination of LNPPs from Japan (61 FR 38160), when sales are made in, and future payments are expected in, a given currency, the measure of a company's extension of credit should generally be based on an interest rate tied to the currency in which its receivables are denominated, as the seller is effectively lending to its purchaser in that currency. (See also Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Austria, 60 FR 33551, 33555 (June 28, 1995).) Indeed, in the present case, the Department verified that MHI had U.S.-denominated short-term borrowings, the existence of which indicates the ability and preparedness of MHI to support its EPGTS activities which result in U.S. dollar-denominated revenues by borrowing in U.S. dollars. Consequently, the Department's approach is consistent with *LMI*. Further, contrary to respondent's suggestion, such an approach does not capture the value of the credit extended to the customer instead of the cost of extending credit to the seller. Rather, the cost calculated is the cost to MHI, matching its dollar-denominated borrowing rate to its dollar-denominated receivables. Whether or not this also reflects the value to the buyer is irrelevant. Therefore, there is no basis to depart from the Department's well-established practice.

Comment 10: Circumstances of Sale Adjustment for Home Market Credit Expenses.

MHI argues that in the preliminary determination, the Department failed to make a circumstances of sale adjustment for home market imputed credit expenses. Specifically, MHI asserts that the Department reduced the CEP by the amount of imputed credit expenses related to MHI's U.S. sale, but did not make a corresponding adjustment for home market credit expenses by subtracting the reported home market credit expense from CV. MHI asserts that CV profit includes all items in the home market price that are not otherwise included in CV. MHI reasons that since imputed credit expense is included in the home market price, it is included in the calculation of CV through a combination of interest expense and home market profit. Therefore, MHI contends that in order to ensure a fair value comparison, the home market credit expense should be subtracted from CV as a circumstance of sale adjustment. MHI cites LNPPS from Japan to support its contention.

The petitioner contends that no such circumstances of sale adjustment is appropriate when NV is based on CV. Citing LNPPS from Japan, the petitioner also argues that because imputed credit is, by its nature, not an actual expense that would be included in the calculation of CV in accordance with section 773(2)(A) of the Act, there is no basis for an adjustment to CV for this imputed expense.

DOC Position

We agree with MHI. While we would not add an amount for imputed credit expenses in the calculation of CV pursuant to section 773(e)(2)(A) of the Act, such expenses are reflected in the calculation of CV profit and interest expense. Under the URAA, for CV, the statute provides that SG&A be based on actual amounts incurred by the exporter

for production and sale of the foreign like product (*see* section 773(e) of the Act). After calculating CV in accordance with the statute, we have, in essence, a NV. Consistent with section 773(a)(8) of the Act, adjustments to NV are appropriate when CV is the basis for NV.

The Department uses imputed credit expenses to measure the effect of specific respondent selling practices in the United States and the comparison market. Therefore, we have deducted from CV home market imputed credit expenses as a circumstances-of-sale adjustment in the calculation of NV. (See Antifriction Bearings (Other Than Tapered Roller Bearings) from France et al.; Final Results of Antidumping Duty Administrative Reviews, 62 FR 2081, 2119–2120 (January 15, 1997).) Specifically, we deducted an amount for home market imputed credit expense based on a ratio of imputed credit expenses incurred on home market sales made in the ordinary course of trade to corresponding sales revenue.

Comment 11: Currency Conversion.

The petitioner contends that the exchange rate used in the preliminary margin calculation was erroneously a ''sustained movement rate'' and not the official exchange rate in effect on the date of the U.S. sale as stated in the Department's preliminary determination notice. According to the petitioner, the Department should not automatically apply the ''mechanical formula,'' as outlined in the Department's Policy Bulletin 96–1: Currency Conversions (61 FR 9434, March 8, 1996) (''Policy Bulletin 96–1''), which results in the sustained movement rate in this case, because the sustained movement rate is not suited for cases where sales are few and sporadic. Rather, according to the petitioner, it is better suited for continuous sales of commodities from a price list or based on periodic price negotiations. In this investigation, the petitioner notes that the subject merchandise is not sold continuously from a price list or annual supply contracts; EPGTS are sold one at a time, and only few sales are made in any given period. Under these circumstances, the petitioner asserts that the parties involved in the transaction of such merchandise are aware of the exchange rates, the currency used in the transaction, and the prospect of hedging in order to reduce the risk of changes in the exchange rate between the date of sale and date of shipment. Therefore, the petitioner urges the Department to revise the currency conversion formula accordingly to reflect the actual exchange rate in effect on the date of the U.S. sale in the final determination.

MHI disagrees with the petitioner, arguing that the petitioner's description of the Department's currency conversion methodology is limited to the Department's method for identifying exchange rate fluctuations. In the case of sustained movement, MHI states that the Department allows at least 60 days for exporters to adjust their prices. Further, MHI notes that neither the Act, the SAA, the legislative history, nor Policy Bulletin 96–1, limits the sustained movement rule to scenarios with high volume sales or numerous transactions.

DOC Position

We agree with MHI, and made all currency conversions into U.S. dollars using the sustained movement rate which resulted from the methodology described in Policy Bulletin 96–1. As explained below, we do not believe that the facts in this case warrant departure from this methodology. We note that the sustained movement rate was also appropriately used in the Department's preliminary calculations, but the Department incorrectly described it as the official exchange rate in effect on the date of the U.S. sale in its notice of preliminary determination.

Section 773(A) of the Act provides that the Department will convert foreign currencies on the date of the U.S. sale, subject to certain exceptions. Those exceptions require the Department to ignore ''fluctuations'' in the exchange rate and to provide respondent(s) in an investigation at least 60 days to adjust prices after a ''sustained movement'' in the exchange rate. Because neither the Act, the Antidumping Agreement (Agreement on Implementation of Article VI, GATT 1994) nor the Department's proposed regulations provide detail on defining fluctuations or sustained movements, we designed the exchange rate model described in Policy Bulletin 96–1 in order to: 1) Implement the statutory requirements in a timely fashion; 2) ensure that all exporters, when they set their U.S. prices and whether under order or not, can know with certainty the daily exchange rate the Department will use in a dumping analysis; and 3) capture the model in simple computer code to reduce administrative burdens in monitoring exchange rates. Having used this model for at least one year, it remains our intention now to evaluate it based on our experience and public comments that we have received. However, we will continue to use the current model until our evaluation is complete.

The model classifies each daily rate as ''normal'' or ''fluctuating'' based on a ''benchmark'' rate. The benchmark is a moving average of the actual daily exchange rates for the eight consecutive weeks immediately prior to the date of the actual daily exchange rate to be classified. Whenever the actual daily rate varies from the benchmark rate by more than two-and-a-quarter percent, the actual daily rate is classified as fluctuating. If within two-and-a-quarter percent, the actual daily rate is classified as normal. Actual daily rates classified as normal are the official exchange rate for that day. However, when an actual daily rate is classified as fluctuating, the benchmark rate is the official rate for that day.

Whenever the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks (the recognition period), the model classifies the exchange rate change as a sustained movement. During the eight week recognition period, the model continues to classify each daily rate as normal or fluctuating and to substitute the benchmark rate for the actual daily rate when the daily rate is fluctuating.

When a sustained movement is identified in the Department's exchange rate model, increasing the value of a foreign currency in relation to the dollar, as in the instant case, respondents under an investigation are given 60 calendar days to correct their prices in order to mitigate against distortions to the Department's antidumping analysis that may be caused by sustained movement in the exchange rate. The 60-day grace period is meant to apply to all respondents in a variety of industries, irrespective of the volume or number of their transactions in any given period. This 60-day grace period begins on the first day after the recognition period. During that period, the official rate in effect on the last day of the recognition period will be the official rate in investigations.

In this case, the actual date of the U.S. sale fell within the 60-day adjustment period previously described. On April 26, 1995, all of the Department's criteria for a sustained movement were met, and the Department found that a sustained movement had occurred. As a result, all official exchange rates between April 26, 1995, and June 26, 1995, including the rate on the date of the U.S. sale, were held at the April 26, 1995, rate.

We have no basis on which to depart from our current methodology. Further, the petitioner's suggestion that the model should differentiate the exchange rate used based on a respondent's

volume or number of transactions necessarily implies that the Department would be required to develop an exchange rate model on a case-specific basis. We do not agree that this would be appropriate. In addition, it would unnecessarily increase administrative burdens on the Department and on parties interested in monitoring the exchange rates used by the Department in its antidumping analysis.

Comment 12: Treatment of the Home Market Sale Made at a Below-Cost Price.

MHI contends that section 773(b)(1) of the Act does not permit the Department to conduct a sales-below-cost investigation solely to recalculate CV profit. MHI asserts that such an investigation may be pursued only as a mechanism to reject below-cost home or third country market sales as the basis for a price comparison. MHI allows that while the CV profit calculation may be considered to be part of the ''determination of NV,'' section 773(b)(1) of the Act requires the rejection of below-cost sales before the Department can resort to CV. Moreover, according to MHI, the discussion of NV at section 773(b)(1) of the Act addresses only home and third country market sales, and not CV. Because the Department based its antidumping analysis on CV and not on HM prices, MHI maintains that it was inappropriate for the Department to conduct a sales-below-cost investigation.

Petitioner urges the Department to follow the methodology that it used in the preliminary determination of this case and exclude from the CV profit computation all HM sales made by MHI at below-cost prices. Petitioner asserts that nothing in the statute, SAA, or agency practice suggests that the Department may use below-cost sales as the basis for CV profit. According to petitioner, section 773(a)(4) of the Act establishes CV as a type of NV. In computing CV, the statute directs the Department to include an amount for profit based on the actual amounts realized by the producer in connection with home market sales of the foreign like product. Petitioner notes that where home market sales were made at below-cost prices, section 773(b)(1) of the Act provides that the Department exclude such sales from its determination of NV. Thus, petitioner concludes that because CV is a type of NV and the profit from home market sales is a factor in computing CV, the exclusion of below-cost sales under section 773(b)(1) must apply to home market sales used as the basis for CV profit in the Department's antidumping analysis. Petitioner adds that, under MHI's interpretation of the statute, the Department would be precluded from determining whether home market sales (and the profits from such sales) were made within the ordinary course of trade in all cases where such sales are not sufficiently similar to U.S. sales to allow for a price-based NV.

DOC Position

We agree with the petitioner that the Department has the authority to conduct a sales-below-cost investigation regardless of whether the HM prices are used as the basis for a price-based NV or solely for the CV profit calculation. At the beginning of this case, we determined that each EPGTS sold in the home and U.S. markets during the POI was manufactured to custom specifications for a unique application and, thus, would be too dissimilar to permit a price-to-price comparison between the subject merchandise sold in the United States and the foreign like product sold in Japan. Therefore, we determined that the NV should be based on CV in accordance with section 773(a)(4) of the Act.

Section 773(e)(2)(A) of the Act directs the Department to include in CV an amount for profits earned from sales of the foreign like product in the ordinary course of trade and for consumption in the foreign country. The Act also states, at section 771(15), that below-cost sales made within an extended period of time and in substantial quantities are considered outside the ordinary course of trade. Therefore, in cases where the petitioner provides the Department with reasonable grounds to believe or suspect that the foreign like product forming the basis for CV profit was sold at below-cost prices, we will conduct a cost investigation and will exclude those sales determined to be outside the ordinary course of trade.

Comment 13: Reasonable grounds to believe or suspect that home market sales were made at below-cost prices.

MHI argues that the Department lacked reasonable grounds to believe or suspect that sales were made at prices below their cost of production prior to initiating its sales below-cost investigation. MHI contends that the Department was mistaken in its characterization of MHI's post-cost allegation adjustments as new factual information. MHI insists that its November 22, 1996 rebuttal simply proved that petitioner's analysis was incorrect and that the data used by MHI in the rebuttal was, or could be, supported by reference to its previously submitted questionnaire responses. MHI asserts that it is incumbent upon the Department to specifically and precisely identify the new factual information in MHI's rebuttal. MHI claims that the Department's position that MHI submitted new factual information regarding the aggregate profitability of its HM sales is far to vague for a reviewing court to determine whether the Department correctly applied its own policy.

Petitioner claims that despite MHI's November 22, 1996 rebuttal of petitioner's below-cost sales allegation, the Department had reasonable grounds to suspect a below-cost sale had been made in the HM. Petitioner states that in its rebuttal, MHI maintained that petitioner had committed a ''simple methodological error'' in its sales-below-cost allegation. Petitioner argues that MHI's rebuttal, rather than establishing that petitioner committed a methodological error, reveals that MHI reallocated production costs among the HM contracts in such a manner that each HM sale was shown to have been made at a profit. Further, petitioner asserts that MHI's subsequent January 1, 1997 reallocation of production costs and concession that the sale in question was below cost, refutes any argument that the Department's rejection of the below-cost sale was unreasonable.

DOC Position

We disagree with MHI. The information provided by petitioner in its sales-below-cost allegation provided reasonable grounds for us to believe or suspect that MHI had sold the foreign like product at a price that was less than the company's cost of production. Moreover, contrary to MHI's claims, the data provided in its November 22, 1996 rebuttal comments constituted new factual information which we do not consider in making our determination to initiate a sales-below-cost investigation. Although the aggregate profitability of all home market sales (reported in the third column of figures of Attachment 1 of MHI's November 22, 1996, rebuttal) had been submitted in MHI's November 12, 1996, submission, the revised aggregate profitability of only home market sales 1 and 2 (reported in the third column of figures of Attachment 1 of MHI's November 22, 1996, rebuttal) included cost adjustments, resulting in revised profits. The data in this column represents new information which was not previously on the record.

Import Administration Policy Bulletin 94.1 sets forth the Department's practice with respect to new factual information submitted by respondents subsequent to the filing of a cost allegation by petitioners or other interested parties. The Bulletin states that the Department disregards any new information regarding the actual costs of production

where such information is used to rebut portions of an allegation. As noted in the Policy Bulletin, the Department's purpose in reviewing the sufficiency of an allegation is not to determine if sales were in fact made at below-cost prices. Instead, the Department must decide whether, based on the information available to the petitioner at the time of the allegation, there is sufficient reason to believe that below-cost sales exist.

Comment 14: Home market sales made outside the ordinary course of trade.

Petitioner claims that the SAA is clear that below-cost sales are outside the ordinary course of trade for purposes of calculating profit for CV. Petitioner cites the SAA and Section 773(e)(2)(A) of the Act as establishing that:

(1) CV profit is to be calculated based on sales in the ordinary course of trade;

(2) The Department may ignore sales that it disregards as a basis for NV, such as below-cost sales; and

(3) Unlike current practice, in most cases, the Department would use profitable sales as the basis for calculating CV profit.

Petitioner argues that section 771(15) of the revised act defines the ordinary course of trade to exclude below-cost HM sales disregarded under section 773(b)(1) and therefore below-cost sales rejected under section 773(b)(1) will also be rejected as a basis for profits. Petitioner maintains that the statute places the burden on MHI to establish that any below-cost sales are ordinary and should not be rejected. Petitioner asserts that therefore, it is clear that the HM below-cost sale in this case should be considered to be outside the ordinary course of trade and excluded from the CV profit computation.

In the alternative, MHI argues that even if one of its HM sales was properly found to be below cost, that does not mean this sale should be ''automatically'' excluded from the calculation of CV. Citing *FAG U.K.* v. *United States,* 945 F. Supp. 260 (CIT 1996) and a series of other cases, MHI argues that the burden is on petitioner to show that this below-cost sale was ''outside the ordinary course of trade'' within the meaning of section 771(15) of the Act. This burden, MHI asserts, has not been met and, therefore, all HM sales should be included in the calculation of CV.

MHI also relies upon the SAA. According to MHI, the SAA's reference to profitable sales providing the basis ''in most cases'' for the calculation of profit in CV ''implicitly recognizes that there are situations in which unprofitable sales will also be included in the calculation.''

DOC Position

For the most part, we disagree with MHI. As we state above in response to comment 1, section 773(e)(2)(A) of the Act provides that the calculation of profit in CV shall be based upon ''the actual amounts incurred and realized by the specific exporter or producer * * * in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country'' (emphasis added). Section 771(15) of the Act further states that sales made below their cost of production within the meaning of section 773(b)(1) of the Act are not within the ''ordinary course of trade.'' The cases cited by MHI, including *FAG U.K.* v. *United States,* were decided under the pre-URAA version of the statute. That statutory language, unlike the current language, did ''not limit the meaning of 'ordinary course of trade' to sales made above cost.'' 945 F. Supp at 269.

We also cannot agree with MHI's reading of the SAA. At page 169, the SAA states, in part:

> Commerce will base amounts for SG&A expenses and profit only on amounts incurred and realized in connection with sales *in the ordinary course of trade* of the particular merchandise in question (foreign like product). Commerce may ignore sales that it disregards as a basis for normal value, *such as those disregarded because they are made at below-cost prices* (emphasis added).

It is clear from the record of this case that MHI made a sale in the HM at a price that was below the cost of production, within an extended period of time, and in substantial quantities (*i.e.,* outside the ordinary course of trade). Accordingly, we believe that section 773(e)(2)(A) of the Act supports our decision to exclude this sale from the CV profit computation. Because section 773(e)(2)(A) and its interpretation in the SAA indicate that CV profit should be calculated based on sales in the ordinary course of trade and that in most cases the Department should use profitable sales as the basis for calculating CV profit, it is our opinion that the party claiming that below-cost sales should not be considered outside the ordinary course of trade should generally bear the burden of proving such an assertion.

Comment 15: Valuation of Inputs Purchased From Affiliated Parties.

Petitioner contends that the valuation of affiliated party purchases should reflect arm's length values, including usual profits earned on arm's length transactions. Petitioner asserts that the Department has adjusted MHI's reported costs of inputs purchased from affiliated parties under the ''transactions disregarded'' clause of section 773(f)(2) of the revised act, rather than the ''major inputs'' clause of section 773(f)(3), which MHI assumes to be our basis for the adjustment. Petitioner argues that because the ''transactions disregarded'' clause of Section 773(f)(2) states that the reported costs should ''fairly reflect the amount usually reflected'', the Department should add a reasonable profit to the affiliated supplier's total cost in order to reflect an arm's length price. Petitioner claims that because MHI did not purchase comparable services from an unaffiliated supplier, and the affiliated supplier did not sell comparable services to an unaffiliated purchaser, the Department must determine an appropriate amount ''based on the information available as to what the amount would have been if the transaction was between persons who are not affiliated'' per section 773(f)(2). Petitioner asserts that the Department should apply the profit earned by the affiliated party on its sales to MHI pertaining to MHI's third country sales, as reported in an earlier section B submission.

MHI maintains that the Department should not add profit to the inputs received from affiliated parties. MHI contends that although under the ''transactions disregarded'' and ''major input'' rules, the Department is authorized to adjust transfer prices to reflect market price or COP, neither of the rules allow the Department to construct a market price. MHI asserts that the Department's options are to substitute other market prices or COP for the transfer prices.

MHI also claims that charging profit on its affiliated supplier purchases would conflict with the purpose of the statute by unfairly inflating MHI's costs. MHI argues that because the affiliated supplier in question is a wholly owned subsidiary of MHI's, by adjusting these inputs to reflect their COP, the Department effectively treats them as if MHI had produced them internally. MHI maintains that petitioner's argument that the Department should add to the affiliated party's COP, the profit that would have been earned by an unaffiliated supplier had it provided the services to MHI would be distortive. Further, MHI claims that petitioner has failed to demonstrate that the profit rate that the affiliated supplier earned, not on sales to an unaffiliated party, but rather on other sales to MHI, fairly reflects the amount usually reflected in sales of merchandise under consideration in the market under consideration'', as required by section 773(f)(2).

DOC Position

Under the transactions disregarded rule of section 773(f)(2) of the Act, we requested MHI to submit the transfer prices for a selected sample of inputs that it purchased from affiliated suppliers for use in manufacturing the subject merchandise. In addition, we asked MHI to provide the arm's length prices charged by those affiliates to unaffiliated purchasers for the identical input or the arm's length prices charged by unaffiliated suppliers for sales of the identical input to MHI. Because MHI claimed that there were no such arm's length transactions between unaffiliated parties, the company submitted the transfer prices for its purchases from affiliated suppliers and the affiliated suppliers' corresponding COPs. For those inputs obtained from affiliated suppliers, we compared the transfer price paid by MHI to the affiliates' cost of producing the input. In one instance, we found that the cost of the input was greater than the transfer price between MHI and the affiliated supplier. For this transaction, because there were no comparable transactions of similar inputs between unaffiliated parties on which to base a value for inputs, we followed our practice of using the affiliated supplier's cost of production for that input as the information available as to what the amount would have been if the transaction had occurred between unaffiliated parties (See Antifriction Bearings (other than Tapered Roller Bearings) from France et. al.; Final Results of Antidumping Duty Administrative Reviews, 62 FR 2081, 2115 (January 15, 1997).) We disagree with petitioner that the profit earned on the services provided by the affiliate in connection with MHI's third country sales is representative of the services furnished in connection with the U.S. sale. Notwithstanding the fact that the transaction occurred between the same parties (*i.e.*, MHI and its affiliated supplier), in this case, the input in question consists of services performed by an affiliate. The nature of these services and the unique character of the EPGTS products for which they were performed give us no reason to believe that the services were in any way similar or comparable to one another.

Comment 16: Affiliated Party Input Adjustment.

MHI states that the Department erred by adjusting the transfer prices of not only the major inputs purchased from affiliated suppliers, but also the minor inputs. MHI claims that because the Department has not established that these minor inputs were purchased at below-cost prices, the transfer prices of the minor inputs should not be adjusted.

MHI contends that if the Department chooses to adjust MHI's U.S. sale for all affiliated party purchases (*i.e.*, major and minor inputs), it should make a corresponding adjustment for HM sales.

Petitioner claims that there is no statutory or rational basis for a parallel affiliated party purchases adjustment to HM production costs for purposes of calculating CV profit. Petitioner states that section 773(e)(2) of the revised act indicates that ''actual'' HM profit earned in the ordinary course of trade should be included in the CV calculation. Petitioner argues that actual HM profits should not be reduced to the extent that the foreign producer's inputs were purchased from affiliated parties at non-arm's-length transfer prices. Petitioner also argues that although sections 773(f)(2) and (3) of the revised act expressly provide for affiliated party cost adjustments for CV calculations, section 773(b)(3), which pertains to COP for HM price comparisons, contains no provision for such adjustments.

DOC Position

As noted above, we adjusted MHI's reported cost of inputs purchased from affiliates under the transactions disregarded rule per section 773(f)(2) of the Act. This section relates to all inputs obtained from affiliates, not just major inputs. Accordingly, we applied the calculated affiliated party adjustment to all inputs obtained from affiliates.

We agree with MHI that the affiliated party adjustment applied to CV should also be applied to the submitted cost of producing the HM sales. Section 773(f) of the Act identifies special rules for the calculation of COP and CV, one of which is the transactions disregarded rule. Since the statute does not direct the Department to treat affiliated party transactions differently for COP and CV, we applied the same affiliated party adjustment to both CV and COP.

Comment 17: Calculation of the G&A Rate.

Petitioner urges the Department to revise its preliminary calculation of MHI's G&A expenses to include all of the G&A expenses incurred by the company at each of its various corporate levels. Petitioner believes that the G&A expense rate used by the Department to compute COP and CV in its preliminary determination failed to include the administrative expenses of MHI's Hiroshima Machinery Works (''HMW''), the facility that produced the subject merchandise, as well as allocable portions of G&A expenses associated with other organizational levels within the company. As evidence of this problem, petitioner points to MHI's internal financial statements which report amounts for ''general'' and ''internal G&A'' that petitioner claims were not allocated to the subject merchandise under MHI's normal accounting system and, likewise, were excluded from COP and CV under the company's submission methodology.

MHI argues that it fully accounted for all G&A expenses in the submitted COP and CV figures and that petitioner simply fails to understand the company's normal internal accounting system and its financial reporting methods. MHI claims that adjusting the G&A expense rate as petitioner proposes would result in double-counting both G&A and selling expenses. MHI notes the fact that the Department verified the company's G&A expense calculation and found that all such expenses had been properly included in the MHI's reported COP and CV figures.

DOC Position

We agree with MHI that it properly accounted for all G&A expenses in the reported COP and CV amounts. Under the company's normal accounting system, both G&A and selling expenses are combined and allocated to EPGTS job orders through a factory overhead burden rate. The SG&A amounts to be allocated are reflected in the ''general'' and ''internal G&A'' figures in the company's internal financial statements. Because the Department requires respondents to report separately the selling expenses incurred for the merchandise, MHI segregated these expenses for the HMW before allocating G&A expenses to each EPGTS as manufacturing overhead following its normal accounting methodology. Thus, as noted by MHI, basing the G&A expense rate on amounts from the company's internal financial statements would result in double-counting expenses already accounted for as part of either selling expenses or manufacturing overhead. We reviewed MHI's G&A expense calculation as part of our verification of the company's COP and CV submission and found that the reported costs reflected an appropriate amount of G&A expenses incurred by the company at each of its organizational levels.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of EPGTS from Japan, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from

warehouse for consumption, on or after December 10, 1996, the date of publication of our preliminary determination in the **Federal Register**. We are also directing the Customs Service to suspend liquidation of all entries of parts of EPGTS imported pursuant to a contract for a complete EPGTS in the United States that are entered, or withdrawn from warehouse for consumption, on or after December 10, 1996. For these entries, the Customs Service will require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the constructed export price as shown below. The suspension of liquidation with respect to EPGTS parts will remain in effect provided that the sum of such entries represents at least 50 percent of the cost of manufacture of the complete EPGTS of which they are part. This determination will be made only after all entries of parts imported pursuant to an EPGTS contract are made and the complete EPGTS pursuant to that contract is produced, unless a request for a scope inquiry is made by an interested party at least 75 calendar days prior to the intended date of entry of the EPGTS parts in which the interested party claims that the parts to be imported, when taken altogether, constitute less than 50 percent of the cost of manufacture of the complete EPGTS of which they are a part. Upon receiving such a request, the Department will initiate a scope inquiry and instruct the Customs Service to suspend liquidation at a zero cash deposit rate/bond rate (depending on which rate, if any, is effective at that time) if the party can establish to the Department's satisfaction, through the submission of the requisite information specified below, that the sum of the EPGTS parts to be imported pursuant to a particular EPGTS contract represents less than 50 percent of the cost of manufacture of the complete EPGTS of which they are a part.

In such a review, we will require that the foreign producer/exporter submit to the Department, where applicable and available, the following information and documentation substantiating its claim that all of the parts to be imported into the United States from Japan pursuant to a particular EPGTS contract constitute less than 50 percent of the cost of manufacture of the complete EPGTS of which they are a part and, thus, are not subject merchandise: (1) The EPGTS sales contract (and any amendments) pursuant to which the parts are imported; (2) a diagram of the complete EPGTS; (3) a description of the parts included in the entry(ies); (4) the actual or estimated cost of the imported parts (depending on what is available prior to the time of importation of the parts into the United States); (5) the most recent cost estimate of the complete EPGTS, and data on historical variances between estimated and actual costs of production of the EPGTS; (6) a financial statement for the business unit that produces EPGTS; (7) a schedule of parts shipments to be made pursuant to a particular EPGTS contract, if more than one shipment is relevant; and (8) a schedule of EPGTS production completion in the United States. The foreign producer/exporter will also be required to serve the submitted materials upon counsel for the petitioner on the earlier of: (i) The same day they are filed with the Department, if an applicable Administrative Protective Order (''APO'') is outstanding, or (ii) within one day of the issuance of an applicable APO. Public versions of such materials will be served upon counsel for the petitioner in accordance with section 353.31 of the Department's regulations. The petitioner will have 15 calendar days from the date of receipt of such documents for review and the filing of comments. If, after providing this information to the Department, the foreign producer/exporter finds that the costs reported to the Department were understated and that the cost of manufacture of the imported parts will be over 50 percent of the cost of manufacture of the EPGTS of which they are a part, we will require that the party inform the Department immediately. After the expiration of the 15-day comment period, the Department will conduct its review of the submitted documentation and will, to the extent practicable, make an expedited preliminary ruling as to whether the merchandise falls outside of the scope. If the Department determines preliminarily that such merchandise is outside of the scope, for all such entries made pursuant to the same EPGTS contract, the Department will instruct the Customs Service to suspend liquidation at a zero deposit/bond rate.

Pursuant to the Department's preliminary ruling, the U.S. importer will be able to declare a zero rate for the imported merchandise at issue. Upon entry of the merchandise into the U.S. Customs territory, the U.S. importer and/or foreign manufacturer/exporter will be required to submit an appropriate certification to the Department concerning the contents of the entry. An appropriate certification should read as follows:

I [Name and Title], hereby certify that the cost of the engineered process gas turbo-compressor system parts from Japan contained in entry summary number(s) _____ pursuant to contract number _____, including the cost of design and engineering incurred by, and any assists provided by, the manufacturer or producer with respect to the engineered process gas turbo-compressor system, constitutes less than 50 percent of the cost of manufacture of the complete engineered process gas turbo-compressor system of which they are a part.

The Department will make a final scope ruling within the context of an administrative review, if requested by interested parties. Verification of the submitted information will occur within the context of such review, when appropriate. If the Department finds in its final ruling that the imported merchandise falls below the 50 percent threshold, then the Department will instruct the Customs Service to liquidate the entries at issue without regard to antidumping duties. Conversely, if the Department finds that the imported merchandise falls within the scope (*i.e.*, because the actual total cost of the parts imported pursuant to a contract for a complete EPGTS is 50 percent or more of the cost of manufacture of the complete EPGTS of which they are a part), then the U.S. importer will be subject to the assessment of antidumping duties on the imported parts, together with any applicable interest from the date of entry of such parts, at the rate determined in the administrative review.

With respect to entries of EPGTS spare and replacement/repair parts from Japan, we will instruct the Customs Service not to suspend liquidation of these entries if they are not included in the original contract of sale for the EPGTS of which they are intended to be a part.

In addition, in order to ensure that our suspension of liquidation instructions are not so broad as to cover merchandise imported for non-subject uses, foreign producers/exporters shall be required to provide certification that the imported merchandise would not be used to fulfill an EPGTS contract. An appropriate certification should read as follows:

I, [Name and Title], hereby certify that this entry/shipment does not contain merchandise that is imported from Japan pursuant to a contract for an engineered process gas turbo-compressor system and is, therefore, not subject to antidumping duties.

We will also request that the interested parties register with the Customs Service the EPGTS contract numbers pursuant to which subject merchandise is imported. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Mitsubishi Heavy Industries, Ltd. (MHI)	41.72
All-Others	41.72

International Trade Commission (''ITC'') Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: April 24, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–11384 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker From Mexico: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan or Dorothy Woster, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, D.C. 20230; telephone: (202) 482–3793.

Scope of the Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and U.S. Customs Service purposes only. Our written description of the scope of the order remains dispositive.

Amendment of Final Results

On April 9, 1997, the Department of Commerce (the Department) published the final results of the administrative review of the antidumping duty order on Gray Portland Cement and Clinker from Mexico (62 FR 17148). This review covered CEMEX S.A de C.V (CEMEX), and its affiliate, Cementos de Chihuahua (CDC), manufacturers/exporters of the subject merchandise to the United States. The period of review (POR) is August 1, 1994 through July 31, 1995.

On April 8, 1997, and April 17, 1997, counsel for the respondent, CEMEX, filed allegations of clerical errors with regard to these final results. On April 18, 1997, counsel for CDC filed allegations of clerical errors with regard to these final results. On April 9, 1997, counsel for petitioners, the Southern Tier Cement Committee, filed a submission agreeing with CEMEX's allegation submitted April 8, 1997; petitioners' submission also contained additional allegations of clerical errors with regard to these final results. On April 10, 1997, CEMEX filed a submission agreeing that the Department should correct the errors noted by petitioners' April 9, 1996 letter. The allegations and rebuttal comments of both parties were filed in a timely fashion. The Department, upon review of the allegations and comments, agrees with respondent and petitioners and is hereby issuing an amended final, based on the corrections of these ministerial errors.

First, respondent CEMEX contended that the Department made an arithmetic error when it converted the value of sales to the United States reported in short tons into metric tons. Respondent alleged that the Department should have divided net price for the product sold in the United States by the short ton/metric ton conversion coefficient rather than multiplying by the coefficient.

Petitioners did not object to respondent's allegation. Petitioners noted, however, that the correct conversion factor is .907194 metric tons per short ton, and that this conversion factor should be incorporated into the Department's amended final results. Respondent did not object to petitioners' allegation, and the Department has used the conversion factor of .907194 metric tons per short ton in the amended final results.

Second, CEMEX alleged that the Department overstated the constructed export price (CEP) profit rate by continuing to use further manufactured sales in the calculation of CEP profit without making any adjustment for those U.S. expenses associated with further manufacturing. CEMEX suggested that the Department correct this inadvertent error by dividing total U.S. expenses and revenue in the CEP profit calculation by the percentage which CEP sales comprise of total U.S. CEP and further manufactured sales. Petitioners have not objected in principle to CEMEX's allegation, however, they have objected to CEMEX's proposed methodology for calculating CEP profit. Petitioners have provided an alternative suggestion which adjusts total U.S. movement expenses (USMOVEH) and total U.S. indirect selling expenses (INDEXPU) to account for those expenses associated with the further manufactured sales.

In the final results of this review, the Department determined that the value added of U.S. further manufactured sales of concrete substantially exceeded the value added of the subject merchandise. The weighted-average CEP for non-further manufactured CEP sales was substituted as the CEP for U.S. further manufactured sales. The Department agrees with CEMEX that the Department overstated the CEP profit rate in the final results by continuing to use further manufactured sales in the calculation of CEP profit without making any adjustment for those U.S. expenses associated with further manufacturing. The Department agrees with CEMEX and petitioners' that this is a ministerial error and has corrected this error for the amended final results by including expenses associated with all CEP sales in the calculation of CEP profit based on petitioners' suggested calculation.

Third, CEMEX claims that the Department erred in excluding home market Type II transactions and sales failing the arm's length test from the

calculation of CEP profit. We agree with respondent that sales outside the ordinary course of trade should be included in the Department's calculation of total actual profit and have corrected this. However, with respect to sales failing the arm's length test, we disagree with CEMEX that we made a ministerial error in excluding these sales.

Fourth, CEMEX alleged that the variable overhead factor (VOH) for CEMEX's cost of production contains a mathematical error. CEMEX alleged that the Department incorrectly used the 1994 VOH factor for Type II cement for the 12 month calendar year in the calculation of the difference in merchandise (DIFMER) adjustment, as opposed to the average factor corresponding to August through December 1994, the five month period in 1994 subject to review. CEMEX noted that all other cost of production factors for 1994 were calculated based on the five month period in 1994 subject to review. Petitioners have objected to CEMEX's allegation stating that this is a methodological issue and cannot be considered a ministerial error. The Department agrees with CEMEX; in the calculation of DIFMER for these amended final results, the Department intended to use the VOH factor relating to the five month period in 1994, subject to review, consistent with all other cost of production factors used in both the preliminary and final results of this review. Therefore, we have corrected this ministerial error.

Fifth, CEMEX alleged that the Department failed to adjust certain fixed overhead (FOH) costs as intended. CEMEX alleged that the Department properly incorporated the increase in monthly reported 1995 FOH costs which were recalculated during verification to take into account additional depreciation expenses. However, CEMEX noted that the Department failed to revise total cost of manufacturing (TOTCOM) and general and administrative (GNA) expenses for cost of production to account for the change in FOH costs. Petitioners object to CEMEX's allegation stating that this is a methodological issue and cannot be considered to be a ministerial error. The Department agrees with CEMEX that it inadvertently omitted the additional depreciation costs from the calculation of TOTCOM and has, therefore, revised the TOTCOM and GNA figures in cost of production for the amended final results of this review.

Sixth, CDC alleged that the Department should convert the entered value, reported in U.S. dollars per short ton, to U.S. dollars per metric ton before calculating importer-specific dumping rates based on duties due calculated in dollars per metric tons. Petitioners have not objected to CDC's allegation of a ministerial error. The Department agrees with CDC, and has divided entered value by .907194 in the calculation of these amended final results to convert entered value to dollars per metric ton.

CDC also alleged that the Department should calculate a single percentage margin for all of CDC's U.S. sales, as opposed to a value-based importer-specific rate for the CEP sales and a volume-based rate (unit margin) for export price (EP) sales. We disagree with respondent that this is a ministerial error. The calculation of importer-specific dumping rates is a methodological issue. Consequently, it is inappropriate to change the methodology to calculate an importer-specific rate for EP sales at this time as a ministerial error.

Lastly, petitioners alleged that the Department made a ministerial error in the calculation of credit expense for CDC. Petitioners alleged that the Department should have subtracted the date of shipment from the date of payment in the calculation of average credit days outstanding. In addition, the percentage for credit expense in the Department's calculations should have been multiplied by the gross unit price for the product sold in the United States minus discounts and rebates. Second, petitioners alleged that the Department erred in the calculation of the DIFMER adjustment. For the months of February, March, and April 1995, petitioners alleged that the Department misplaced the decimal point in the DIFMER percentage. Respondent has not objected to petitioners' allegation of ministerial errors. After a review of petitioners' allegation, we agree and have corrected these errors for the amended final results.

Pursuant to section 353.28 of the Department's regulations, parties to the proceeding will have 5 days after the date of publication of this notice to notify the Department of any new ministerial or clerical errors, as well as, 5 days thereafter to rebut any comments by parties.

Amended Final Results of Review

As a result of our review, we have determined that the following margin exists:

Manufacturer/Exporter	Time period	Margin (percent)
CEMEX S.A de C.V	8/1/94–7/31/95	73.69

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between sales to the United States and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of amended final results of review for all shipments of gray portland cement and clinker from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates for those firms as stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 61.35 percent for gray portland cement and clinker, the all others rate established in the less than fair value investigation. See Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico, 55 FR 29244 (1990).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

and the terms of an APO is a sanctionable violation.

This amendment of final results of administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 25, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–11656 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools from the People's Republic of China: Notice of Amendment of Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amendment of Final Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is amending its final results of administrative reviews of the antidumping duty orders on heavy forged hand tools (HFHTs) from the People's Republic of China (PRC), published on October 1, 1996, to reflect the correction of ministerial errors made in the margin calculations for those final results. We are publishing this amendment to the final results in accordance with 19 CFR 353.28(c).

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1996, the Department published the preliminary results of our administrative review of HFHTs from the PRC (61 FR 15218) for the period February 1, 1994 through January 31, 1995. We published the final results of review on October 1, 1996 (61 FR 51269). On October 7, 1996, we received a timely allegation from respondents Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC) that the Department made ministerial errors in the final results. These errors were not corrected by the Department prior to the time the parties filed suit with the Court of International Trade (CIT). Therefore, leave was requested to correct the clerical errors in this case. On March 6, 1997, the CIT issued an order granting leave to the Department to correct ministerial errors in these final results.

Scope of Review

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

Amended Final Results

On October 7, 1996, FMEC and SMC alleged that the Department committed ministerial errors in calculating the final antidumping duty margin. Respondents alleged that, in the calculation sheet for bars exported by SMC, the Department included one observation twice, which led to the misalignment of the column for per unit foreign inland freight.

Second, the respondents alleged that the Department made errors in calculating the factor values for anti-damp paper, the iron knot/iron button, and resin glue. Specifically, respondents claim that the Department made clerical errors in determining which import values were too small to be included in the overall weighted averages the Department calculated for these factor values.

We have reviewed these allegations, and agree with respondents in part. We agree that we included one observation twice in the calculation sheet for bars exported by SMC, which resulted in a misalignment of the inland freight column in the calculation sheet. We have amended the final results by deleting the duplicate observation. We also agree with respondents that we incorrectly calculated the factor value for resin glue. We have recalculated this factor value by adding imports from Denmark to, and subtracting imports from the United Arab Emirates from, the weighted average calculation. As a result of these corrections, the margin for bars exported from SMC has changed from 42.97 percent to 42.11 percent. No other margins were affected.

We disagree with respondents that we incorrectly calculated factor values for anti-damp paper and the iron knot/iron button. With respect to anti-damp paper, we note that our final factor value memorandum inaccurately stated that we did not include Swedish imports in our weighted-average factor value calculation. However, it is clear from the factor value calculation sheet attached to our analysis memorandum that we did include Swedish data in the weighted-average factor value for anti-damp paper. The analysis memorandum should state that we did not include imports from the United Kingdom and Switzerland. See Final Analysis Memorandum dated September 23, 1996, and Final Factor Value Memorandum dated September 23, 1996, on file in room B–099 of the Commerce Department.

With respect to the iron knot/iron button, respondents are incorrect in stating that the import data show that the quantity imported from the Netherlands was 130 kgs., and that, if

we excluded that quantity, we should have also excluded imports from Switzerland of 123 kgs. in our factor value calculation. The import data show that the quantity imported from the Netherlands was 60 kgs., rather than 130 kgs., as respondents state. Data for imports from Switzerland (113 kgs.), which we did include in the weighted-average factor value for the iron knot/iron button, were significantly greater. Therefore, we properly included imports from Switzerland in the weighted average factor value calculation.

Amended Final Results of Review

Upon review of the submitted allegation, the Department has determined that the following margins exist for the period February 1, 1994 through January 1, 1995:

Manufacturer/exporter	Margin (percent)
Fujian Machinery & Equipment Import & Export Corp.:	
Axes/Adzes	8.74
Bars/Wedges	13.20
Hammers/Sledges	7.44
Picks/Mattocks	83.47
Shandong Machinery Import & Export Corp.:	
Bars/Wedges	42.11
Hammers/Sledges	14.70
Picks/Mattocks	70.31
PRC-Wide Rates:	
Axes/Adzes	21.92
Bars/Wedges	66.32
Hammers/Sledges	44.41
Picks/Mattocks	108.20

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

There is no change to the current cash deposit requirement for shipments of HFHTs from the PRC. The current cash deposit rates were established in the final results of administrative review of these orders for the February 1, 1995 through January 31, 1996 period, 62 FR 11813, March 13, 1997.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This amendment of final results of review and notice are in accordance with section 751(h) of the Act (19 U.S.C. 1675(h)) and 19 CFR 353.28(c).

Dated: April 29, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–11653 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814]

Pure Magnesium from Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from one respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on pure magnesium from Canada. The review covers one manufacturer/exporter of the subject merchandise to the United States for the period August 1, 1995 through July 31, 1996.

We have preliminarily determined that U.S. sales have not been made below the normal value (NV). We invite interested parties to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with each argument (1) A statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On August 31, 1992, the Department published in the **Federal Register** (57 FR 39399) the antidumping duty order on pure magnesium from Canada. On August 12, 1996, the Department published a notice of ''Opportunity to Request Administrative Review'' of this antidumping duty order for the period of August 1, 1995 through July 31, 1996 (61 FR 41768). We received a timely request for review from the respondent, Norsk Hydro Canada Inc. (NHCI). On September 17, 1996, the Department initiated a review of NHCI (61 FR 48883).

Scope of the Review

The product covered by this review is pure magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Granular and secondary magnesium are excluded from the scope currently classified under subheading 8104.11.0000 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and for Customs purposes. The written description remains dispositive.

The review covers one Canadian manufacturer/exporter, NHCI, and the period August 1, 1995 through July 31, 1996.

Export Price (EP)

We calculated an EP for NHCI's U.S. transaction in accordance with section 772(a) of the Tariff Act because the subject merchandise was sold to an unaffiliated U.S. purchaser prior to the date of importation.

We calculated EP based on the packed and delivered price to the unaffiliated customer in the United States. We made deductions from the gross unit price for freight in accordance with section 772(c)(2)(A) of the Tariff Act.

No other adjustment to EP was claimed or allowed.

Normal Value (NV)

We compared the aggregate quantity of home market and U.S. sales and found the quantity of foreign like product the respondent sold in the exporting country was sufficient to permit a proper comparison with the sale of the subject merchandise to the United States pursuant to section 773(a) of the Tariff Act. Specifically, we found

that the company's quantity of sales in its home market was greater than five percent of its sale to the United States. In addition, we did not find any information that a particular market situation in the exporting country does not permit a proper comparison with the sales of the subject merchandise to the United States. Therefore, in accordance with section 773(a)(1)(B)(i) of the Tariff Act, we based NV on the prices at which the foreign like product was first sold for consumption in the home market.

Pursuant to section 777A(d)(2) of the Tariff Act, we compared the EP of the individual transaction to the monthly weighted-average price of sales of the foreign like product in the home market. We compared the EP sale to sales in the home market of identical merchandise.

We based NV on the price at which the foreign like product is first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and at the same level of trade as the EP, in accordance with section 773(a)(1)(B)(i) of the Tariff Act. *See* the April 11, 1997, memorandum from Mark Ross to the File for a detailed description of our level-of-trade analysis for these preliminary results. Where applicable, in accordance with sections 773(a)(6)(B)(ii) and 773(a)(6)(C)(iii) of the Tariff Act, respectively, we deducted movement expenses from home market price and made a circumstance-of-sale adjustment for differences in credit expenses. We made the circumstance-of-sale adjustment to home market price by deducting HM credit expenses and adding U.S. credit expenses. Since the home market price of the foreign like product was reported net of direct taxes (which were not collected on the sale of the subject merchandise), we did not have to adjust the price of the foreign like product pursuant to section 773(a)(6)(B)(iii) of the Tariff Act. We increased home market price by U.S. packing costs in accordance with section 773(a)(6)(A) of the Tariff Act and reduced it by home market packing costs in accordance with section 773(a)(6)(B) of the Tariff Act. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin (in percent) for the period August 1, 1995, through July 30, 1996 to be as follows:

Manufacturer/Exporter	Margin
Norsk Hydro Canada, Inc.	0.00

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Issues raised in hearings will be limited to those raised in the respective briefs and rebuttal briefs. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) A statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The final results of this review shall be the basis for the assessment of antidumping dumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. The Department will issue appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for NHCI will be the rate established in the final results of this administrative review; (2) for manufacturers or exporters other than NHCI that were covered in the original less-than-fair-value investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 21 percent, the ''all others'' rate established in Pure Magnesium From Canada: Amendment of Final Determination of Sales At Less Than Fair Value and Order in Accordance With Decision on Remand, 58 FR 62643, November 29, 1993.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 28, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–11658 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–401]

Red Raspberries From Canada; Final Results of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of New Shipper Review Antidumping Duty Administrative Review.

SUMMARY: On March 17, 1997, the Department of Commerce (the Department) published the preliminary results of a new shipper administrative review of the antidumping duty order on red raspberries from Canada (62 FR 12599). The review covers sales to the United States by one exporter/processor of the subject merchandise, Berryhill Foods, Inc. (Berryhill), during the period June 1, 1995 through May 31, 1996.

We gave interested parties an opportunity to comment on our preliminary results and no comments were received. Therefore, the final results remain unchanged from the preliminary results. The final weighted-

average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: James Doyle, Lisa Yarbrough or Abdelali Elouaradia, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On March 17, 1997, the Department issued preliminary results of its new shipper review (62 FR 12599) of the antidumping duty order on red raspberries from Canada (50 FR 26019, June 24, 1985). We invited interested parties to comment and received no comments. The Department has now conducted this review in accordance with section 751 of the Act and section 353.22 of its regulations.

Scope of the Review

The merchandise covered by this review are shipments of fresh and frozen red raspberries packed in bulk containers and suitable for further processing. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 0810.20.90, 0810.20.10, 0811.20.20. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Final Results of Review

The final results remain unchanged from the preliminary results as the Department used the same methodology described in the preliminary results. As a result of our comparison of export price and constructed export price to normal value, we determine that the following weighted-average dumping margin exists:

Exporter/ processor	Period	Margin
Berryhill	06/01/95–05/31/96	1.56

The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. The posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's regulations, will no longer be permitted for this firm. The Department will issue appraisement instructions directly to the US Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for this reviewed company will be 1.56%; (2) for exporters/processors not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) in investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter/processor is not a firm covered by this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other exporters/processors or manufacturers not previously reviewed will continue to be 2.41%, the ''All Others'' rate from the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper administrative review and this notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: April 24, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–11657 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020497A]

Peer Review Panels; Gulf of Mexico Red Snapper Research

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

ACTION: Notice reopening nomination process.

SUMMARY: Notice is hereby given that the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), is reopening the nomination process for an additional 30 days for interested parties to submit nominations for membership on three independent peer review panels being convened under section 407(a) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to review the basis for management of the red snapper stock in the Gulf of Mexico. Nominations may be submitted by academic institutions, state fishery management agencies, the fishing industry, other interested non-governmental organizations, and the public.

Three panels, (1) a Statistics Review Panel, (2) an Economics Review Panel and (3) a Science and Management Review Panel will be established. Panels will consist of independent experts in the appropriate disciplines.

The Statistics Review Panel will review the accuracy, precision, and adequacy of the commercial,

recreational, and charter boat red snapper catch and effort statistics. The Economics Review Panel will review the costs and benefits analyses conducted in preparation of Amendment 8 to the Reef Fish Fishery Management Plan, including a review of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico. The Science and Management Review Panel will review the scientific and management basis for managing the red snapper stock in the Gulf of Mexico. The Science and Management Review Panel will be charged with evaluating the existing scientific information and management measures for red snapper in the Gulf of Mexico *in toto* and will include the results from the statistics and economic reviews. In addition, the Science and Management Review Panel will review the results from the 1995 assessment and the independent assessments currently being conducted, the appropriateness of the scientific methods, information, and models used to assess the status and trends of the red snapper stock, and the appropriateness and adequacy of the management measures in the fishery management plan for red snapper for conserving and managing the fishery. Each reviewer will prepare a report of his/her findings and recommendations.

To ensure participation by all interested parties and that the review panels are afforded all relevant information to reach objective findings, NMFS is accepting recommendations for individuals or representatives of organizations who cannot serve on one of the review panels because of previous or current involvement in the fishery or because of financial interests in the outcome of the reviews to present information to the peer review panels.

DATES: Nominations and recommendations must be received June 4, 1997.

ADDRESSES: Nominations and recommendations along with a listing of background, experience, and credentials are to be submitted to the Director, Office of Science and Technology, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: The Director, Office of Science and Technology, at (301) 713–2367.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires the Secretary of Commerce (Secretary) to conduct a thorough and independent evaluation of the scientific and management basis for conserving and managing the red snapper fishery in the Gulf of Mexico. Specifically section 407(a)(1) of the Act requires the Secretary to, ''initiate an independent peer review to evaluate: (A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock; (B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery; (C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and (D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico. (2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—(A) participate in the peer review under this subsection; and (B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.''

Who May Submit Nominations for Panel Membership

Any person or organization may submit nominations for any of the review panels. When submitting nominations, include the submitting person or organization's name and affiliation along with a detailed listing of each nominee's background, experience, and credentials. Nominees for any of the review panels must have outstanding scientific or management credentials relevant to the charge to the panel. Nominations for the review panels may be made from international as well as national scientific bodies, fishery management organizations, academia, or similar organizations. Panel members will be selected by a panel of senior NMFS scientists in consultation with appropriate interested parties.

Who May Serve on Review Panels

To avoid conflicts of interest and ensure an independent review, nominees for any of the review panels who have been directly involved in the collection, evaluation, and interpretation of information used in the management of the red snapper or shrimp fishery in the Gulf of Mexico or in the management of red the snapper in the Gulf of Mexico during the last 4 years, who may gain financially from the outcome of this review, or whose immediate family, organization, or company may gain financially from the outcome of these reviews will not be accepted for membership on any of the review panels.

Cost Reimbursement

Panel members will be paid a fixed, predetermined amount at a level comparable to that paid to Council members and commensurate with the amount of time required to participate in the review. It is anticipated that the Statistics and Economic Reviews will require 80 hours and the Science and Management Review will require 100 hours. In addition, all travel expenses for review panel members to attend panel meetings and presentations will be paid by the government at the prevailing government rates.

Panel Meetings

Each review panel will meet one or two times. At least one of these meetings will be for the presentation of information to the panel by scientists, fishery managers, and fishing industry representatives; a second meeting may be necessary to review results of additional analyses, or to discuss findings and recommendations. In addition, the reviewers may caucus by conference call to discuss review plans or the result of particular analyses. Each panel will have three or four members. A NMFS scientist will serve as a coordinator for the panels, but will not serve as a member of any panel.

Format of the Reviews

The reviews will require that each panel meets for 5 days. The first half of the reviews will involve scientists from NMFS, fishery management agencies, academia, and the fishing industry who have been involved in research or management of red snapper in the Gulf of Mexico or as part of the fishing industry. The second half of the review will be reserved for panel deliberations and preliminary report writing. Following the panel meeting, the panel will work by correspondence. A final report will be prepared by each of the reviewers and submitted to the Director of the Office of Science and Technology. Additional meetings may be necessary to discuss issues arising during presentations from interested parties or preparation of the panel report. An independent contractor will be selected

to prepare a final consolidated report which incorporates the findings, recommendations and discussions of the reviewers' reports. The reviewers' reports will be included in the final report in their entirety as annexes.

1. Statistics Review Panel

The Statistics Review Panel will consider the accuracy and adequacy of fishery statistics for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock. In addition, the Statistics Review Panel will consider the collection of information on bycatch in the shrimp trawl fishery in the Gulf of Mexico and the estimation of total bycatch for the shrimp fishery. The Statistics Review Panel will review the current data collection programs conducted by NMFS and states that are used in the assessment process including the cooperative commercial fisheries statistics program, the Marine Recreational Fishery Statistics Survey, the headboat sampling program, the observer program that collects bycatch information for the shrimp fishery, fishery independent surveys, and appropriate state sampling programs that are used in the assessments. The goal of this review is to examine the fishery information collection programs in the Gulf of Mexico which provide the scientific data for managing the fishery, setting regulations, determining allocations and conducting stock assessments. The report from this review will be part of the information to be considered during the Science and Management Review.

2. Economics Review Panel

The Economics Review Panel will consider the data that are available to conduct economic inquiries and will review and evaluate the economic analyses that are currently available and that contribute to the understanding of the economic ramifications of alternative management strategies for red snapper. The goal of this review is to examine the analyses conducted in support of establishing an individual transferable quota system for the red snapper fishery and determine whether the analyses were sufficient and whether additional analyses of other alternatives are called for.

3. Science and Management Review Panel

The Science and Management Review Panel will consider all aspects of the scientific and management basis for managing the red snapper stock in the Gulf of Mexico. The review will consider the appropriateness of the scientific methods, information, and models used to assess the status and trends of the Gulf of Mexico red snapper stock and their usefulness as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery. It will also consider the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under the Magnuson-Stevens Act. The goal of this review is to examine the available scientific data relating to the status of U.S. Gulf of Mexico red snapper, to determine the best scientific advice to be derived from it, and to determine whether the preferred management options are supported by the scientific advice.

Presentation of Information to Review Panels

Recommendations of individuals or representatives of organizations to present information to the review panels may be submitted by any person or organization. When submitting recommendations for presentations, include the person or organization's name and affiliation along with a brief listing of each person's background, experience, and the type of information to be presented. Individuals recommended for presentations may have previous involvement in the assessment or management of the red snapper fishery, may have a financial interest in fisheries affected by the outcome of these reviews, or may represent other interested parties. A wide range of presenters will be selected to ensure that representatives from all sectors affected by management of red snapper in the Gulf of Mexico have an opportunity to present information to the review panels.

Dated: April 29, 1997.

Nancy Foster,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 97–11671 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042897C]

Endangered Species; Permits

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

ACTION: Receipt of an application for modification 4 to incidental take permit 844 (P503I).

SUMMARY: Notice is hereby given that the Idaho Department of Fish and Game in Boise, ID (IDFG) has applied in due form for modification 4 to permit 844 authorizing an incidental take of a threatened species associated with sport-fishing activities.

DATES: Written comments or requests for a public hearing on the modification application must be received on or before June 4, 1997.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Environmental and Technical Services Division, Portland.

SUPPLEMENTARY INFORMATION: IDFG requests modification 4 to permit 844 under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Permit 844 authorizes IDFG an incidental take of adult and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) and adult, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with the State of Idaho's sport-fishing activities. For modification 4, IDFG requests an incidental take of residual, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a kokanee fishery in Redfish Lake from May 1 through August 7, 1997. The fishery is proposed as a kokanee control measure. A reduction of the kokanee population in Redfish Lake is desirable because kokanee compete directly with ESA-listed sockeye salmon in the lake for food and habitat and threaten IDFG's effort to re-establish the endangered salmon's productivity in the lake. In 1995 and 1996, NMFS provided authorization to IDFG for an incidental take of residual, endangered, Snake River sockeye salmon associated with a kokanee fishery in Redfish Lake. Angler retention of Redfish Lake kokanee has not been allowed since 1992 because of

the potential incidental harvest of ESA-listed residual sockeye, visually indistinguishable from kokanee. The take of ESA-listed adult fish associated with the proposed kokanee fishery in Redfish Lake is requested in 1997 only.

Also for modification 4 to permit 844 (P503I), IDFG requests an additional incidental take of adult, threatened, Snake River spring/summer chinook salmon associated with a salmon sport fishery on the upper South Fork of the Salmon River after June 12, 1997. The fishery will target non-listed, artificially-propagated, summer chinook salmon. The primary source of take would be the incidental catch, handling, and release of ESA-listed adult fish with an associated catch and release mortality. The specifics of the fishery, including season dates, duration, locations, and mitigative activities are tailored to provide the appropriate level of protection for ESA-listed fish in the watershed. The fishery is proposed to be terminated when quotas are reached or before the onset of spawning activities. The additional take of ESA-listed adult fish associated with the proposed upper South Fork Salmon River salmon fishery is requested in 1997 only. Permit 844 expires on April 30, 1998.

Those individuals requesting a hearing on the permit modification request should set out the specific reasons why a hearing would be appropriate (see ADDRESSES). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: April 29, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–11670 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042497D]

Marine Mammals; Scientific Research Permit (PHF# 859–1373)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that the United States Air Force, 30th Space Wing, Vandenberg Air Force Base, CA 93437–5320, has applied in due form for a permit to take California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsi*), and northern elephant seals (*Mirounga angustirostris*) for purposes of scientific research.

DATES: Written comments must be received on or before June 4, 1997.

ADDRESSES: The application 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);

Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (310/980-4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, 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 application 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 permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The purpose of the proposed research is to study the effects of noise from rocket launches and subsequent sonic booms on pinnipeds inhabiting Vandenberg Air Force Base (VAFB) and the Northern Channel Islands (NCI). Up to 25 California sea lions, 60 Pacific harbor seals (if available, rehabilitated beached/stranded harbor seals will be used in ABR studies at VAFB), and 25 northern elephant seals per year may be taken by capture, chemically sedation, blood sampling, measurement of auditory brainstem response, flipper tagging, and attachment/retrieval of telemetry instruments. Not all animals may be subjected to all procedures and some animals will be captured a second time for instrument recovery. Up to 200 California sea lion pups and up to 500 northern elephant seal pups will be roto-tagged annually. Up to 5,000 California sea lions, 600 Pacific harbor seals, and 2,000 northern elephant seals may be taken by incidental disturbance caused by capture or census activities annually. Although mortality from the proposed activities is not anticipated, it is possible that undetected health problems may lead to aberrant reactions to the immobilizing drugs and therefore permission is requested for the accidental mortality of up to 2 animals of each species annually. In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: April 24, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–11669 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Notice of Public Meeting on the Proposed Experimental Program To Stimulate Competitive Technology (EPSCoT)

AGENCY: Technology Administration, Department of Commerce.

ACTION: Notice of public meeting on the proposed experimental program to stimulate competitive technology (EPSCoT).

SUMMARY: The Technology Administration will hold an open meeting on May 29, 1997 to solicit input on the proposed Experimental Program to Stimulate Competitive Technology (EPSCoT) from representatives of state and local government, universities, and the private- and non-profit sectors, who are involved with technology development, diffusion, commercialization, and using technology to promote economic growth. The purpose of the meeting is to determine what activities are currently being conducted in the states to foster technology-based economic growth and how a new competitive, cost-shared federal grant program with the mission of fostering the development of indigenous technology assets in states that are traditionally under represented in Federal R&D funding could be structured. The following states would currently be eligible to participate in the EPSCoT:

Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming, as well as the Commonwealth of Puerto Rico.

DATES: The meeting will be held on May 29, 1997 from 9 am until 12 pm.

ADDRESSES: The meeting will be held at the National Research Center for Coal and Energy at the West Virginia University in Morgantown, West Virginia. Individuals wishing to attend the meeting should contact Maureen Wood, Office of the Deputy Under Secretary for Technology, at (202) 482–1091 by close of business May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Marc Cummings, Technology Administration, U.S. Department of Commerce at (202) 482–8323.

SUPPLEMENTARY INFORMATION: The Technology Administration (TA) is proposing a new, competitive, matching grant program called the Experimental Program to Stimulate Competitive Technology (EPSCoT) to foster the development of indigenous technology assets in states that traditionally have been under represented in the distribution of Federal R&D expenditures.

Technology is the engine of economic growth and, as such, its development, deployment, and diffusion are critical to U.S. competitiveness. Although it is often said that nations do not compete, companies do, it is apparent that sub-national units—regions within states and clusters of states—do compete, not simply with one another, but also internationally. This is because in a global economy, capital, labor, and technology are increasingly mobile and they are attracted to regions with the most promising opportunities. To this end, regional policies and infrastructures play a large role in determining both where companies locate and their ability to be competitive in a global marketplace.

Commerce Department research shows that firms that adopt advanced technologies create more jobs at higher wages than those that do not. Furthermore, regions that boast concentrations of high-tech industries enjoy high growth rates and standards of living. Regions thus compete to attract federal research facilities, private investment, and skilled labor. Recent research suggests that a region's technological infrastructure is among the most important factors that businesses consider when making location decisions. Accordingly, regions are searching for strategies to attract and retain high-tech firms and the jobs that they bring. These strategies may involve building on existing strengths at research universities, providing extension services to local businesses, or integrating existing business assistance resources, but ultimately their success is contingent upon an institutional capacity to support technology-based economic development.

In the Federal government's efforts to foster competitiveness, it must ensure that all regions of the nation develop the necessary infrastructure to support indigenous technology development. Most less populated states, whose manufacturers tend to be small- and medium-sized, are at a competitive disadvantage because there is generally no research base on which local businesses can build. The EPSCoT seeks to remedy this disadvantage.

The EPSCoT seeks to build on the NSF's successful Experimental Program to Stimulate Competitive Research (EPSCoR) which was established in 1979 to stimulate sustainable improvements in the quality of the academic science and technology infrastructure of states that traditionally have been under represented in receiving federal R&D funds. Within these states, the EPSCoR's primary emphasis is on improving the competitive performance of major research universities. By focusing on building the science base of these regions, primarily in universities, the EPSCoR has successfully strengthened the research capacity of universities in these states; yet, there remains a technology ''gap.''

Improving the competitive performance of universities, which is an essential component of a successful technology-based economy, is often not sufficient to establish new companies, develop new job opportunities or raise the standard of living.

That is why the Department of Commerce proposes to create an EPSCoT—the technology counterpart to the EPSCoR. EPSCoT would help to bridge the gap between university research and the local economy. It would develop essential economic development tools to foster regional technology-based economic growth. The program would stimulate the development of indigenous technological infrastructure and institutional capabilities of states through a variety of means, including outreach activities, technology development and deployment, technology transfer, education and training, and better linking universities, firms, and state and local governments.

Dated: April 28, 1997.

Mary Good,

Under Secretary for Technology.

[FR Doc. 97–11617 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Restraint Period and Limit for Certain Wool Textile Products Produced or Manufactured in Russia

April 30, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending an import restraint period and limit.

EFFECTIVE DATE: May 7, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In exchange of letters dated March 18, 1997 and March 26, 1997, the Governments of the United States and the Russian Federation agreed to amend their Bilateral Textile Agreement, effected by exchange of notes dated August 13, 1996 and September 9, 1996. The new restraint periods shall be October 1, 1996 through December 31, 1997, followed by three consecutive twelve-month periods beginning on January 1, 1998 through December 31, 2000.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current restraint period to end on December 31, 1997 at an increased level.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also

see 61 FR 50279, published on September 25, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 30, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 19, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of wool textile products in Category 435, produced or manufactured in Russia and exported during the twelve-month period which began on October 1, 1996 and extends through September 30, 1997.

Effective on May 7, 1997, pursuant to exchange of letters dated March 18 and March 26, 1997 between the Governments of the United States and the Federation of Russia, you are directed to amend the current restraint period for Category 435 to end on December 31, 1997. Also, the limit shall be increased to 64,005 dozen [1].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.97–11652 Filed 5–2–97; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after September 30, 1996.

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of submission of information collection #3038–0035.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0035, Rules Relating to the Offer and Sale of Foreign Futures and Foreign Options, to OMB for review and clearance under the Paperwork Reduction Act of 1995, (Pub. L. 104–13). The information collected pursuant to the this rule provides a basis for detecting fraud in the offer and sale of foreign futures and options to people located in this United States.

ADDRESSES: Persons wishing to comment on this information collection should do so within the next 30 days by contacting the Desk Officer, CFTC, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20502, (202) 395–7340. Copies of the submission are available from the Agency Clearance Officer, (202) 418–5160.

Title: Rules Relating to the Offer and Sale of Foreign Futures and Foreign Options.

Control Number: 3038–0035.

Action: Extension.

Respondents: FCMs, IBs, CPOs, CTAs and APs.

Estimated Annual Burden: 3186 hours.

Respondents	Regulation (17 CFR)	Estimated no. of respondents	Annual responses	Estimate average hours per response
FCMs, IBs, CPOs, CTAs, and APs	30.4	560	560	1.00
	30.5	136	136	1.00
	30.6	440	440	.50
	30.7	120	120	.50
	30.8	120	1,440	1.00
	30.10	120	120	4.00

Issued in Washington, D.C. on April 29, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–11549 Filed 5–2–97; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Seventh Renewal

The Commodity Futures Trading Commission has determined to renew again for a period of two years its advisory committee designated as the ''Commodity Futures Trading Commission Agricultural Advisory Committee.'' The Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. § 1, *et seq.*, as amended.

The objectives and scope of activities of the Agricultural Advisory Committee are to conduct public meetings and submit reports and recommendations on issues affecting agricultural producers, processors, lenders and others interested in or affected by agricultural commodities markets, and to facilitate communications between the Commission and the diverse agricultural and agriculture-related organizations represented on the Committee.

Commissioner Joseph B. Dial serves as Chairman and Designated Federal Official of the Agricultural Advisory Committee. The Committee's membership represents a cross-section of interested and affected groups including representatives of producers, processors, lenders and other interested agricultural groups.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

Issued in Washington, D.C. on April 28, 1997, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–11516 Filed 5–2–97; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, § 10(a) and 41 CFR § 101–6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on May 14, 1997 from 1:00 p.m. to 5:00 p.m. in the first floor hearing room of the Commodity Futures Trading Commission (Room 1000), Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. The agenda will consist of:

Agenda

I. Welcoming Remarks by Commissioner B. Dial;
II. Discussion of the CFTC ''White Paper'' on the Prohibition of Agricultural Trade Options;
III. A Presentation of ''A Day at the Commission—Examples of Issues CFTC Deals with Day-to-Day;''
IV. Discussion of the Status of New Delivery Points for CBT Grain Contracts including the Wheat Contract;
V. Presentation of the Approval Process to Establish a New Futures Exchange;
VI. Report on USDA's Risk Management Education Program-Summit on September 14, 1997 in St. Louis, MO;
VII. Presentation by National Cotton Council of America on their Risk Management Education Program;
VIII. Presentation of the CFTC-Agricultural Advisory Committee Website;
IX. Discussion on CFTC's ''Fast Track'' Contract and Rule Approval Process;
X. Comments on the Proposed Legislation to Amend the Commodity Exchange Act;
XI. Other Committee Business;
XII. Closing Remarks by Commissioner Joseph B. Dial.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purpose and objectives of the Advisory Committee are more fully set forth in the seventh renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Joseph B. Dial, is enpowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Agricultural Advisory Committee c/o Kimberly Harter, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 Street, N.W., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Harter in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on April 29, 1997.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–11548 Filed 5–2–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs.

ACTION: Notice.

In accordance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed extension of 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received July 7, 1997.

ADDRESSES: Written comments and recommendations on the information collection should be sent to TRICARE Support Office, Office of General Counsel, US Army Garrison, Fitzsimons, Attn: Robert Shepherd, Aurora, CO 80045.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call TRICARE Support Office, Office of General Counsel at (303) 361–1193.

Title Associated with Form, and OMB Number: Statement of Personal Injury—Possible Third Party Liability Champus, DD Form 2527, OMB Number 0720–0003.

Needs and Uses: This information collection is completed by CHAMPUS beneficiaries suffering from personal injuries and receiving medical care at Government expense. The information is necessary in the assertion of the Government's right to recovery under the Federal Medical Care Recovery Act. The data is used in the evaluation and processing of these claims.

Affected Public: Individuals or household, Federal government.

Annual Burden Hours: 17,300.

Number of Respondents: 29,500.

Responses per Respondent: 1.

Average Burden per Response: 35 minutes.

Frequency: On occasion, only when a beneficiary is insured under circumstances creating possible liability in a third party.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Federal Medical Care Recovery Act, 42 USC 2651–2653 as implemented by Executive Order No. 11060 and 28 CFR 43 provides for recovery of the reasonable value of medical care provided by the United States to a person who is injured or suffers a disease under circumstances creating tort liability in some third person. DD Form 2527 is required for investigating and asserting claims in favor of the United States arising out of such incidents.

When a claim for CHAMPUS benefits is identified as involving possible third party liability and the information is not submitted with the claim, the TRICARE/CHAMPUS contractor requests that the injured party (or a designee) complete DD Form 2527. To protect the interests of the Government, the contractor suspends claims processing until the requested third party liability information is received. The contractor conducts a preliminary evaluation based upon the collection of information and refers the case to a designated appropriate legal officer of the Uniformed Services. The responsible Uniformed Services legal officer uses the information as a basis for asserting and settling the Government's claim. When appropriate, the information is forwarded to the Department of Justice as the basis for litigation.

Section 1 of the Form is used to collect general information, such as name, address and telephone numbers about the military sponsor and the injured beneficiary.

Section 2 of the Form allows the injured beneficiary to explain in his or her own words how the injury occurred. This allows the beneficiary to explain that he or she was not injured in an accident or that no third party was responsible. If either of these conditions exist, the beneficiary does not have to complete the rest of the form.

Section 3 of the Form is used to collect information about accidents that do not involve motor vehicles. Information such as location, time, date, property owner's name and address and the names and addresses of persons involved or witnesses is collected in this section of the form. Other information relating to police investigations, other injured family members, whether the accident was work related and insurance coverage is also collected.

Section 4 of the Form is used to collect information about motor vehicle accidents. Most of the investigations for possible third party liability involve motor vehicle accidents. A beneficiary must attach a copy of the official police report to the form. Additional information not usually included in police reports is entered in Section 4, including information about insurance coverage of the parties, and whether the accident was work related is collected.

Section 5 of the Form is used for miscellaneous information such as possible medical treatment in a Government hospital, the name and address of the beneficiary's attorney, and information regarding any possible releases or settlements with another party to the accident.

Section 6 of the Form contains the certification, date and signature of the beneficiary (or a designee).

Dated: April 29, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–11596 Filed 5–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–10]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/FPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–10, with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: April 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

23 APR 1997

In reply refer to:
I-04136/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-10, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services estimated to cost $52 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Thomas G. Rhame
Lieutenant General, USA
Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Australia

(ii) Total Estimated Value:

Major Defense Equipment*	$42 million
Other	$10 million
TOTAL	$52 million

(iii) Description of Articles or Services Offered:
Sixty-one AGM-142 air-to-ground missiles (including training missiles), containers, spare and repair parts, special test sets and support equipment, modification and integration of the AGM-142 missiles for use on the F-111 aircraft, aircraft ground and flight testing with new missile systems, mission planning software, personnel training and training equipment, publications and technical data, U.S. Government and contractor technical and logistics personnel services and other related elements of program support.

(iv) Military Department: Air Force (YKW, Amendment 2)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 23 APR 1997

as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia - AGM-142 Air-to-Ground Missiles

The Government of Australia has requested the purchase of 61 AGM-142 air-to-ground missiles (including training missiles), containers, spare and repair parts, special test sets and support equipment, modification and integration of the AGM-142 missiles for use on the F-111 aircraft, aircraft ground and flight testing with new missile systems, mission planning software, personnel training and training equipment, publications and technical.data, U.S. Government and contractor technical and logistics personnel services and other related elements of program support. The estimated cost is $52 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Pacific region.

This is a follow-on procurement by Australia of these missiles which will be used to enhance its F-111 aircraft air-to-ground attack capability. Australia will have no difficulty absorbing these missiles into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Corporation, Orlando, Florida. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this program will not require the assignment of any additional U.S. Government personnel in-country but will require approximately five contractor representatives to provide in-country technical support for a period of up to 21 months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97-10

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The AGM-142 stand-off air-to-ground missile hardware and software contain the following sensitive technologies which are classified Confidential: range capability, data link capabilities and launch software (guidance algorithms).

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software involved in this sale, the information could be used to develop countermeasures or systems which could reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–11598 Filed 5–2–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Reestablishment of the Defense Policy Advisory Committee on Trade

ACTION: Notice.

SUMMARY: The Defense Policy Advisory Committee on Trade (DPACT) has been reestablished by the Secretary of Defense and the U.S. Trade Representative, in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act.'' The DPACT was originally established pursuant to Pub. L. 93–618, the Trade Act of 1974, as amended.

The DPACT provides general defense policy advice to the U.S. Trade Representative in conjunction with the Secretary of Defense concerning trade matters referred to in 19 U.S.C. § 2155(a).

The DPACT will continue to be composed of approximately twenty members representative of the U.S. defense industry. Efforts will be made to ensure that there is a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

For further information regarding the DPACT, contact: Andy Gilmore, telephone: (703) 697–1130.

Dated: April 28, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–11595 Filed 5–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Secretary of Defense Task Force on Defense Reform

ACTION: Notice.

SUMMARY: The Secretary of Defense Task Force on Defense Reform (the Task Force) is being established in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' Title 5 U.S.C., Appendix 2.

The Task Force will advise and make recommendations to the Secretary of Defense and Deputy Secretary of Defense on alternatives for improving the organization and procedures of the Department of Defense, particularly the Office of the Secretary of Defense, the Defense Agencies and the DoD Field Activities. Emphasis will be given to the potential for expanded use of enterprise-wide business procedures, especially in the areas of acquisition, logistics, installation operations, and property management. It is anticipated that the Task Force will conclude its activities and submit a final report by November 1, 1997.

The Task Force will consist of a balanced membership of approximately six noted defense experts from outside the federal government with varied experience and diverse interests, appointed by the Secretary of Defense.

For further information regarding the Task Force, contact: Mr. Henry J. Gioia, (703) 695–4281.

Dated: May 1, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–11750 Filed 5–1–97; 12:20 pm]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: The Scientific Advisory Board published a notice in the **Federal Register** on April 10, 1997, Vol 62 FR 17599, concerning a closed meeting. This scheduled meeting was to be held on April 24, 1997 (8:00 a.m. to 9:00 a.m.). The remaining information in this notice applies to the April 22, 1997 meeting.

DATES: April 22, 1997 (8:00 a.m. to 9:00 a.m.).

ADDRESS: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Michael W. Lamb, USAF, Executive Secretary, DIA Scientific Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Panel will be detailing interim reports and findings which entail current critical intelligence issues and advise the Director, DIA on these findings and advise the Director, DIA, on related scientific and technical matters.

Dated: April 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–11602 Filed 5–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Defense Intelligence Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Scientific Advisory Board published a notice in the **Federal Register** on March 24, 1997, Vol. 62 FR 13870, concerning a closed meeting. This scheduled meeting was to be held on April 18, 1997 (800 am to 1600 pm). This meeting has been rescheduled to be held on May 27, 1997 (800 am to 1600 pm). The remaining information in this notice applies to the May 27, 1997 meeting.

DATES: May 27, 1997 (800 am to 1600 pm).

ADDRESS: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Michael W. Lamb, USAF, Executive Secretariat. DIA Scientific Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I) Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: April 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–11603 Filed 5–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Change in Reimbursement of Higher Actual Subsistence Expenses and Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of change in reimbursement of higher actual subsistence expenses and revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 194. This bulletin revises the ceiling on reimbursements for actual subsistence expenses authorized civilian personnel when traveling to Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. For travel in those areas involving special or unique circumstances, the reimbursement of actual and necessary itemized daily subsistence expense shall not exceed 300 percent of the applicable locality per diem allowance (rounded to the next higher dollar). For regulations governing maximum per diem rates and reimbursement of the actual and necessary subsistence expenses in the continental United States and the District of Columbia, see the Federal Travel Regulation (41 CFR Parts 301–304), parts 301–7 and 301–8 issued by the General Services Administration, and maximum per diem rates and reimbursement of the actual and necessary subsistence expenses in foreign overseas locations, see 6 FAM 150 or Standardized Regulation, Section 925 issued by U.S. Department of State. Additionally, this bulletin lists revisions in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 194 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: May 1, 1997.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It superseded Civilian Personnel Per Diem Bulletin Number 193. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinue. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

BILLING CODE 5000–04–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:				
ANCHORAGE				
05/01 -- 09/30	147	66	213	02/01/97
10/01 -- 04/30	81	60	141	02/01/97
ANCHORAGE NAVAL RESERVE CENTER				
05/01 -- 09/30	147	66	213	02/01/97
10/01 -- 04/30	81	60	141	02/01/97
BARROW	110	76	186	03/01/96
BETHEL	93	61	154	02/01/97
CORDOVA	74	72	146	02/01/97
CRAIG				
05/01 -- 08/31	95	66	161	05/01/97
09/01 -- 04/30	79	64	143	05/01/97
DELTA JUNCTION	75	64	139	02/01/97
DUTCH HARBOR-UNALASKA	110	75	185	02/01/97
EARECKSON AIR STATION	75	60	135	02/01/97
EIELSON AFB				
05/16 -- 09/14	121	60	181	02/01/97
09/15 -- 05/15	75	55	130	02/01/97
ELMENDORF AFB				
05/01 -- 09/30	147	66	213	02/01/97
10/01 -- 04/30	81	60	141	02/01/97
FAIRBANKS				
05/16 -- 09/14	121	60	181	02/01/97
09/15 -- 05/15	75	55	130	02/01/97
FT. GREELY	75	64	139	02/01/97
FT. RICHARDSON				
05/01 -- 09/30	147	66	213	02/01/97
10/01 -- 04/30	81	60	141	02/01/97
FT. WAINWRIGHT				
05/16 -- 09/14	121	60	181	02/01/97
09/15 -- 05/15	75	55	130	02/01/97
HOMER				
05/01 -- 09/30	116	64	180	02/01/97
10/01 -- 04/30	90	61	151	02/01/97
JUNEAU	89	79	168	02/01/97
KENAI-SOLDOTNA				
05/01 -- 09/30	94	61	155	02/01/97
10/01 -- 04/30	74	59	133	02/01/97

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KETCHIKAN				
05/01 -- 09/30	99	77	176	02/01/97
10/01 -- 04/30	83	75	158	02/01/97
KING COVE	85	69	154	03/01/96
KING SALMON	77	68	145	03/01/96
KLAWOCK				
05/01 -- 08/31	95	66	161	05/01/97
09/01 -- 04/30	79	64	143	05/01/97
KODIAK	88	72	160	02/01/97
KOTZEBUE				
05/16 -- 09/15	101	81	182	04/01/97
09/16 -- 05/15	90	80	170	04/01/97
KULIS AGS				
05/01 -- 09/30	147	66	213	02/01/97
10/01 -- 04/30	81	60	141	02/01/97
MURPHY DOME				
05/16 -- 09/14	121	60	181	02/01/97
09/15 -- 05/15	75	55	130	02/01/97
NOME	93	76	169	02/01/97
PETERSBURG	82	58	140	02/01/97
SEWARD				
05/01 -- 09/15	114	74	188	02/01/97
09/16 -- 04/30	78	71	149	02/01/97
SITKA-MT. EDGECOMBE				
04/01 -- 10/31	97	63	160	02/01/97
11/01 -- 03/31	86	62	148	02/01/97
SKAGWAY				
05/01 -- 09/30	99	77	176	02/01/97
10/01 -- 04/30	83	75	158	02/01/97
SPRUCE CAPE	88	72	160	02/01/97
TANANA	93	76	169	02/01/97
VALDEZ				
05/15 -- 09/15	105	65	170	02/01/97
09/16 -- 05/14	84	64	148	02/01/97
WASILLA	89	65	154	02/01/97
WRANGELL				
05/01 -- 09/30	99	77	176	02/01/97
10/01 -- 04/30	83	75	158	02/01/97
[OTHER]	75	60	135	02/01/97
AMERICAN SAMOA:				
AMERICAN SAMOA	73	53	126	03/01/97

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
GUAM:				
GUAM (INCL ALL MIL INSTAL)	185	90	275	05/01/97
HAWAII:				
CAMP H M SMITH	110	70	180	07/01/96
EASTPAC NAVAL COMP TELE AREA	110	70	180	07/01/96
FT. DERUSSEY	110	70	180	07/01/96
FT. SHAFTER	110	70	180	07/01/96
HICKAM AFB	110	70	180	07/01/96
HONOLULU NAV & MC RESERVE CTR	110	70	180	07/01/96
ISLE OF HAWAII: HILO	74	60	134	07/01/96
ISLE OF HAWAII: OTHER	105	63	168	07/01/96
ISLE OF KAUAI	114	75	189	07/01/96
ISLE OF KURE	10	8	18	07/01/96
ISLE OF MAUI				
04/16 -- 12/14	100	63	163	07/01/96
12/15 -- 04/15	113	65	178	07/01/96
ISLE OF OAHU	110	70	180	07/01/96
KANEOHE BAY MC BASE	110	70	180	07/01/96
KEKAHA PACIFIC MISSILE RANGE FAC	114	75	189	07/01/96
KILAUEA MILITARY CAMP	74	60	134	07/01/96
LULUALEI NAVAL MAGAZINE	110	70	180	07/01/96
NAS BARBERS POINT	110	70	180	07/01/96
PEARL HARBOR AFLOAT TNG GRP, MIDDLE	110	70	180	07/01/96
PEARL HARBOR NAVAL COMPLEX	110	70	180	07/01/96
PEARL HARBOR NAVAL SUBMARINE BASE	110	70	180	07/01/96
PEARL HARBOR NAVY PUBLIC WORKS CTR	110	70	180	07/01/96
SCHOFIELD BARRACKS	110	70	180	07/01/96
WHEELER ARMY AIRFIELD	110	70	180	07/01/96
[OTHER]	79	62	141	06/01/93
JOHNSTON ATOLL:				
JOHNSTON ATOLL	22	24	46	07/01/96
MIDWAY ISLANDS:				
MIDWAY ISLAND NAVAL AIR FACILITY	60	13	73	02/01/97
MIDWAY ISLANDS	60	13	73	02/01/97
NORTHERN MARIANA ISLANDS:				
ROTA	105	71	176	05/01/97

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SAIPAN	170	78	248	05/01/97
[OTHER]	61	53	114	05/01/97
PUERTO RICO:				
BAYAMON				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
CAROLINA				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
DORADO				
04/01 -- 12/21	164	83	247	10/01/96
12/22 -- 03/31	300	96	396	10/01/96
FAJARDO [INCL CEIBA, LUQUILLO & HUMACAO]				
05/01 -- 11/23	70	64	134	10/01/96
11/24 -- 04/30	114	68	182	10/01/96
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
LUIS MUNOZ MARIN IAP AGS				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
MAYAGUEZ	90	58	148	02/01/97
PONCE	107	58	165	10/01/96
ROOSEVELT ROADS				
05/01 -- 11/23	70	64	134	10/01/96
11/24 -- 04/30	114	68	182	10/01/96
ROOSEVELT ROADS NAS 2/				
05/01 -- 11/23	70	64	134	10/01/96
11/24 -- 04/30	114	68	182	10/01/96
SABANA SECA				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
SABANA SECA US NAVAL SEC GRP ACT				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
SAN JUAN				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96
SAN JUAN US NAVAL RESERVE STATION				
05/01 -- 12/14	102	60	162	10/01/96
12/15 -- 04/30	130	63	193	10/01/96

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]	70	50	120	10/01/96
VIRGIN ISLANDS (U.S.):				
ST. CROIX	127	78	205	08/01/96
ST. JOHN				
04/16 -- 12/21	242	89	331	08/01/96
12/22 -- 04/15	391	100	491	08/01/96
ST. THOMAS				
04/12 -- 12/15	168	93	261	08/01/96
12/16 -- 04/11	268	103	371	08/01/96
WAKE ISLAND:				
WAKE ISLAND	40	35	75	10/01/96

Dated: April 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Laison Officer, Department of Defense.

[FR Doc. 97–11594 Filed 5–2–97; 8:45 am]

BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Department of the Army/Corps of Engineers

Draft Environmental Impact Statement (DEIS) for the Tucson Drainage Area Feasibility Study, Pima County, AZ

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The Los Angeles District Corps of Engineers and local co-sponsors, the Pima County Department of Transportation and Flood Control District and the City of Tucson Department of Transportation propose the construction of certain flood control structures along portions of the Tucson Arroyo and Arroyo Chico located in central Tucson. The Tucson Arroyo/Arroyo Chico system and its tributaries is the major drainage channel for watersheds within the city and drains an 11.4 square-mile area of central and downtown Tucson. The study was developed in response to frequent flood events along this drainage system.

As proposed the recommended plan would consist of three primary elements: (1) Randolph Park Detention Basin Complex, (2) Park Avenue Detention Basin Complex and, (3) improvements along High School Wash. Project construction would increase the existing 7 to 10-year level of flood protection to an approximate 100-year level of protection. The project would eliminate approximately 90 percent of all inundation damages while providing protection to approximately 1,100 structures within the 100-year floodplain. In addition, the recommended plan would provide for the restoration of over 12 acres of valuable desert riparian habitat within the project area, increase local opportunities for wildlife, as well as satisfying a currently unmet need for recreation.

FOR FURTHER INFORMATION CONTACT: For a copy of the DEIS, or for additional information, please contact Mr. William O. Butler at (213) 452–3845 or Mr. Elden J. Gatwood at (213) 452–3812, or by writing to the U.S. Army Corps of Engineers, Los Angeles District (Attn: Mr. William O. Butler, CESPL–PD–RN, Room 14005), P.O. Box 532711, Los Angeles, California 90053–2352.

SUPPLEMENTARY INFORMATION: No significant short or long-term adverse environmental effects were identified in the DEIS as a result of implementing the recommended plan.

The public review and comment period for the DEIS will be for 45 days, from May 2, 1997 to June 16, 1997.

Scoping

A public scoping meeting will be held to give individuals and groups the opportunity to comment, either orally and/or in writing on the environmental, social and economic impacts of the proposed action (recommended plan) as presented in the DEIS. The feasibility report and DEIS findings will be reviewed at the public meeting.

The public meeting will be scheduled for the week of May 26, 1997 in the City of Tucson. When available, the specific date, time and location of this meeting will be announced in the local news media and with separate notification to all parties on the project mailing list.

Written public comments and suggestions received by June 16, 1997 will be addressed in the Final EIS (FEIS).

Robert L. Davis,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 97–11560 Filed 5–2–97; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Jacksonville Harbor Navigation Channel Improvements Project, Duval County, Florida

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a Draft Environmental Impact Statement for the Jacksonville Harbor Navigation Channel Improvements Project. This action is a cooperative effort between the Jacksonville District, U.S. Army Corps of Engineers and the Jacksonville Port Authority.

FOR FURTHER INFORMATION CONTACT: Kenneth Dugger, 904–232–1686, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION: The Jacksonville Port Authority has requested that the U.S. Army Corps of Engineers study the feasibility of deepening the Port of Jacksonville, Duval County, Florida. The purpose of the proposed action is to provide increased safety, efficiency and lower costs for navigation interests, while protecting the environment. Existing port facilities are not easily accessible to some larger ships because of depth limitations in some parts of the channel, and other large ships that can only use the channel if they are ''light-loaded'', also because of depth limitations. Local interests have requested that the harbor channels be deepened to provide for projected movement of general cargo at greater drafts, thereby reducing transportation costs. In addition, local interests and harbor pilots have requested channel wideners at key locations where turning and/or passing is required to improve vessel handling and maneuvering and to ensure safety of navigation while using the harbor. The Jacksonville Harbor Deepening Study was authorized by a resolution from the Committee on Public Works and Transportation, U.S. House of Representatives, dated February 5, 1992, which states: ''Resolved by the Committee on Public Works and Transportation of the United States House of Representatives, that the Board of Engineers for Rivers and Harbors, is requested to review the report of the Chief of Engineers on Jacksonville Harbor, Florida, published as House Document 214, Eighty-ninth Congress, First Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time, in the interest of navigation or other purposes.''

Alternatives: To decide what alternatives would be considered for navigation improvements, terminals within the port area were located and identified according to type of activity. Based on these determinations, an array of alternatives, including varying depths and widths, methods of excavation and disposal alternatives we evaluated. Depths of 40 to 45 feet plus 2 feet allowable overdepth were evaluated, as were channel widths up to at least 575 feet. Construction methods evaluated include the use of hopper and/or cutterhead dredges. A circulation improvement channel 6 feet deep and 80 feet wide is also proposed to improve flows through Mill Cove. A number of disposal alternatives have been evaluated. In addition to placement of beach quality material on the beach south of the mouth of the river, and possible use of the Jacksonville Ocean Dredged Material Disposal Site (ODMDS), about 75 upland sites throughout the Jacksonville Harbor area were initially considered. This number was reduced to about 25 sites and subsequently to 11 sites.

Issues: The EIS will consider impacts on the river channel, upland disposal areas, areas of cultural or historic significance, water quality, protected species, fish and wildlife resources, shore protection, navigational safety, energy conservation, socio-economic resources, possible effects of blasting, and any other possible issues identified through scoping, public involvement and interagency coordination.

Scoping: A scoping letter was sent to all known interested parties on August 24, 1993. All parties were invited to participate in the scoping process by identifying additional concerns or problems, studies needed, additional alternatives, and other matters related to the proposed action. A public meeting is also planned.

Coordination: The proposed action was coordinated with the U.S. Fish and Wildlife Service (FWS) under the Fish and Wildlife Coordination Act on October 19, 1993, for the Reconnaissance Phase of the study and again beginning on April 15, 1996, for the Feasibility Phase of the study. The proposed action was also coordinated with the FWS and National Marine Fisheries Service (NMFS) under the Endangered Species Act on August 24, 1993, and April 23, 1996, respectively. The proposed action is being coordinated with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation.

Other Environmental Review and Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; application to the State of Florida for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements and rights-of-way; and determination of Coastal Zone Management Act consistency.

Agency Role: As the local sponsor and leading local expert, the Jacksonville Port Authority will provide extensive information and assistance on resources to be impacted, mitigation measures and alternatives.

DEIS Preparation: It is estimated that the DEIS will be available to the public on or about August 29, 1997.

Dated: April 14, 1997.

Hanley K. Smith,

Acting Chief, Planning Division.

[FR Doc. 97–11565 Filed 5–2–97; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Disposal and Reuse of the Naval Undersea Warfare Center, New London, CT

SUMMARY: Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy announces its intention to prepare an Environmental Impact Statement (EIS) for the proposed disposal and reuse of the Naval Undersea Warfare Center (NUWC), New London, Connecticut.

In 1995, the Congressional Commission on Base Realignment and Closure (BRAC) recommended the closure of NUWC New London and its subsequent relocation to the Naval Undersea Warfare Center, Newport, RI. This recommendation was approved by President Clinton and accepted by the One Hundred Fourth Congress in 1995. The BRAC legislation also identified the requirements for compliance with NEPA, stating that the provisions of NEPA shall apply during the process of property disposal. Accordingly, with this notice, the Navy has initiated the process to prepare an EIS to evaluate the environmental effects of the disposal and likely reuse of this property.

The proposed action to be considered and evaluated in the EIS is the disposal and reuse of the NUWC New London property determined surplus to the needs of the federal government. The Center, situated in New London county, consists of about 26 acres in the City of New London. A portion of the Center, including a pier and the Navy's Magnetic Silencing Facility, will be

transferred to the U.S. Coast Guard. The Navy will continue to operate the Magnetic Silencing Facility as a tenant of the Coast Guard. The historic Fort Trumbull, and a portion of the land around it, is expected to be transferred to the State of Connecticut, Department of Environmental Protection, Bureau of Outdoor Recreation under a public benefit conveyance for use as an historic state park.

The NUWC New London Reuse Committee, acting as the Local Reuse Authority (LRA), has prepared a reuse plan for the remainder of the Center property. The property contains primarily laboratory and office space, with very little open space. The property also contains base operating support facilities, including training, some housing, shop and emergency services space. The reuse plan represents a mixed-use redevelopment scenario based on proposed zoning for the site. The NUWC LRA has indicated to the Navy that is does not intend to acquire the available surplus property and, therefore, the property will be made available for development through public sale. The EIS will evaluate environmental impacts of the reuse plan, as well as other redevelopment scenarios identified through the EIS process. These alternatives include a marina/specialty center and a conference center. Navy will also evaluate the no action alternative, defined as the retention of NUWC New London in a caretaker status. Based on a preliminary evaluation conducted by the State Historic Preservation Officer, several of the Center's facilities, including Fort Trumbull are eligible for listing on the National Register of Historic Places. Further evaluation of the Center's buildings and structures will be conducted as part of the EIS process.

ADDRESSES: The Navy will hold a public scoping meeting to further identify issues to be addressed in the EIS. The meeting will be held on Tuesday, May 20, 1997, beginning at 7:30 p.m. at the Radisson Hotel, at the Corner of Governor Winthrop Boulevard and Union Street, New London, Connecticut. Navy representatives will make a brief presentations, then members of the public will be asked to provide comments on potential reuses and the EIS process. Agencies and the public are encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues or topics which the EIS should address. Written comments must be postmarked by June 15, 1997, and should be mailed to Commanding Officer, Northern Division, Naval Facilities Engineering Command, Attn: Ms. Tina Deininger (Code 202/TD), 10 Industrial Highway, MS 82, Lester, PA 19113. All statements, both oral and written, will become part of the public record on this action and will be given equal consideration.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Ms. Deininger at (610) 595–0761, facsimile (610) 595–0778.

Dated: April 30, 1997.

D.E. Koenig,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–11651 Filed 5–2–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on CVX Flexibility will meet on May 14–16, 1997. The meeting will be held at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia, and the Naval Sea Systems Command Headquarters, 2531 Jefferson Davis Highway, Arlington, VA. The meeting will commence at 8:30 a.m. and terminate at 4 p.m. on May 14 and May 15; and commence at 8:30 a.m. and terminate at 12:30 p.m. on May 16, 1997. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to identify for the Department of the Navy the science and technology opportunities that have the potential for major impact on operational flexibility over the lifetime of new Navy ship classes now under consideration. The agenda will include briefings and discussions related to the requirements and concepts for CVX roles, missions, capabilities and configurations; potential technical limitations to CVX operational flexibility over the lifetime of the class; specific science and technology initiatives, such as integrated electric power and electric drive, to address such limitations; and the applicability of such initiatives to other current and new Navy ship classes. These briefings and demonstrations will contain classified and proprietary information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Under Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c) (1) and (4) of title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Ms. Diane Mason-Muir, Office of Naval Research, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217–5660, Telephone Number: (703) 696–6769.

Dated: April 28, 1997.

Donald E. Koenig, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–11597 Filed 5–2–97; 8:45 am]

BILLING CODE 3810–FF–P

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 1:00 p.m. to 4:00 p.m., May 16, 1997.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001) 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—January 21–22, 1997
(2) Faculty Matters
(3) Granting of Degrees
(4) Departmental Reports
(5) Financial Report
(6) Report—President, USUHS
(7) Report—Dean, School of Medicine
(8) Report—Dean, Graduate School of Nursing
(9) Comments—Chairman, Board of Regents
(10) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Dated: May 1, 1997.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–11747 Filed 5–1–97; 12:10 pm]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center Financial Assistance Award; Solicitation Announcement

AGENCY: U.S. Department of Energy (DOE), Federal Energy Technology Center.

ACTION: Solicitation available notice.

SUMMARY: The U.S. Department of Energy, Federal Energy Technology Center, announces its intent to issue Solicitation for Cooperative Agreement Proposal (SCAP) No. DE–SC21–97FT34197, for effort entitled, ''Community Leaders Network Coordination Program.'' Authority for this action is the DOE Organizational Act, Public Law 95–91 and the DOE Financial Assistance Regulations 10 CFR 600. A single award is expected.

FOR FURTHER INFORMATION CONTACT: Mary S. Gabriele, Mailstop I–07, U.S. Department of Energy, Federal Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 285–4253, Email: mgabri@fetc.doe.gov, FAX: (304) 285–4253, Procurement Request No. 21–97FT34197.000.

SUPPLEMENTARY INFORMATION: The objective of the agreement will be to improve the process of national deployment of innovative technologies by providing a mechanism for identifying and addressing national stakeholder concerns in the development stages. The awardee will be responsible for support, assistance, and cultivation of the Community Leaders Network (CLN) stakeholder group. The awardee will also maintain public communications efforts related to CLN and the Environmental Managements (EM) Office of Science and Technology (OST) activities; this will include continuation of newsletters and the CLN Home Page. In addition, the awardee will be responsible for completing performance metrics. The CLN is a small, loosely structured national group of public and Tribal representatives, who, as individuals: (1) provide review and comment on the EM programs' OST Focus Areas, Crosscutting Programs, and related activities; (2) identify strategies for improving public and Tribal involvement in Focus Area activities; and (3) serve as a reality check, or ''sounding board'', for various OST programs and initiatives. The CLN is not a consensus-seeking body; rather it seeks a range of individual opinions from a variety of stakeholders and facilitates information exchange. The awardee will work with the CLN participants to: (1) promote the transfer of information concerning EM technologies among stakeholders; (2) increase understanding of the problems and technology options for solving environmental problems at DOE sites as these activities affect the community leaders; (3) foster an environment of open information where facts, issues, and solutions are shared across the nation and; (4) provide individual feedback to EM and other Federal agencies concerning community leaders's perspectives on how these activities can be more effective in meeting the needs of DOE communities and external stakeholders with regard to development and deployment of environmental technologies. The solicitation package will be made available on the FETC's Homepage at the following address: [http://www.metc.doe.gov/business/solicita.html] on or about May 7, 1997. If an offeror requires a diskette copy, a request should be forwarded via email to ''mgabri@fetc.doe.gov,'' or via fax (304/285–4683), or via mail to the address noted above and attention to Mary S. Gabriele. All requests must identify the SCAP No. DE-SC21–97FT34197. The exact proposal due date will be identified in the SCAP. Offerors are encouraged to periodically check the FETC Homepage for any amendments that may result after issuance of the solicitation.

Issued: April 23, 1997.

Randolph L. Kesling,

Contracting Officer, Acquisition and Assistance Division, Federal Energy Technology Center.

[FR Doc. 97–11621 Filed 5–2–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, May 13, 1997: 6:30 p.m.–9:30 p.m.; 7:00 p.m. to 7:30 p.m. (public comment session).

ADDRESS: Elks BPOE 460 Lodge, 1615 Old Pecos Trail, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Los Alamos National Laboratory Citizens' Advisory Board, 528 35th Street, Los Alamos, New Mexico 87544, (505) 665–5048.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:—Tuesday, May 13, 1997

6:30 p.m.	Call to Order and Welcome
7:00 p.m.	Public Comment
7:30 p.m.	Old Business
8:15 p.m.	New Business
9:30 p.m.	Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Ann DuBois, at (505) 665–5048. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on April 28, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–11618 Filed 5–2–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–1873–000, ER97–2064–000 and ER97–2066–000]

Cinergy Services, Inc., Notice of Filing

April 29, 1997.

Take notice that on March 31, 1997, Cinergy Services, Inc. tendered for filing an amendment in the above-referenced dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 9, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11539 Filed 5–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2524–000]

Houston Lighting & Power Company; Notice of Filing

April 29, 1997.

Take notice that on April 11, 1997, Houston Lighting & Power Company (''HL&P'') tendered for filing a revised tariff to provide open-access transmission service to, from and over certain HVDC interconnections (''TFO Tariff'') to supersede HL&P's current FERC Electric Tariff, Second Revised Volume No. 1. HL&P states that the TFO Tariff has been revised to reflect changes to the *pro forma* tariff adopted in Order No. 888–A, and to incorporate new pricing provisions consistent with the new pricing regime now being implemented by the Public Utility Commission of Texas. HL&P states that it has eliminated provisions relating to the reservation of 15% of capacity in the East HVDC Tie for ''qualified utilities'' and the provision requiring a solicitation every three years to determine the interest of other utilities in a possible expansion of the HVDC Interconnections. The TFO Tariff continues to offer ancillary services consistent with the services offered by HL&P for transactions that occur wholly within the Electric Reliability Council of Texas. HL&P has requested a waiver to permit the revised TFO Tariff to become effective as of April 14, 1997.

HL&P states that the tariff has been served on the parties to Docket Nos. EL79–8 and ER96–2960 and on the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 9, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11540 Filed 5–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–161–003 and RP97–329–001]

Iroquois Gas Transmission System, L.P.; Notice of Request for Extension of Implementation Date of Certain GISB Standards

April 29, 1997.

Take notice that on April 24, 1997, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing a request for an extension of the June 1, 1997 implementation date for certain computer system related Gas Industry Standards Board (GISB) standards of Order Nos. 587, *et seq.*

Iroquois states that in order to implement certain standards, Iroquois has concluded that it must replace its existing internal and external computer systems, a task which has required that it contract with third parties for the development of the new systems. Iroquois seeks an extension of time to August 1, 1997 to implement the referenced GISB standards.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 5, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11543 Filed 5–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2389–012 Maine]

Edwards Manufacturing Company, Inc. and City of Augusta; Notice of Availability of Report on the Cost of Removing Edwards Dam

April 29, 1997.

By direction of the Federal Energy Regulatory Commission's (Commission) December 20, 1996, order, 77 FERC ¶ 61,285, Oak Ridge National Laboratory (ORNL) staff has prepared an independent study of the cost of removing Edwards dam and documents the findings of the study in a report titled ''Cost of Removing Edwards Dam on the Kennebec River, Maine'' (Report). The Edwards Hydroelectric Project is located on the Kennebec River in Augusta, Maine.

In the Report, ORNL staff analyze various alternative approaches to dam removal, estimate the cost of these approaches, and present a recommended approach for dam removal. The cost of ORNL's recommended approach is $2.7 million.

The findings of this study will be incorporated into the Kennebec River Basin final Environmental Impact Statement (EIS) which is planned for publication later this year. Responses to public comments on this report will be included in the final EIS.

Copies of the Report are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed on or before May 16, 1997, and should be

addressed to: Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 2389–012 to all comments. For further information, contact Joe Davis, Commission staff Task Monitor, at (202) 219–2865.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11542 Filed 5–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. HB52–93–3–005]

York Haven Power Company, Safe Harbor Water Power Corporation, Pennsylvania Power & Light Company, Susquehanna Power Company, and PECO Energy Power Company; Notice of Information Settlement Meeting

April 29, 1997.

Take notice that an informal settlement meeting will be convened on May 20, 1997 at 1:00 p.m. at the Office of the Federal Energy Regulatory Commission, 888 First Street, N.E., Room 52–06, Washington, D.C. 20426 for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 385.214).

For additional information, contact Mr. Charles K. Cover (202) 219–2664 or Mr. Vedula Sarma (202) 219–3273.

Lois D. Cashell,

Secretary.

[FR Doc. 97–11541 Filed 5–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Sunshine Act Meeting

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: April 28, 1997, 62 FR 22932.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 30, 1997, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added to the Agenda scheduled for the April 30, 1997 meeting.

Item No.

CAG–22

Docket No. and Company

IS92–3–000, Amerada Hess Pipeline Company
IS94–10–003, Amerada Hess Pipeline Company
IS94–34–000, ARCO Transportation Alaska, Inc.
OR96–1–000, Exxon Pipeline Company

Lois D. Cashell,

Secretary.

[FR Doc. 97–11707 Filed 4–30–97; 5:03 pm]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5821–8]

Agency Information Collection Activities: Proposed Collection, Comment Request; National Health Protection Survey of Beaches

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA is starting to develop an Information Collection Request (ICR) for submittal to the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). EPA is soliciting comments on specific aspects of the proposed information collection as described below, before submitting the ICR to OMB for review and approval.

DATES: Comments must be submitted on or before July 7, 1997.

ADDRESSES: Office of Water, Office of Science and Technology/Standards and Applied Science Division (4305), 401 M Street SW., Washington, DC 20460. The ICR is currently under development.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Hoffmann at EPA, telephone (202) 260–0642.

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities: The number of potentially affected entities is approximate since the list of survey participants is under development. EPA eventually intends to survey all State, County, City, and Tribal representatives with responsibilities for assessing the impact of water contaminated by microbiological pollutants on persons using beaches and related recreational waters.

Title: National Health Protection Survey of Beaches.

Abstract: Bacterial and other microbiological contaminants continue to pose potentially adverse human health problems for the nation's recreational waters, including bathing beaches. These adverse effects have been one of EPA's long-standing concerns and are directly related to such Clean Water Act responsibilities as water quality standards, surface water quality, and Agency efforts to ensure that the waters of the United States are ''fishable'' and ''swimmable.'' Recent studies have confirmed the health effects resulting from bathing in contaminated waters. Thus, water quality in bathing beach areas remains an important concern to EPA.

EPA believes there is a need to improve the overall quality and availability of public information about beach health protection activities; these include, but are not limited to, water quality standards, monitoring and assessment activities, and beach closures. Many organizations share responsibility for these activities. Consequently, EPA will survey environmental public health officials from State, Tribal, County, and City agencies, as well as representatives from various interest groups to compile and verify this information. EPA will then assemble it into a format that can be readily analyzed and shared with responsible parties, as well as the public. This information collection effort will involve distributing a questionnaire to various agencies (e.g., State, Tribal, County, City) to evaluate the condition of bathing beaches at freshwater (the Great Lakes and others) and marine (estuarine and coastal) sites around the Nation. Responses to the questionnaire are required to determine compliance with water quality standards, assess public health risks, and determine what steps EPA should take next, if any. Completion of the questionnaire will be voluntary. 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.

The EPA would like comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the function 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 annual public reporting and record keeping burden for this collection of information is estimated to average 2 hours per response. 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. Respondents/Affected Entities: Estimated at 2,333 per year. (This burden assumes that the number of respondents will increase as the survey is phased in. EPA assumes total number of surveys as 7,500: 500 surveys the first year, 3,000 surveys the second year; 4,000 surveys the third year.)

Estimated Number of Respondents: 2,333.

Frequency of Response: One time per year.

Estimated Total Annual Hour Burden: 5,000 hours (per year). (15,000 total hours/3 years: 1,000 hours the first year; 6,000 hours the second year; 8,000 hours the third year.)

Estimated Total Annualized Cost Burden: $100,000 (5,000 hours/year at $20/hour).

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following address: Mr. Rick Hoffmann, U.S. Environmental Protection Agency (4305), OW, Standards and Applied Science Division, 401 M Street, SW., Washington, DC 20460.

Dated: April 25, 1997.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 97–11630 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5821–9]

Notice of Request To Nominate Candidates for Membership on the National Environmental Justice Advisory Council or One of Its Subcommittees

SUMMARY: The U.S. Environmental Protection Agency's National Environmental Justice Advisory Council (NEJAC) was established in September 3, 1993. The Council, known as NEJAC, complies with the Federal Advisory Committee Act and is required to renew its charter every two years and to ensure that at least one-third of its membership is rotated annually to ensure that the NEJAC presents a balanced view. The Council was established September 3, 1993 and A Request to Nominate Candidates for Membership was issued at that time. EPA is again asking for candidates to be considered for membership of the NEJAC Executive Council or one of the six subcommittees described below. The NEJAC, including the subcommittees, provides advice and information to the Administrator on broad, cross-cutting domestic and international environmental justice policies and issues. In order to ensure a balanced council, the membership of the NEJAC is comprised of senior officials drawn from the following stakeholder organizations: (1) community based organizations; (2) industry and business; (3) state and local governments; (4) tribal governments; (5) non-government organizations; (6) environmental groups; and (7) academic institutions. There are 25 members of the Executive Council and an additional 35 members on the six subcommittees. One-third of the membership is replaced each year to ensure that no one view monopolizes the council.

SUBCOMMITTEES: These six subcommittees address the major issues faced by communities disproportionately impacted by environmental pollution, usually these communities are low-income or predominately minority. The subcommittees are: Enforcement; Health/Research; Indigenous Peoples; International; Public Participation/Accountability; and Waste/Facility Siting.

NOMINATIONS: Individuals may nominate themselves or may submit the names of persons who represent one of the stakeholder categories named above. To be considered, a nomination must include the following information about the individual: 1. Name, Title, Complete Address, Office Telephone, Home Telephone, FAX Number; 2. Organizational History (Resume is Preferred); 3. Indicate whether the individual is to be considered for a specific Subcommittee or for the Executive Council; 4. Why you believe the individual would be an active and productive member, and 5. Indicate the stakeholder category from the above list that the individual's organization best fits.

DATES: Nominations must be postmarked by Midnight, June 10, 1997.

ADDRESSES: Please note that there are two addresses.

For Courier Delivery (Federal Express, UPS, Airborne, etc.):
Office of Environmental Justice, U.S. EPA (Ariel Rios Building, 1200 Pennsylvania Avenue N.W., Room 2224, Washington, DC 20004

For U.S. Mail:
Office of Environmental Justice, U.S. EPA (Mail Code 2201–A), 401 M Street SW., Washington, DC 20460

Telephone: 202–564–2515 or 1–800–962–6215; FAX No.: 202–501–0740.

SUPPLEMENTARY INFORMATION: Copies of past meeting summaries, the Council's charter, a current membership list, as well as background information on the Council is available on the Internet: http://www.ttemi.com/nejac or by calling: 1–800–962–6215. The NEJAC is a Federal Advisory Council and was established to provide advice, consultation and make recommendations on a continuing basis to the Administrator. The Council is also focusing on creating mutually supportive partnerships and increasing communication among all levels of government, the business community and academic institutions to improve the effectiveness of federal and non-federal resources directed at solving environmental justice problems. The NEJAC meets at least twice a year. All members are appointed as representatives of non-federal interests. No honoraria or salaries are provided for members but compensation for travel and per diem expenses while attending meetings is provided. Members are appointed for one to three year terms and must be citizens of the United States.

FOR FURTHER INFORMATION CONTACT: Marva E. King at 1–800–962–6215, EMAIL: King.Marva@epamail.epa.gov, FAX: 202–501–0740. Selected nominees will be announced after August 1, 1997. No individual responses will be made prior to that date.

Nominations must be submitted no later than Midnight June 10, 1997.

Dated: April 29, 1997.

Clarice E. Gaylord,

Director, Office of Environmental Justice.

[FR Doc. 97–11635 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5821–7]

Notice of Public Meeting on the Expert Panel on Arsenic Carcinogenicity: Review and Workshop

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This notice announces an Expert Panel on Arsenic Carcinogenicity: Review and Workshop to review and discuss the relevant scientific literature for evaluating the possible mode(s) of action underlying the carcinogenic action of arsenic (As). This Expert Panel workshop is being used to address scientific consensus and peer review as a part of the process to ''update'' the Integrated Risk Information System (IRIS) file on arsenic (As). A summary of the Expert Panel's report will be included in the revision of the As file prior to loading on IRIS. This workshop is being sponsored by EPA's National Center for Environmental Assessment and EPA's Office of Water.

DATES: This Workshop will be held at the Holiday Inn—National Airport on Wednesday, May 21, 1997 through Thursday, May 22, 1997. It will begin at 9:00 a.m. on Wednesday and will conclude on Thursday at 4:00 .p.m. Members of the public may attend as observers from 9:00 a.m. on Wednesday through 12:15 p.m. on Thursday and there will be a 30-minute period on Wednesday for observer comments. The afternoon of Thursday (1:30 p.m. through 4:00 p.m.) will be limited to Panel members in order to permit the Expert Panel to write a first draft of their report.

ADDRESSES: The Expert Panel on Arsenic Carcinogenicity: Review and Workshop will be held at the Holiday Inn—National Airport, Washington DC at 1489 Jefferson Davis Highway, U.S. Rte. # 1, Arlington, VA 22202, telephone: 703–416–1600; Fax: 702–416–1615. To attend this Workshop as an observer, contact Ms. Beth O'Connor at Eastern Research Group, Inc. (ERG), 110 Hartwell Avenue, Lexington, MA 02173–3134, telephone: 617–674–7250; FAX: 617–674–2906 or call the ERG Conference Registration Line at telephone number, 617–674–7374. There is no charge for attending this Workshop as an observer, but seats are limited, so register as soon as possible. Each registrant will receive a confirmation letter, a preliminary agenda and a logistical fact sheet. Copies of relevant material will be supplied to the workshop registrants in advance and/or at the meeting site, as circumstances allow. Any observer wishing to make comments or address issues must sign up with ERG prior to the workshop. Each will be assigned a time slot on a first-come, first-served basis. Individual comments should be limited to 2 to 3 minutes.

FOR FURTHER INFORMATION CONTACT: Charles O. Abernathy, Health Ecological Criteria Division, (4304), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460. Telephone (202) 260–5374, fax (202) 260–1036.

SUPPLEMENTARY INFORMATION: The purpose of this Workshop is to review and discuss the scientific data base on the carcinogenic modes of action(s) of As, and to comment on the most appropriate approach for extrapolating the dose-response relationship to the low-dose associated with drinking water exposure. The Panel will consist of scientists with expertise in arsenic metabolism, mechanism(s) of gene regulation, DNA repair, molecular biology of cancer and statistical treatment of these processes. These experts will consider the mode of action data and its implications for the dose-response extrapolation as described in the EPA's 1996 Proposed Guidelines for Carcinogenic Risk Assessment. The product of this Panel workshop will be a report that explains the mode of action understanding, discusses major points of interpretation and rationale as well as pointing out uncertainties that deserve attention. Based on this mode of action understanding, the Panel will recommend the most appropriate dose-response extrapolation procedures. The final report is to include a concise statement describing the major conclusions that the Agency can use to derive additional discussion for the revision of the IRIS file for arsenic.

Dated: April 21, 1997.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 97–11631 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5821–6]

Open Meeting of the Industrial Non-Hazardous Waste Stakeholders Focus Group

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of open meeting of the Industrial Non-Hazardous Waste Stakeholders Focus Group.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of the fourth meeting of the Industrial Non-Hazardous Waste Policy Dialogue Committee, also known as the Industrial Non-Hazardous Waste Stakeholders Focus Group. The purpose of this committee is to advise EPA and ASTSWMO (the Association of State and Territorial Solid Waste Management Officials) in developing voluntary guidance for the management of industrial non-hazardous waste in landfills, waste piles, surface impoundments, and land application units. The Focus Group will facilitate the exchange of information and ideas among the interested parties relating to the development of such guidance. The purpose of the fourth meeting will be to continue discussion of issues related to development of such guidance. The agenda will mostly include a discussion of 2 levels of ground-water risk methodology (in addition to site-specific analysis) that can be used by the facility manger of a new industrial non-hazardous waste unit in considering whether and what type of liner system may be appropriate for the unit. One of these 2 levels of risk assessment methodology is a waste-specific national approach. The other is a rough location adjustment to the national approach, where an artificial neural network is used to allow modification of certain key factors. There will be an opportunity for limited public comment at the end of each day of the meeting.

DATES: The committee will meet on May 20 and 21, 1997, from 9:00 a.m. to 5:00 p.m. on May 20, and from 8:30 a.m. to 3:00 p.m. on May 21.

ADDRESSES: The location of the meeting is the St. James Hotel, 950 24th Street, NW, Washington, DC 20037. The phone

number is 202–457–0500. The seating capacity of the room is approximately 60 people, and seating will be on a first-come basis. Supporting materials are available for viewing at Docket # F–96–INHA–FFFFF in the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page. For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9610 or TDD 703–412–3323.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the committee should contact Paul Cassidy, Municipal and Industrial Solid Waste Division, Office of Solid Waste, at (703) 308–7281.

SUPPLEMENTARY INFORMATION:

Background

EPA and ASTSWMO have formed a State/EPA Steering Committee to jointly develop voluntary facility guidance for the management of industrial nonhazardous waste in land-based disposal units. The purpose of the guidance document is to provide a guide to facility managers so that they can provide safe industrial waste management. The guidance document will address such topics as appropriate controls for ground-water protection, liner designs, air emissions, run-on/run-off, public participation, daily operating practices, monitoring and corrective action, and closure and post-closure considerations.

The State/EPA Steering Committee has convened this Stakeholders Focus Group to obtain recommendations from individuals who are members of a broad spectrum of public interest groups and affected industries. All recommendations from Focus Group participants will be forwarded to the State/EPA Steering Committee for consideration, as the Stakeholders' Focus Group will not strive for consensus. The State/EPA Steering Committee will also provide an opportunity for public comment on the draft guidance document.

Copies of the minutes of all Stakeholder Focus Group meetings will be made available through the docket at the RCRA Information Center, including minutes of the first three Focus Group meeting, which were held on April 11–12, 1996, September 11–12, 1996 and February 19–20, 1997.

Dated: April 21, 1997.

Elizabeth Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 97–11632 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIROMENTAL PROTECTION AGENCY

[FRL–5822–1]

Microbial and Disinfectants/Disinfection Byproducts Advisory Committee: Notice of Open Meeting

Under Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given that a meeting of the Microbial and Disinfectants/Disinfection Byproducts (MD/DBP) Advisory Committee will be held on May 15, 1997 from 9:00 a.m. until 5:30 p.m. and on May 16, 1997, from 9:00 a.m. until 4:30 p.m. at the office of Resolve Inc., located at 1255 23rd St., NW., Suite 275, Washington, DC. The Committee was established earlier this year (on February 21, 1997, at 62 FR 8012) to assist the Environmental Protection Agency (EPA) in the development of regulations, guidance and policies to address microorganisms and disinfectants/disinfection byproducts in drinking water.

The purpose of the meeting is to discuss issues related to the development of an Interim Enhanced Surface Water Treatment Rule (IESWTR) and a Stage 1 Disinfectants/Disinfection Byproducts (D/DBP) rule. The agenda for the meeting will include discussion of information and data related to microbial and disinfection byproducts issues developed by the Committee's technical working group. The agenda will also include discussion and evaluation of options to be considered for inclusion in EPA's Notice of Data Availability for the IESWTR and Stage 1 D/DBP rule, with particular focus on turbidity; predisinfection and a microbial backstop and a physical removal credit for cryptosporidium for conventional treatment. In addition the Committee may have further discussion on Maximum Contaminant Levels and enhanced coagulation. It may also begin consideration of other issues, including but not limited to recycling of filter backwash (including filter-to-waste and other options); sanitary surveys; and watershed controls.

EPA regrets that it is unable to publish this notice 15 days prior to the meeting of the MD/DBP Advisory Committee held on May 15 and 16, due in part to scheduling conflicts. The Agency decided that it is in the public interest to obtain the advice of the committee on matters at this meeting, even if there was not sufficient time for the customary 15 day public notice.

The meeting will be open to the public. Members of the public may attend the meeting, make oral statements at the meeting to the extent time permits and/or file written statements with the Committee for its consideration on the following dates: June 3 and 4, 1997; and July 15, 1997. EPA has also scheduled for May 19 and 20 a stakeholder general informational meeting to review and provide information on MD/DBP related research. This will be held at the Sheraton City Center Hotel, 1143 New Hampshire Ave., Northwest Washington DC 20037. The public is invited to attend and provide written or oral comment.

Members of the public who would like more information or who would like to present an oral statement or submit a written statement are requested to contact the Committee's Designated Federal Officer, Steve Potts, at the Office of Ground Water and Drinking Water, U.S. EPA, mail Code 4607, 401 M Street, SW., Washington, DC 20460. Mr. Potts may also be reached by telephone at (202) 260–5015 or contacted by e-mail at Potts.Steve@EPAMAIL.EPA.GOV.

Dated: May 1, 1997.

William R. Diamond,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–11766 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5820–9]

Notice of Proposed Administrative Order on Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative order on

consent for an engineering evaluation and cost analysis to support a non-time critical removal action and for a remedial investigation/feasibility study concerning the North Ryan Street Superfund Site in Lake Charles, Louisiana, with the settling party referenced in the Supplementary Information portion of this Notice.

The administrative order on consent also requires the settling party to pay $171,235.78 to the Hazardous Substances Superfund for past costs. In addition, the settling party is to pay future costs estimated at $300,000 per annum to a special account.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202-2733. Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

DATES: Comments must be submitted on or before June 4, 1997.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Stacey Bennett, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6729. Comments should reference the North Ryan Street Superfund Site in Lake Charles, Louisiana, and EPA Docket No. 06–08–97, and should be addressed to Stacey Bennett at the address listed above.

FOR FURTHER INFORMATION CONTACT: Jonathan Weisberg, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–2180.

SUPPLEMENTARY INFORMATION: Gulf States Utilities Company (Entergy Services, Inc.)

Dated: April 25, 1997.

Jerry Clifford,

Deputy Regional Administrator.

[FR Doc. 97–11627 Filed 5–2–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC for Extension Under Delegated Authority 5 CFR 1320 Authority; Comments Requested

April 30, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before July 7, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0213.

Title: Section 73.3525 Agreements for removing application conflicts.

Form Number: None.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 38.

Estimated time per response: 8 hours.

Total annual burden: 38 hours (1 hour respondent, 8 hours attorney (includes 1 hour consultation time with respondent). The 8 hours attorney time is reflected in the cost estimate not the total annual burden hours.)

Total annual cost burden: $60,800.

Needs and Uses: Section 73.3525 requires applicants for a construction permit for a broadcast station to obtain approval from the FCC to withdraw, dismiss or amend its application when that application is in conflict with another application pending before the FCC. This request for approval to withdraw, dismiss or amend an application should contain a copy of the agreement and an affidavit of each party to the agreement.

The data is used by FCC staff to assure that the agreement is in compliance with its rules and regulations and Section 311 of the Communications Act of 1934, as amended.

OMB Approval Number: 3060–0254.

Title: Section 74.433 Temporary authorizations.

Form Number: None.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 12.

Estimated time per response: 1 hours.

Total annual burden: 1 hour (0.25 hours respondent, 1 hour attorney (includes 0.25 hours consultation time with respondent). The one hour of attorney time is included in the total cost burden not the total annual burden.)

Total annual cost burden: $2,400.

Needs and Uses: Section 74.433 requires that a licensee of a remote pickup station make an informal written request to the FCC when requesting temporary authorization for operations of a temporary nature that cannot be conducted in accordance with Section 74.24. The data is used by FCC staff to insure that the temporary operation of a remote pickup station will not cause interference to existing stations.

OMB Approval Number: 3060–0246.

Title: Section 74.452 Equipment Changes.

Form Number: None.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 25.

Estimated time per response: 0.5 hours.

Total annual burden: 13 hours.

Needs and Uses: Section 74.452 requires that licensees of remote pickup stations notify the Commission of any equipment changes that are deemed desirable or necessary (without departing from its station authorization) upon completion of such changes. The data is used by FCC staff to assure that the changes made comply with the rules and regulations.

OMB Approval Number: 3060–0118.

Title: Section 73.3550 Requests for new or modified call sign assignments.

Form Number: None.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 1,400.

Estimated time per response: 1 hour.

Total annual burden: 1,050 hours (50 percent of these requests are completed and filed by the respondent and 50% are completed and filed by attorneys.)

Total annual cost burden: $284,550.

Needs and Uses: Section 73.3550 requires that a licensee, permittee, assignee or transferree of a broadcast station file a letter with the Commission when requesting a new or modified call sign. When an application for transfer or assignment of license is involved and the call sign conforms to that a commonly owned station not part of the transaction, the request must contain a written consent from the existing owner to retain the conforming call sign. In addition, where a requested call sign, without the ''–FM,'' ''–TV'' or ''–LP'' suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, the applicant must obtain and submit with the call sign request the written consent of the licensee(s) of such stations. Section 73.3550 also permits any low power television (LPTV) station to request a four-letter call sign after receiving its construction permit. All initial LPTV construction permits will continue to be issued with a five-character LPTV call sign. In addition to the letter request, a LPTV station must submit a certification under Section 74.783 which is submitted separately for OMB approval. The data is used by FCC staff to ensure that the call sign requested is not already in use by another station and that the proper ''K'' or ''W'' designation is used in accordance with the station location (east or west of the Mississippi River).

OMB Approval Number: 3060–0483.

Title: Section 73.687 Transmission system requirements.

Form Number: None.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 6.

Estimated time per response: 1.0 hours.

Total annual burden: 6 hours.

Needs and Uses: Section 73.687(e)(3) requires TV broadcast stations operating on Channels 14 and 69 to take special precautions to avoid interference to adjacent spectrum land mobile operations. This requirement applies to all new Channel 14 and 69 TV broadcast stations and those authorized to change channel, increase effective radiated power (ERP), change directional antenna characteristics such that ERP increases in any azimuth direction or change location, involving an existing or proposed channel 14 or 69 assignment. Section 73.687(e)(4) requires these stations to submit evidence to the FCC that no interference is being caused before they will be permitted to transmit programming on the new facilities. The data is used by the FCC to ensure proper precautions have been taken to protect land mobile stations from interference. It will also both increase and improve service to the public by broadcasters and land mobile services operating in certain parts of the spectrum.

OMB Approval Number: 3060–0611.

Title: Section 74.783 Station Identification.

Form Number: None.

Type of Review: Extension of an existing collection.

Affected Public: Business or other for-profit.

Number of Respondents: 151.

Estimated time per response: 0.166 hours.

Total annual burden: 26 hours.

Needs and Uses: Section 74.783(b) requires television translator stations, whose station identification is made by the television station whose signals are being rebroadcast by the translator, to furnish current information with regard to the translator's call letters and location, and the name, address and telephone number of the licensee to be contacted in the event of malfunction of the translator. Section 74.783(e) requires a low power television (LPTV) station to submit a certification with their request for a four-letter call sign. This certification must include a statement that it has placed a firm equipment order, which includes a down payment for such major components as a transmitter or a transmitting antenna, that physical construction is underway at the transmitter site, or that the station has been constructed. The furnishing of current information is used by the primary station licensee and/or FCC staff in field investigations to contact the translator licensee in the event of malfunction of the translator. The certification requirement will effectively enable Commission staff to award four-letter call signs to those permittees most likely to be constructed and operated.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 97–11583 Filed 5–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

April 28, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub.L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 4, 1997. If

you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain____t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0746.

Title: Application for Electronic Renewal of Wireless Radio Service Authorizations.

Form No.: FCC 900.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; not for profit institutions; Farms; Federal Government; and State, Local or Tribal Government.

Number of Respondents: 35,255.

Estimated Time Per Response: 10 minutes.

Total Annual Burden: 5,852 hours.

Total Costs to all Respondents: $2,155,675.

Needs and Uses: This ''generic'' renewal application, FCC Form 900, may be used in lieu of FCC forms 313R, 402R, 405, 405A, 405B, 452R, 574R and 610R, to file electronically for renewal of a Wireless Radio Services authorization. Concurrent with renewal, applicants may also request a change of licensee name (with no change to corporate structure, ownership or constrol), chage of mailing address, change the name of their ship, add an official ship number, reinstate a Land Mobile license, and notify the Commission of a change in the number of mobiles/pagers for a Land Mobile license. This ''generic'' renwal form will greatly reduce the burden to the applicants and provide an immediate confirmation that the renwal has been filed giving them continued authority to operate until the renewed license has been received.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–11513 Filed 5–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FCC 97–128]

Conflict of Interest Waiver

AGENCY: Federal Communications Commission.

ACTION: Notice of waiver of section 4(b) of the Communications Act.

SUMMARY: Notice is hereby given that the Commission granted a waiver of the financial relationship prohibition contained in section 4(b) of the Communications Act, 47 U.S.C. 154(b), for Mr. Jack W. Gravely, Director, Office of Workplace Diversity (OWD), FCC to continue his relationship as a talk show host on Station WRVA(AM), Richmond, VA. The Communications Act requires that notice of section 4(b) waivers be published in the **Federal Register**.

EFFECTIVE DATE: April 10, 1997.

FOR FURTHER INFORMATION CONTACT: Patrick J. Carney, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION: This notice is in accordance with section 4(b) of the Communications Act of 1932, as amended. 47 U.S.C. 154(b)(2)(B)(ii).

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 97–11588 Filed 5–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Report No. 2192; Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

April 30, 1997.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this public notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed May 20, 1997. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment for the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation. (WT Docket No. 95–157, RM–8643).

Number of Petitions Filed: 3.

Subject: Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service (WCS) (GN Docket No. 96–228).

Number of Petitions Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–11512 Filed 5–2–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC. 20573.

Challenge Warehousing, Inc., 1217 S.W. 1st Avenue, Ft. Lauderdale, FL 33315, Officer: Ian Elder, President

Air Tiger Express Companies, Inc., 1010 Northern Boulevard, Suite 328, Great Neck, NY 11021; Officers: Richard Chu, Chairman/CEO/Director, Stephen Mattessich, CFO/Director

Advantage Worldwide Logistics, Inc., 9998 N. Michigan Road, Carmel, IN 46032; Officers: John S. Smith, President, John B. Smith, Secretary/Treasurer

Dated: April 30, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–11672 Filed 5–2–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity

that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Union Illinois Company, Swansea, Illinois; to acquire Missouri PayDay Loan Company, Inc., St. Louis, Missouri, and thereby indirectly acquire Missouri Budget Inc. (dba Missouri PayDay Loan/Budget Finance), St. Louis, Missouri, and Budget Finance, Inc., St. Louis, Missouri, and thereby engage in the extension of consumer credit, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 29, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–11511 Filed 5–2–97; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Establishment of the Governmentwide Policy Advisory Board

Establishment of advisory board. This notice is published in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), and advises of the establishment of the GSA Governmentwide Policy Advisory Board. The Administrator of General Services has determined that the establishment of the Board is in the public interest.

Purpose of the advisory board. The Board will provide advice and recommendations on a broad range of policy issues dealing with the acquisition, management and disposal of governmentwide assets within GSA's areas of responsibility. Such assets include, motor vehicles, aircraft, real property, and personal property. In addition, the Board will provide advice regarding policies and guidance on such issues as the deployment of smart card technologies, electronic commerce, information technology, public participation, and intergovernmental coordination.

Contact for information: The Office of Governmentwide Policy is the organization within GSA that is sponsoring this board. For additional information, contact Michael Neff, Committee Management Secretariat (MC), 1800 F Street, NW, Washington, DC 20405; telephone (202) 273–5364.

Dated: April 18, 1997.

David J. Barram,

Acting Administrator.

[FR Doc. 97–11557 Filed 5–2–97; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 748]

Cooperative Agreements to Conduct Studies of Illnesses Among Persian Gulf War Veterans; Notice of Availability of Funds for Fiscal Year 1997

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1997 funds for a cooperative agreement to conduct studies of illnesses among Persian Gulf War (PGW) veterans.

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 quality of life. This announcement is related to the priority area of Environmental 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, section 301 (42 USC 241).

Eligible Applicants

Eligible applicants include all nonprofit and for-profit organizations. Thus, State and local health departments, State and local governmental agencies, universities, colleges, research institutions, hospitals, other public and private non-profit organizations, including small, minority and/or woman-owned businesses are eligible to apply.

Note: An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, contract, loan, or any other form.

Applications will be considered for funding to conduct studies in one or more programmatic interest areas. Applicants interested in conducting more than one study must submit a separate application for each. If a single study addresses more than one programmatic interest area, only one should be identified as the primary interest area. The programmatic interest area should be clearly indicated for each study.

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 Pub. L. 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.

Availability of Funds

Approximately $1.2 million will be available in FY 1997 to fund up to two cooperative agreements. It is expected that the average award will be up to $600,000 (direct and indirect costs). It is expected the award will begin on or about September 1, 1997, and will be made for a 12-month budget period within a project period of up to three years. The funding estimate is subject to change based on the availability of funds.

Applications which request more than the $600,000 per year cap will be returned to the applicant as non-responsive.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Applicants may enter into contracts, including consortia agreements (as set forth in the PHS Grants Policy Statement) as necessary to meet the requirements of the program and strengthen the overall application.

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 Section 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 Pub. L. No. 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), Pub. L. No. 104–208 (September 30, 1996).

Background and Definitions

Background

Between August 1990 and July 1991, approximately 697,000 U.S. military personnel were deployed to the Persian Gulf as part of Operations Desert Shield and Desert Storm. Shortly after returning to the U.S., many Persian Gulf War (PGW) veterans began to report a variety of symptoms which they suspect may be related to their military service in the Persian Gulf. The symptoms most commonly reported among PGW veterans have been fatigue, musculoskeletal complaints, and cognitive dysfunction. A variety of possible etiologies for PGW veterans' illnesses have been postulated. The possible etiologies have included infectious agents (e.g., leishmaniasis), environmental and ambient pollutants (e.g., sand, petroleum products, pesticides, Chemical Agent Resistant Coating (CARC) paint, and smoke from oil-well fires), medical prophylaxes (e.g., anthrax and botulinum toxin vaccines, and pyridostigmine bromide), depleted uranium munitions, and biologic and chemical warfare agents.

Much of the current knowledge on the prevalence of illnesses among Gulf War veterans comes from self-referred registries established by the Department of Defense (DOD) and the Department of Veterans Affairs (VA). The DOD and VA Persian Gulf registries have added useful information on the spectrum of health concerns among Persian Gulf War veterans. The most recent analysis of DOD's Comprehensive Clinical Evaluation Program (CCEP) data on 18,598 Gulf War veterans found no evidence for a unique illness affecting Gulf War veterans. Instead CCEP participants reported a wide variety of symptoms affecting multiple organ systems. The most common primary diagnoses were psychological conditions (ICD–9–CM Codes 290–319—18.4%); symptoms, signs, and ill-defined conditions (ICD–9–CM Codes 780–700—17.9%); and musculoskeletal system diseases (ICD–9–CM Codes 710–739—18.3%). However, these registries are of limited value as a database for determining the actual incidence and prevalence of illnesses because they are not representative of the population of Persian Gulf War veterans.

In December 1994, the National Center for Environmental Health (NCEH) initiated, through the cooperative agreement mechanism, a population-based epidemiological study to evaluate the health consequences of a sample of PGW veterans. The purpose of this study was to compare the prevalence of self-reported symptoms and illnesses among PGW veterans from Iowa with military personnel from Iowa who were not deployed to the Persian Gulf. The study found that PGW veterans from Iowa were more likely than those who did not serve in the Gulf War to report symptoms suggestive of cognitive dysfunction, depression, chronic fatigue, post-traumatic stress disorder, respiratory illness (specifically asthma and bronchitis), fibromyalgia, alcohol abuse, generalized anxiety disorder, and sexual discomfort. The conditions identified in this study appear to have had a measurable impact on the functional activity and daily lives of these Persian Gulf War veterans. Among PGW veterans, minimal differences were observed between the National Guard or Reserve troops and the regular military personnel, indicating that all military personnel, regardless of type of military service, were affected by deployment to the Persian Gulf.

Findings from this study established the need to investigate further the causes, clinical nature, and public health implications of the higher rates of self-reported health problems of PGW veterans. More objective clinical measurement of the specific conditions identified in this study should be addressed to determine the underlying illnesses, medical conditions, or other concerns that might be related to these self-reported conditions.

The approach used in the Iowa study of PGW veterans was to assess the prevalence of known clinical entities. Other studies have used a data driven approach for assessing health differences between PGW veterans and other military populations. For example, in an investigation of PGW veterans from a Pennsylvania Air National Guard unit, investigators used factor analysis to develop a case definition of illness among PGW veterans. Additional research is needed to validate the case definition developed in the Pennsylvania study and to determine if data driven definitions or the use of known clinical diagnoses better characterizes illnesses among PGW veterans.

Definitions

PGW veteran: A PGW veteran is defined as any regular duty or National Guard or reserve member who deployed to the Persian Gulf for some period from August 1, 1990, through July 31, 1991.

PGW illnesses: PGW illnesses are defined as any adverse health outcome that is more prevalent among military personnel who deployed to the Persian Gulf than among non-deployed military personnel.

PGW illnesses research projects: PGW illnesses research projects are defined as research designed to evaluate the health impact of military service in the Persian Gulf War.

Veterans Service Organization: A congressionally chartered group of men and women who have served their country in uniform during either peace or war. Examples of veterans service organizations include but are not limited to, Paralyzed Veterans of America, Disabled American Veterans,

American Legion, Veterans of Foreign Wars, and American Veterans.

Purpose

The purpose of this program is to:

A. Build the scientific base for determining the nature and etiology of illnesses among PGW veterans.

B. Evaluate the role of stress-related disorders on the current health status of PGW veterans.

C. Determine if PGW veterans are experiencing a unique illness or are experiencing a higher prevalence of a variety of known clinical entities.

D. Determine the health impact of military deployment to the Persian Gulf.

E. Assess the best approach for developing a case-definition for illness among PGW veterans.

Program Requirements

In conducting activities to achieve the purpose of these cooperative agreements, the recipient will need to meet the requirements and is responsible for the activities under A. (Recipient Activities). CDC will be responsible for the activities under B. (CDC Activities).

A. Recipient Activities

1. Collaborate with CDC and the appropriate State or local Health Department during the development and conduct of the study, and dissemination of the results.

2. Obtain approval of study procedures by an appropriate institutional review committee.

3. Develop and pilot test the study protocol and data collection instruments.

4. Provide timelines for completing all components of the study.

5. Assure and maintain the confidentiality of all study participants.

6. Conduct the analysis, interpretation, presentation, and reporting of the study findings in collaboration with CDC.

7. Upon completion of the study, provide CDC an electronic version of the final data set stripped of personal identifiers.

8. Act as the focal point for the development and dissemination of media releases, reports and publications.

9. Establish an independent Public Advisory Committee comprised of representatives from the State or local Health Department, local Veterans' Service Organizations, PGW veterans, other affected parties, and CDC.

B. CDC Activities

1. Serve as collaborators in the development, analysis, and conduct of the study, as well as reporting and publishing of study findings.

2. Provide expert review, and comment on all study protocols, data collection instruments, analysis plans, media releases, draft and final reports, and publications generated by the recipient.

3. Serve as the principal point of contact with the Department of Defense, Department of Veterans Affairs, and other Federal agencies to secure names and locating information for the study participants.

4. Coordinate the related activities of the involved Federal legislative bodies, agencies, and national veterans service organizations.

5. Serve as a member on the Public Advisory Committee.

Programmatic Priorities

Applicants must propose research that enhances the understanding of conditions and symptoms reported to be more prevalent among PGW veterans, or adds to the scientific knowledge needed to develop a case definition of illness among PGW veterans.

Enhance the understanding of conditions and symptoms reported to be more prevalent among PGW veterans. Conduct research on conditions known to be more prevalent among PGW veterans. These conditions include cognitive dysfunction, depression, anxiety disorders, chronic fatigue, post-traumatic stress disorder, other stress-related disorders, respiratory illness (specifically asthma and bronchitis), fibromyalgia, and alcohol abuse. These studies should include appropriate clinical evaluation in order to validate the diagnosis, assessment of the course of the illness among PGW veterans, assessment of risk factors, and assessment of the impact of the illness on functional status.

Characterization of illnesses among PGW veterans. Conduct studies focusing on development of a case-definition for illness among PGW veterans. These studies should evaluate whether symptoms reported among PGW veterans represent a unique illness or are better characterized by existing clinical entities. This should include a comparison of data driven case-definitions and use of known clinical diagnoses in order to determine the best way to characterize illness among PGW. It may also include validation of previous data driven case definitions of illnesses among Gulf War veterans.

Reporting Requirements

An original and two copies of the Financial Status Report (FSR) are due within 90 days after the end of each budget period. An original and two copies of the technical semi-annual reports, using the format below, are due 30 days after the end of each quarter to the CDC Grants Management Officer.

The semi-annual progress report must include the following for each program, function, or activity involved:

A. Highlights

- Discuss issues and activities that had significant impact on the program and that you wish to bring to the attention of CDC.
- Discuss any changes in program personnel, especially changes affecting those involved with the grant.

B. Objectives and Achievements

- List major objectives and discuss your progress in meeting these objectives.
- Summarize your accomplishments for the period and for the budget year.
- Mention anything that either helped or hindered your achieving these objectives.

Application Content

All applications must be developed in accordance with the instructions that are contained in this program announcement, Form PHS 398, ERRATA sheet, and the instructions outlined in the following section headings. Applicants must identify in a cover letter one of the topics previously outlined under the heading Programmatic Priorities upon which their project is focused.

The following are application requirements:

1. A principal investigator who has conducted research, published the findings, and has specific authority and responsibility to carry out the proposed project.

2. Demonstrate the commitment of veterans service organizations to serve on a Public Advisory Committee by securing letters of support from at least three veterans' service organizations, as described under the heading, ''Definitions.''

3. The applicant must provide a one page abstract outlining the plans, objectives, and expected outcomes of the proposed research.

Provide a succinct but informative response to each requirement. Your response must not exceed 2 pages (letters of support may be referenced to where they are located in the application). This response must appear as the first 2 pages of the text of your application and be titled ''Program Requirements.'' An affirmative response to each question is required to qualify for further review. Those that do not

respond will be determined as non-responsive and will be returned to the applicant.

Applications for these cooperative agreements should include:

A. Description of the Problem to be Addressed

1. The project's focus that justifies the research need and describes the scientific basis for the research, the expected outcome, and the relevance of the findings to reduce morbidity among PGW veterans.

2. Describe the issues related to requirements, problems, complexities, and interactions required in developing the study.

3. Discuss past experiences with similar projects.

B. Goals and Objectives

1. For each of the elements (item C below) provide specific, measurable, and time-framed objectives that are consistent with the applicants proposed theme, purpose, and objectives.

C. Program Plan

1. A detailed plan describing the elements of the research project and the methods by which the objectives will be achieved, including their sequence.

2. Discuss the administrative and scientific capacity critical to the development and conduct of the study.

3. A description of the involvement of the State or local Health Department, veteran service organizations, and other affected parties to ensure they have ample input during all phases of the study. It should include commitments of support and a clear statement of their roles.

4. Describe the State agency linkages and support that will be used during the development, conduct, and conclusion of the study.

D. Management and Staffing Plan

1. A description of the role and responsibilities of the project's principal investigator. Describe research background, publications, specific authority and responsibilities to carryout the proposed project.

2. A description of all the project staff regardless of their funding source. It should include their title, qualifications, experience, percentage of time each will devote to the project, as well as that portion of their salary to be paid by the grant.

3. A description of all key contractor staff, their role in the study, and their resumes.

4. A description of those activities related to, but not proposed to be supported by the grant.

E. Evaluation

Describe how progress toward meeting the study objectives will be evaluated. A comprehensive evaluation plan is an essential component of the application.

F. Budget

1. A detailed first year budget for the project with future annual projections.

2. A budget projection that clearly separates and distinguishes direct and indirect costs.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies of the application which are made available to outside reviewing groups. To exercise this option: on the original and five copies of the application, the applicant must use asterisks to indicate those individuals for whom salaries and fringe benefits are not shown; the subtotals must still be shown. In addition, the applicant must submit an additional copy of page four of Form PHS–398, completed in full, with the asterisks replaced by the salaries and fringe benefits. This budget page will be reserved for internal staff use only.

Evaluation Criteria

Upon receipt, applications will be screened by CDC staff for completeness and responsiveness. Incomplete applications and applications that are not responsive will be returned to the applicant without further consideration. Applications which are complete and responsive will be evaluated by an independent Special Emphasis Panel (SEP) according to the following criteria:

1. *Understanding the Problem* (5 points).

The background of the proposal, i.e., the basis for the present proposal, the critical evaluation of existing knowledge, and specific identification of the knowledge gaps which the proposal is intended to fill.

2. *Measurable Objectives* (10 points).

Specific, measurable, and time-framed objectives that are consistent with the applicants proposed theme, purpose, and hypotheses to be tested.

3. *Proposed Plan* (75 points).

a. The significance and originality from a scientific or technical standpoint of the specific aims of the proposed research, including the adequacy of the theoretical and conceptual framework for the research. (5 points)

b. The overall match between the applicant's proposed theme and research objectives, and the program priorities as described under the heading ''Programmatic Priorities.'' (15 points)

c. The adequacy of the proposed research design, approaches, and methodology to carry out the research, including quality assurance procedures, plan for data management, and statistical analysis plans. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. 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; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits will be documented. (25 points)

d. The degree of commitment and cooperation of other interested parties as evidenced by letters of commitment detailing the nature and extent of the involvement. (10 points)

e. Qualifications, adequacy, and appropriateness of personnel to accomplish the proposed activities. Demonstrated experience in conducting, evaluating, and publishing research on the health effects of military service on the applicants project team. (10 points)

f. Adequacy of existing and proposed facilities and resources. (10 points)

4. *Proposed Evaluation Plan* (10 points).

The extent to which the evaluation plan will allow for the measurement of progress toward the achievement of the stated objectives.

5. *Budget* (Not Scored).

The reasonableness of the proposed budget to the proposed research.

Continuation awards within the project period will be made on the basis of the availability of funds and the following criteria:

1. The accomplishments reflected in the progress report of the continuation application indicate that the applicant is meeting previously stated objectives and timelines contained in the project proposal and satisfactory progress has been demonstrated through monitoring work-in-progress.

2. The objectives for the new budget period are realistic, specific, and measurable.

3. The methods described will clearly lead to achievement of these objectives.

4. The evaluation plan will allow management to monitor whether the methods are effective.

5. The budget request is clearly explained, adequately justified, reasonable and consistent with the intended use of cooperative agreement funds.

Executive Order 12372 Review

Applications are not subject to the review requirements of Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by these cooperative agreements will be subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by appropriate institutional review committees. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Women and Minority Inclusion Policy

It is the policy of the CDC to ensure that women and racial and ethnic groups will be included in CDC 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.

In conducting the review of applications for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and assigned score. 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, Friday, September 15, 1995, pages 47947–47951.

Application Submission and Deadlines

A. Pre-application 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 the Grants Management Specialist (whose address is reflected in section B, ''Applications''). It should be postmarked no later than June 2, 1997. The letter should identify the announcement number, name the principal investigator, and specify the priority area of study the proposal addresses as outlined under the section Programmatic Priorities. 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. Applications

Applicants should use Form PHS–398 (OMB No. 0925–0001 Revised 5/95) and adhere to the ERRATA Instruction Sheet for Form PHS–398 contained in the Grant Application Kit.

Please submit an original and five copies, on or before July 8, 1997 to: Lisa G. Tamaroff, 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, Georgia 30305, telephone (404) 842–6796 or internet: lgt1.cdc.gov.

C. Deadlines

1. Applications shall be considered as meeting a deadline if they are either:

A. Received at the above address on or before the deadline date, or

B. Sent on or before the deadline date to the above address, and received in time for the review process. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailings.

2. Applications which do not meet the criteria above are considered late applications and will be returned to the applicant.

Where to Obtain Additional Information

To receive a complete program description, information on application procedures and application forms call (404) 332–4561. You will be asked to leave your name, address, and the telephone number and will need to refer to Announcement 748. Business management technical information may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6796 or internet: lgt1.cdc.gov.

Programmatic technical assistance may be obtained from Phillip M. Talboy, Project Officer, Veterans' Health Activity, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), Mailstop F–28, 4770 Buford Highway, NE., Atlanta, Georgia 30341–3724, telephone (770) 488–7347, internet: pmt0.cdc.gov.

This and other CDC announcements are also available through the CDC homepage on the Internet. The address for the CDC homepage is http://www.cdc.gov.

CDC will not send application kits by facsimile or express mail.

Please refer to Announcement Number 748 when requesting information and submitting an application.

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.

Dated: April 29, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–11573 Filed 5–2–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Forum on Asphalt Fume Health Effects Research.

Time and Date: 9 a.m.–5 p.m., June 24, 1997.

Place: Alice Hamilton Laboratory, Conference Room C, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Purpose: This meeting will provide a forum for researchers to present information and data related to ongoing research they are conducting on the health effects of asphalt fume exposure. Researchers from NIOSH and industry will discuss their research efforts. Comments from industry, labor, academia, other government agencies, and the public are invited.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Larry D. Olsen, Ph.D., Division of Physical Sciences and Engineering, NIOSH, CDC, 4676 Columbia Parkway, Mailstop R–3, Cincinnati, Ohio 45226, telephone 513/841–4269.

Dated: April 29, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–11566 Filed 5–2–97; 8:45 am]

BILLING CODE 4160–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–96–04]

Request for REACH Plans Under the Office of Community Services' FY 1997 Low-Income Home Energy Assistance Program, Residential Energy Assistance Challenge Option (REACH) Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of availability of funds and request for REACH Plans under the Office of Community Services' Residential Energy Assistance Challenge Option (REACH) Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS) announces that, based on availability of funds, REACH Plans will be accepted for grants pursuant to the Secretary's authority under Section 2607B(b) of the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 *et seq.*

CLOSING DATE: The closing date and time for receipt of REACH applications is 4:30 p.m., eastern time zone, on July 9, 1997. Applications received after 4:30 p.m. on that day will be classified as late. Postmarks and other similar documents do not establish receipt of an application. Detailed application submission instructions including the addresses where applications must be received are found in Part VI B, Application Submission.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of Community Demonstration Programs, 370 L'Enfant Promenade, S.W., Fifth Floor, Washington, D. C. 20447, Attention: Richard Saul—(202) 401–9341, Anna Guidery—(202) 401–5318.

This Notice is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.

The Catalog of Federal Domestic Assistance number for this program is 93.568. The Title is ''LIHEAP/REACH''.

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Part I—Introduction

A. Legislative Authority

Section 2607B(b) of the Low-Income Home Energy Assistance Act of 1981, as amended, 42 USC 8621 *et seq.*,

authorizes the creation of the Residential Energy Assistance Challenge Option (REACH) Program, which was funded for the first time in FY 1996. REACH is designed to provide services through local community-based agencies to help LIHEAP eligible households reduce their energy vulnerability.

The Secretary is authorized to make incentive grants to States, Tribes, Tribal Organizations, and certain Insular Areas that submit qualifying Plans, hereinafter referred to as REACH Plans, that are approved by the Secretary as REACH initiatives. Successful applicants are to use such grants for the costs of planning, implementing, and evaluating the initiative. Only grantees under the Low Income Home Energy Assistance Program (LIHEAP) may apply for REACH grants.

The Secretary must also reserve from any funds allocated under the REACH initiative, funds to make additional payments to selected REACH applications that (a) Include energy efficiency education services plans that meet quality standards established by the Secretary in consultation with the Secretary of Energy; and (b) have the potential for being replicable model designs for other programs.

This Announcement is requesting competitive REACH Plans from eligible applicants which are consistent with the information, requirements, and program elements and review criteria outlined in Parts II, III, IV, and V, below.

B. Definition of Terms

For purposes of this Program Announcement, the following definitions apply [Definitions marked with an asterisk(*) are the definitions found in Section 2603 of the Low Income Home Energy Assistance Act, as amended, (42 U.S.C. 8622) and apply to the REACH Initiative]:

—*Budget period:* The term ''budget period'' refers to the interval of time into which a multi-year period of assistance (project period) is usually divided for budgetary and funding purposes, and is generally between 12 and 17 months duration.

—*Community-based, nonprofit entity:* A corporation or association whose profits may not lawfully accrue to the benefit of any shareholder or individual, and whose goals, objectives and activities are established and carried out through a process involving the Participation of residents of the community or local area being served, including low-income residents. For purposes of the REACH Program, this includes all organizations or agencies which meet the definition of ''eligible entity'' in Section 673(1) of the Community Services Block Grant Act as amended (42 USC 9902(1)).

—*Community-based organization recipient (CBO Recipient):* The community-based nonprofit entity through which State REACH Project services shall be delivered in the applicant State under Priority Area 1.0.

—*Energy burden** means the expenditures of the household for home energy divided by the income of the household.

—*Energy crisis** means weather-related and supply shortage emergencies and other household energy-related emergencies.

—*Highest home energy needs** means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.

—*Home energy** means a source of heating or cooling in residential dwellings.

—*Household** means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

—*Innovative project:* One that departs from or significantly modifies past program practices and tests a new approach(es).

—*Intervention:* Any planned activity within a project that is intended to produce changes in the target population or the environment, and can be formally evaluated.

—*Nonprofit organization:* A corporation or association whose profits may not lawfully accrue to the benefit of any shareholder or individual (and through which REACH Project services may be delivered under Priority Area 2.0).

—*Outcome evaluation:* An assessment of measured results designed to provide a valid determination of the net effects attributable to the intervention. An outcome evaluation will produce and interpret findings related to whether the intervention produced desirable changes and its potential for replicability. It should answer the question, ''Did this program work?''

—*Poverty level** means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State. (See Attachment A.)

—*Process evaluation:* Descriptive information that is gathered on the development and implementation of a program/intervention that may serve as a document for replicating the program elsewhere. The evaluation should also identify problems that occurred and how they were dealt with and recommend improved means of future implementation. It should answer the question: ''How was the program carried out?'' In concert with the outcome evaluation, it should also help explain, ''Why did this program work/not work?''

—*Project period:* The term ''project period'' refers to the total time for which a project is approved for support, including any extensions. If for more than 17 months, it is usually divided into ''budget periods'' of 17 months or less duration for which individual grant actions are made. (see ''Budget period'').

—*Secretary** means the Secretary of Health and Human Services.

—*State** means each of the several States and the District of Columbia.

—*State median income** means the State median income promulgated by the Secretary in accordance with procedures established under section 2002(a)(6) of the Social Security Act (as such procedures were in effect on the day before the date of the enactment of this Act) and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

C. Purpose

As described in the authorizing legislation, the purpose of the REACH Program is to—

(1) Minimize health and safety risks that result from high energy burdens on low-income Americans;

(2) Prevent homelessness as a result of inability to pay energy bills;

(3) Increase efficiency of energy usage by low-income families; and

(4) Target energy assistance to individuals who are most in need.

In keeping with this broad mandate, OCS will support a limited number of innovative Pilot Projects that seek to demonstrate the long term cost effectiveness of supplementing energy assistance payments with non-monetary benefits that can increase the ability of eligible households to meet energy costs and help them to achieve energy self-sufficiency.

Part II—Background Information

A. Eligible Applicants

States, Indian Tribes, and Tribal Organizations (including Alaskan Native Villages), and Insular Areas that receive direct grants from the Department of HHS under LIHEAP which are expended for implementing a LIHEAP program may apply for funds under the REACH Program. Note: Due to the limited availability of funds, States which received REACH grants in FY 1996 under Priority Area 1.0 for the maximum amount of $1.5 million will not be eligible for funding in FY 1997. States which received FY 1996 REACH grants for less than the maximum amount of $1.5 million will be eligible to receive FY 1997 grants, on a competitive basis, for an amount which, taken together with the FY 1996 grant, would not exceed the $1.5 million maximum grant amount.

B. Program Priority Areas

The REACH Program will have two Priority Areas: Priority Area 1.0, for which eligible applicants are States, the District of Columbia and Puerto Rico; and Priority Area 2.0, for which eligible applicants are Tribes, Tribal Organizations, and other Insular Areas which are LIHEAP grantees that use LIHEAP funds to implement a LIHEAP Program.

C. Project Periods and Budget Periods

(See Part I, B, Definition of Terms)

The Low-Income Home Energy Assistance Act of 1981, as amended (42 USC 8621) authorizes a block grant program of which the REACH Program is a part, and to which 45 Code of Federal Regulations (CFR) Parts 74 and 92 and OMB Circulars do not apply. However, 45 CFR Part 96 does apply to REACH funds. Grantees are required to obligate REACH funds by the end of the Fiscal Year following the Fiscal Year in which the REACH grant was awarded by OCS; but as noted below, grantees under Priority Area 1.0 will be encouraged to obligate funds to sub-recipients well before that deadline.

1. Project Periods

Project periods will be 36 months for all REACH projects under Priority Area 1.0 and for projects under Priority Area 2.0 when the applicant elects to delegate the project to a non-profit organization as described below.

States under Priority Area 1.0 and applicants under Priority Area 2.0 with thirty-six month Project Periods are encouraged to provide for completion of the planning and consummation of awards to sub-recipients within a time frame that will allow for adequate start-up and an implementation period of at least two years, followed by a phase-out period that will permit completion of the required evaluation under Priority Area 1.0 and reporting under Priority Area 2.0.

Project periods will be up to 17 months under Priority Area 2.0 where applicants elect to operate projects directly, as described below.

2. Budget Periods

(a) Budget Periods for all REACH Projects will be twelve months (one year) in Priority Area 1.0 and Priority Area 2.0 when applicants elect to operate the REACH Program through non-profit organizations.

(1) In the case of projects under Priority Area 1.0, States will receive grants for the full amount of the three-year Project Period, and must award REACH funds to CBO Recipients for total project budgets covering the full Project Period by the end of the Fiscal Year following the Fiscal Year in which the grant is awarded, and should solicit and/or design local projects accordingly. Applicants under Priority Area 1.0 may include in the REACH Initiative budget an amount up to ten percent (10%) of the total REACH grant for planning, administration, and coordinating costs at the State level, and for contracting with a third party evaluator as defined in Part IV–A, Element VI, below, and discussed in Part III–A.6., during the first project year (the first twelve month budget period) of the REACH Initiative. States may apply for continued funding for such costs for each of the second and third project years (budget periods) on a non-competitive basis, for an amount each of those project years of up to five percent (5%) of the original grant amount, subject to the availability of funds, satisfactory progress of the grantee, and determination that this would be in the best interest of the government.

(2) In the case of REACH Projects under Priority Area 2.0, where applicants elect to operate REACH projects through non-profit organizations, grants awarded pursuant to this announcement will likewise be for the full amount of the three year Project Period, and applicants will in like manner award REACH funds to sub-recipients for total project budgets covering the full Project Period as described in the preceding paragraph (a). Such applicants may include up to five percent (5%) of the total REACH grant for planning, administration and coordinating costs of the first year, which may be continued for years two and three on the same terms as described in preceding paragraph (a).

(b) Where applicants under Priority Area 2.0 elect to operate REACH programs themselves, as described below, grants awarded pursuant to this announcement may be for up to 17-month Project and Budget Periods.

D. Availability of Funds and Grant Amounts

The total amount expected to be available for REACH Initiative grants pursuant to this announcement is approximately $5,000,000. The Office of Community Services expects to award up to eight competitive grants under Priority Area 1.0 for General Pilot Projects of $500,000 to $1,500,000 each for the planning, implementation and evaluation of REACH Initiatives; but the total amount awarded under Priority Area 1.0 will not exceed $4,000,000, except as provided under Priority Area 2.0. OCS expects to award four to sixteen grants under Priority Area 2.0 for smaller Pilot Projects of $20,000 to $150,000 each to Indian Tribes and Tribal Organizations for a total of up to $400,000. Any funds not awarded under Priority Area 2.0 will be available for funding under Priority Area 1.0. Pursuant to the legislative mandate, an additional $600,000 has been reserved by the Secretary to make additional payments of up to $100,000 each to qualifying funded REACH Initiatives under Priority Area 1.0, and payments of up to $25,000 each under Priority Area 2.0, for implementation and evaluation of Energy Efficiency Education Services (EEES) Plans which meet the Quality Standards established in consultation with the Secretary of Energy which are set forth in Part V of this Announcement, and have the potential for being replicable model designs for other programs. Any such reserved funds not awarded for EEES Plans will be available for funding REACH applications under Priority Areas 1.0 and 2.0.

E. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income individuals and families who are eligible for LIHEAP benefits under the applicant's LIHEAP program, pursuant to Section 2605(b)(2) of the Low Income Home Energy Assistance Act of 1981, as amended. However, not all LIHEAP recipients and/or eligible households must be provided REACH services. Applicants may target a portion of the LIHEAP-eligible population for REACH services.

Attachment A to this announcement is an excerpt from the Poverty Income

Guidelines currently in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Where relevant to REACH eligibility criteria, grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They also are accessible on the OCS Electronic Bulletin Board for reading and/or downloading. (See **FOR FURTHER INFORMATION** at beginning of this announcement.)

Consistent with the legislative purpose of the REACH Initiative ''to target energy assistance to individuals who are most in need'', projects proposed for funding under this Announcement may further restrict eligibility to lower income individuals and families within the LIHEAP eligible universe.

Under the authorizing legislation applicants may designate all or part of the State or all or part of the client population as a focus of its REACH Initiative. The Secretary has determined that in order best to compare the cost effective outcomes of REACH benefits with those of LIHEAP payment benefits alone, the geographic/client focus of the REACH program should be one which results in REACH expenditures bearing a reasonable relationship to the LIHEAP payment benefits available to the same target population. [Note: In the FY 1996 Program Announcement for REACH it was suggested that proposed REACH expenditures be not less than one-half nor more than twice the amount of LIHEAP benefits paid within the REACH service area to eligible households over a two-year period under current appropriation levels. It has been brought to our attention that such a limitation is too restrictive in the sense that the lower limit precludes: (1) The testing of innovative REACH initiatives over larger areas at relatively low per-capita cost; (2) the testing of innovative long term REACH initiatives which, although at a higher initial cost, might prove cost effective over the longer term; and (3) unduly limits recipients of smaller allocations of LIHEAP funds, even though long term needs may be great. Consequently, no such restrictions are suggested in this Announcement, and applicants are left to justify their requests for funding as cost effective in their program narratives.]

F. Prohibition and Restrictions on the Use of Funds

The use of REACH funds for the purchase or construction of real property is prohibited. Costs incurred for rearrangement and alteration of facilities required specifically for the funded program are allowable when specifically approved by ACF in writing. However, in keeping with the legislative mandate to include energy related residential repair and energy efficiency improvements in REACH Project activities, such activities carried out in beneficiaries' residences will not be considered to be violative of these prohibitions or restrictions.

If the applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470). If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidelines.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the National Historic Preservation Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act will result in the application being ineligible for funding consideration.

G. Multiple Submittals and Multiple Grants

Due to the limited number of grants that will be made under this program, only one application from any one eligible applicant will be funded by OCS from FY 1997 REACH funds. (This does not preclude applicants from submitting more than one application or including more than one local REACH Project/CBO Recipient in their REACH plans.)

H. Maintenance of Effort

The activities funded under this program announcement must be in addition to, and not in substitution for, activities previously carried on without Federal assistance. Also, the benefits and services provided eligible participants in the REACH Project must be provided in addition to and in coordination with benefit payments and services provided under the applicant's regular LIHEAP Program. A signed Certificate of Maintenance of Effort must be included with the application (see Attachment J).

Part III—Reach Priority Areas and Program Requirements

A. Statement of Assurances and Demonstration

Section 2607B of the Low-Income Home Energy Assistance Act of 1981, as amended, which authorizes the REACH program, provides that ''each State plan shall include each of the elements in paragraph (2), to be met by State and local agencies.'' These required elements are listed below. To be considered for funding, each REACH Plan must include a signed ''Statement of Assurance and Demonstration'' that the proposed REACH Plan meets all of the legislative requirements listed below. [The required ''Statement of Assurances and Demonstration'' is appended as ''Attachment M'' to this Program Announcement.]

(1) Service delivery through community-based nonprofit entity. (For applicants under Priority Area 1.0 only.)

[Should be reflected in Plan Elements II and VII]

(2) In awarding grants or contracts to community-based non-profit entities, priority will be given to CSBG eligible entities that are successful LIHEAP service providers and receive Weatherization Assistance Program funds from the Department of Energy. (For applicants under Priority Area 1.0 only.)

[Should be reflected in Plan Elements II and VII. Attach letter(s) of certification as described therein]

(3)(a) Each CBO Recipient under Priority Area 1.0 to provide a variety of services, to include:

(i) Payments to, or on behalf of, individuals eligible for residential energy assistance services and benefits under section 2605(b) of the Act for home energy costs;

(ii) Energy efficiency education;

(iii) Residential energy demand management services, including any other energy related residential repair and energy efficiency improvements in coordination with, or delivered by, Department of Energy weatherization assistance programs at the discretion of the State;

(iv) Family services, such as counseling and needs assessment, related to energy budget management, payment plans, and related services; and

(v) Negotiation with home energy suppliers on behalf of households

eligible for REACH services and benefits;

[Should be reflected in Plan Elements II and III, as appropriate]

(b) Given the size of most tribal and small insular territory LIHEAP programs, the Secretary has determined, in accordance with 45 CFR 96.42(a), that REACH applications from tribal and small insular area LIHEAP grantees under Priority Area 2.0 do not have to provide all of the above services. Therefore, each REACH Plan under Priority Area 2.0 must include provision of at least two of the services listed in paragraph (1).

(4) A description of the methodology the State and local agencies will use to determine—

(a) Which households will receive one or more forms of benefits under the State REACH initiative;

(b) The cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than payment benefits alone; and

(c) The amount of such benefit required to meet the goals of the program;

[Should be reflected in Elements II and V]

(5) A method for targeting nonmonetary benefits;

[Should be reflected in Element II]

(6) A description of the crisis and emergency assistance activities the State will undertake that are designed to—

(a) Discourage family energy crises;

(b) Encourage responsible vendor and consumer behavior; and

(c) Provide only financial incentives that encourage household payment;

[Should be reflected in Elements II and V]

(7) A description of the activities the State will undertake to—

(a) Provide incentives for recipients of assistance to pay home energy costs; and

(b) Provide incentives for vendors to help reduce the energy burdens of recipients of assistance;

[Should be reflected as appropriate in Elements II and V]

(8) An assurance that the State will require each entity that receives a grant or enters into a contract under this section to solicit and be responsive to the views of individuals who are financially eligible for benefits and services under this section in establishing its local program;

[Should be reflected in Element II]

(9) A description of performance goals for the State REACH initiative including—

(a) A reduction in the energy costs on participating households over one or more fiscal years;

(b) An increase in the regularity of home energy bill payments by eligible households; and

(c) An increase in energy vendor contributions towards reducing energy burdens of eligible households;

[Should be reflected in Element II(b) and, under Program Area 1.0, Element VIII also]

(10) A description of the indicators that will be used by the State to measure whether the performance goals have been achieved;

[Should be reflected, for Priority Area 1.0, in Element VIII]

(11) An assurance that benefits and services will be provided in addition to other benefit payments and services provided under this title and in coordination with such benefit payments and services;

[Should be reflected in Element II]

(12) An assurance that no regulated utility covered by the plan will be required to act in a manner that is inconsistent with applicable regulatory requirements.

[Should be reflected in Element II]

(13) A demonstration that the REACH Plan is consistent with paragraphs (2), (3), (4), (5), (7), (10), (11), (12), (13), and (14) of section 2605(b) of the Low Income Home Energy Assistance Act of 1981, as amended; subsections (d), (e), (f), (g), (h), (i), and (j) of section 2605; and section 2606 of the Act;

[See Attachment K for texts of these Sections and subsections; should be reflected as appropriate in Elements II, IV, and VII]

[**Note:** The definitions in Section 2603 of the Act have been incorporated into the definitions in Part I, Section B of this Announcement and will apply to the REACH Initiative.]

The requirements of this section will be met by the inclusion at the beginning of the REACH Plan of a Statement of Assurance and Demonstration that the Plan meets the Requirements as set forth in Part III, Section A. (See Attachment M)

B. Additional Program Requirements for Priority Area 1.0

1. Eligible Applicants for Priority Area 1.0

Eligible applicants for these grants under Priority Area 1.0 are the fifty States, the District of Columbia and Puerto Rico. They must deliver REACH services, in one or more specific projects, through community-based, nonprofit organizations, hereinafter referred to as CBO Recipients, by awarding grants to or entering into contracts with such CBO Recipients for the purpose of providing such services and payments directly to individuals eligible for benefits. If a State makes LIHEAP payments directly to eligible individuals or energy suppliers, the State need not require the CBO Recipient(s) to make such payments, but must enter into contract(s) with such CBO Recipients to administer the REACH program(s), including: (i) Determining eligibility, (ii) providing outreach services, and (3) providing REACH benefits other than payments. Local Agencies may not apply for direct REACH funding.

In awarding grants or entering into contracts to carry out its REACH Initiative, the State must give priority to eligible entities, as defined in Section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)) except where significant geographic portions of the State are not served by such entities, that: (1) Have a record of successfully providing services under the Low-Income Home Energy Assistance Program (as determined by DHHS), and (2) receive funds under the Department of Energy's Low Income Weatherization Assistance Program. The State may not require any such entity to operate a REACH Project.

2. Program Focus for Priority Area 1.0

As noted above, so that the cost effective outcomes of REACH benefits may best be compared with those of LIHEAP benefits alone, an Applicant, in designating the REACH service area or segment of the eligible population to be served by the proposed REACH Plan, should seek to define (an) area(s) or population segment(s) whose allocation under the LIHEAP program bears a reasonable relationship to the resources available to the REACH Project. In this regard, the applicant should consider the totality of resources that will be available to support the REACH Project's implementation and the level of benefit and/or services reasonably required to achieve the Project's goals and objectives. This will be a function, in part, of the specific interventions that will go to make up the ''benefits and services'' in the particular Project design; and an objective of every REACH Plan should be to measure the success of such interventions in achieving more cost-effective long-term outcomes than energy payment benefits alone. Thus OCS is interested in REACH Plans that propose testing innovative approaches to helping low-income families achieve energy self-sufficiency,

and ultimate independence from energy assistance payments.

3. Holistic Strategy and Mobilization of Resources for Priority Area 1.0 Projects

OCS is interested in having Applicants approach the energy needs of low-income families within a holistic context of the economic, social, physical, and environmental barriers to achieving self-sufficiency. Thus applicants should include in their REACH Plan an explanation of how the proposed project(s) will be integrated with and support other anti-poverty or development strategies within the target community or communities.

REACH grantees are not required to match REACH grant awards with either cash or in-kind contributions of goods and services. However, in keeping with this holistic integration of REACH Projects within the community, they are expected to be closely coordinated with other public and private sector programs involved with community revitalization, housing rehabilitation and weatherization, and family development; and OCS will give favorable consideration in the application review process to applicants who mobilize third-party cash and/or in-kind contributions for direct use in the REACH Project. Even though there is no matching requirement for the REACH Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part IV–A, Element III.)

If the REACH service area or portion thereof is covered by a comprehensive community-based strategic plan, such as that required for applying for Empowerment Zone/Enterprise Community (EZ/EC) status, to achieve both economic and human development in an integrated manner, applicants should document how they and/or the designated CBO Recipient(s) were involved in the preparation and implementation of the plan, and how the proposed REACH project(s) will support the goals of that plan. (See Part IV–A, Element VIII.)

4. Scope of the Priority Area 1.0 REACH Plan

A State may submit a REACH Plan which proposes one local REACH Project to be implemented by one CBO Recipient; it may submit a Plan in which the same project is proposed to be implemented in several localities by separate CBO Recipients; or it may submit a plan proposing two or more different and distinct Projects, each to be implemented through a separate CBO Recipient. Where a State proposes different and distinct REACH Projects to be carried out by more than one CBO Recipient, the REACH Plan should include, for each of these projects/CBO Recipients, a separate narrative of no more than twenty-four pages in length, covering Elements I through VI, as explained in Part IV, and designated as ''Segment One'' of the Project Narrative; and a Budget Justification as described in Element II, covering Project Budget Appropriateness.

Where a REACH Plan proposes only one distinct project, to be implemented either in one locality or in several, by either one or more than one CBO Recipient, then the Plan need include only one ''Segment One'' narrative of no more than 24 pages in length, but, as noted below under Part IV–A, this should include an Element I capability statement, not to exceed five pages in length, for each of the implementing CBO Recipients. In such cases the additional five-page Element I capability statements may be in addition to the twenty-four page limit for Segment One narratives.

''Segment Two'' of the REACH Plan Narrative should be no longer than six pages in length and include Element VII, the Management and Organization of the overall REACH Initiative by the applicant State, and Element VIII, the outline of an Evaluation Plan as described in Paragraph 6. below. Element VII, under Segment Two of the Priority Area 1.0 REACH Plan must also include the designation, in accordance with the priorities described in Section A. 1., above, of the CBO Recipient(s) through which the proposed project(s) will be implemented. With each Priority Area 1.0 REACH Plan there must be included a Letter of Agreement from each designated CBO Recipient subscribing to the project concept as described in the appropriate ''Segment One'' narrative section of the Plan and agreeing to operate the REACH project as proposed. The Letter of Agreement must also commit the CBO Recipient(s) to a process of Low-Income Citizen Participation in the establishment of the local REACH Project, as described in Paragraph 5., below.

5. Low-Income Citizen Participation in Establishment of REACH Projects under Priority Area 1.0

To be considered for funding, a REACH Plan must include provision for the systematic and regularized solicitation, by the designated CBO Recipient(s), of the views of eligible low-income individuals in the community; and for the assurance, by means of an advisory board or similar process, that such organization(s) will be responsive to such views in the development and implementation of the local Project. Assurance for compliance with these requirements may be accomplished through the Letter of Agreement submitted by each CBO Recipient as required in Paragraph 4., above. (See Part IV–A, Sub-Element II(a))

6. Third-Party Evaluation of Priority Area 1.0 Projects

REACH Plans must include provision for an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in achieving stated project goals related to reducing participant home energy costs and increasing the ability of participants to meet such costs independent of payment subsidy, including, specifically, the performance goals set out in paragraph 9, and indicators described pursuant to paragraph 10, of the Statement of Assurances and Demonstration under Part III A.

The Plan should include a well thought through outline of an evaluation plan for the proposed project(s). The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented (the Process Evaluation) and whether and why/why not the project activities or interventions achieved the expected outcomes and goals of the project(s) (the Outcome Evaluation). (See Part I, Section B for definitions of Process and Outcome Evaluations.) Applicants may propose a single evaluation for their overall REACH Initiative, or separate evaluations for individual projects, as and where appropriate.

In addition to the performance goals mentioned above, the outline should include a description of the indicators that will be used by the State (and the CBO Recipient(s)) to measure whether the goals have been achieved.

The evaluation must be conducted by an independent, third-party evaluator, i.e., a person with recognized evaluation skills who has experience with social programs and is organizationally distinct from, and not under the control of, the applicant or the local organization(s) implementing the REACH Project. It is important that each successful applicant have a third-party evaluator selected, and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, in order to assure that data necessary for the evaluation will be collected and available. Costs of

evaluation may be shared by CBO Recipients where appropriate and subject to their agreement.

7. Dissemination of Priority Area 1.0 Project Results

REACH Plans should include provision for disseminating the results of the project among LIHEAP grantees, utility companies, and others interested in increasing the self-sufficiency of the poor. Applicants may budget up to $5,000 for dissemination purposes.

C. Special Program Requirements for Priority Area 2.0

1. Eligible Applicants for Priority Area 2.0

Eligible Applicants for REACH grants under Priority Area 2.0 are Indian Tribes and Tribal Organizations which currently receive direct grants from DHHS under the LIHEAP Program; and the Insular Areas of American Samoa, Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and Guam, provided they are LIHEAP grantees that use LIHEAP funds to implement a LIHEAP Program. In accordance with 45 CFR 96.42(a), the Secretary has determined that inasmuch as these applicants are generally representative of and close to their communities, which with few exceptions are relatively small; and inasmuch as they generally implement their LIHEAP programs and other social service programs directly; that therefore the requirements of Section 2607B(e)(2)(A) and (B) of the Act are not applicable to eligible applicants under Priority Area 2.0; and that consequently REACH grantees under Priority Area 2.0 may implement REACH programs directly, without delegation to CBO Recipients. However, as explained in Part II B, Budget Periods, above, applicants electing to implement their REACH Projects directly will be limited to projects of no more than 17 months duration (Project and Budget Periods of no more than 17 months).

Applicants under Priority Area 2.0 may also elect to operate their projects through grants or contracts to non-profit organizations. However, in such cases the non-profit organization does not have to be a community based organization (CBO) as defined in Part I. If they choose to operate their projects through non-profit organizations, the Project and Budget Periods applicable to Priority Area 1.0 will apply.

2. Program Focus

The Program Focus for Priority Area 2.0 REACH projects should be the same as for Priority Area 1.0, described above in Section A.2.

3. Holistic Program Strategy

OCS is interested in having applicants under Priority Area 2.0 approach the energy needs of low-income families within a holistic context of the economic, social, physical, and environmental barriers to achieving self-sufficiency. Accordingly, applicants under Priority Area 2.0 should describe how their REACH Plan will be coordinated with other programming aimed at community development, housing rehabilitation and weatherization, and family development.

4. Scope of the Priority Area 2.0 REACH Plan

The Priority Area 2.0 REACH Plan should describe the concept of the proposed REACH Project, describing the goals or outcomes that the project seeks to achieve; the needs of the target population that the project seeks to address; the assumptions about how those needs can be met; and the activities or interventions that the project will undertake to meet the needs and achieve the goals and outcomes of the project.

5. Low-Income Citizen Participation under Priority Area 2.0

To be considered for funding, a REACH Plan must include provision for the systematic and regularized solicitation by the grantee of the views of eligible low-income individuals in the community. (See Part IV–B, Sub-Element II(a))

6. Third-Party Evaluation of Priority Area 2.0 Projects

As noted above, the Priority Area 1.0 requirement for a third party evaluation does not apply to Priority Area 2.0 grantees. However, Priority Area 2.0 REACH Plans must describe the indicators they will use to measure whether their performance goals have been achieved, and they must submit a report summarizing these results at the end of the grant period.

7. Dissemination of Priority Area 2.0 Project Results

Applicants under Priority 2.0 may budget up to $1,000 for dissemination of project results.

Part IV—Reach Plan Elements and Review Criteria

The ultimate goals of the projects to be funded under the REACH Program are to realize significant improvements in the ability of eligible households to meet energy costs and pay home energy bills with regularity, through innovative project interventions which will reduce energy costs and increase the capability of low-income participants to pay; in the case of REACH Projects under Priority Area 1.0, to evaluate the effectiveness of these interventions and of the project design through which they were implemented; and thus to make possible the replication of successful programs. OCS intends to make the awards of all the above grants on the basis of brief, concise REACH Plans. The elements and format of these plans, along with the review criteria that will be used to judge them, will be outlined in this Part.

The competitive review of REACH Plans will be based on the degree to which applicants:

(1) Incorporate each of the Elements and Sub-Elements below into their plans, so as to describe convincingly a project that will develop and implement new and innovative approaches to address critical energy needs or problems of the poor;

(2) Include the required assurances and program activities set forth in Part III, above; and,

(3) In the case of applications under Priority Area 1.0; test and evaluate such approaches and activities so as to make possible replication of a successful program.

A. Program Elements, Review and Assessment Criteria for REACH Plans Under Priority Area 1.0

This Section has been divided into Two Segments: Segment One made up of Elements I, II (with three Sub-Elements), III, IV, V, and VI which should be completed for each different and distinct local REACH Project to be carried out by a CBO Recipient, and must not be more than twenty-four pages in length; and Segment Two, made up of Elements VII and VIII, which should be completed only once for the applicant's entire REACH Initiative, and must not be more than six pages in length. As explained in Part III–B. 4., Scope of REACH Plan, a State may submit a REACH Plan which proposes one local REACH Project to be implemented by one CBO Recipient; it may submit a Plan in which the same project is proposed to be implemented in several localities by separate CBO Recipients; or it may submit a plan proposing two or more different and distinct Projects, each to be implemented through a separate CBO Recipient. Where a State proposes different and distinct REACH Projects to be carried out by more than one CBO Recipient, the REACH Plan should

include, for each of these projects/CBO Recipients a separate Segment One Narrative; where a REACH Plan proposes only one distinct project, to be implemented either in one locality or in several, by either one or more than one CBO Recipient, then the Plan need include only one ''Segment One'' narrative; but this should include an Element I capability statement, not to exceed five pages in length, for each of the implementing CBO Recipients. In such cases the additional five-page Element I capability statements may be in addition to the twenty-four page limit for Segment One narratives, and the Element One review scores will be averaged as noted below.

In order to simplify the application preparation and review process, OCS seeks to keep applications cogent and brief. For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that each Segment One Narrative cannot be more than twenty-four pages in length, and that the single Segment Two Narrative, covering Program Elements VII and VIII for the overall REACH Initiative, cannot be more than six pages in length.

REACH Plans with project narratives (excluding appendices) that exceed these limits will not be reviewed for funding. Project narratives should be on letter-sized pages in 12 c.p.i. type or equivalent on a single side. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and project description upon the guidelines set forth for each of the project elements.

In reviewing REACH Plans for funding, where Plans include more than one narrative Segment One describing a local Project/CBO Recipient, OCS reserves the right to consider each such Project/CBO Recipient on its own merits, and where review scores and other considerations merit, may choose not to fund a particular local Project/CBO Recipient. Thus Segment Two will be given a score for the overall State role in the project under Elements VII and VIII; and the Segment One for each CBO Recipient will be given a score for the Elements I through VI. This Segment One Score will, for each CBO Recipient, be added to the Segment Two score for a total score which will be the basis for its ranking among applications received covering local Project/CBO Recipients. Where less than the full complement of an applicant's local Project/CBO Recipients are funded, OCS will negotiate an appropriate budget for the applicant's overall REACH Initiative. Where, as noted above, the REACH Plan proposes only one distinct project, to be implemented by more than one CBO Recipient, then the review scores for the several Element One narratives will be averaged to arrive at the overall Element One score for the application.

Segment One

[Priority Area 1.0 applicants to complete for each local Project/CBO Recipient; each completed Segment One limited to twenty-four pages in length.]

Element I. Organizational Experience and Capability under Priority Area 1.0

(Weight of 0 to 20 points in proposal review)

Sub Element I(a). Agency's Experience and Commitment in Program Area

(Weight of 0–10 points in proposal review)

The application should cite the capability and relevant experience of the CBO Recipient in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project, including the provision of service under LIHEAP, and which receive funds from the Department of Energy's Weatherization Assistance Program. The application should also cite the organization's experience in collaborative programming and operations which involve evaluations and data collection. Applications should identify CBO Recipient agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation. The application should note and justify the priority that this project will have within the agency including the facilities and resources that it has available to carry it out.

It is suggested that applicants use no more than 3 pages for this Sub-Element.

Sub Element I(b). Staff Skills, Resources and Responsibilities

(Weight of 0–10 points in proposal review)

The application must identify the two or three individual staff persons of the CBO Recipient who will have the most responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the Executive Officials of the organization and the key staff persons who will administer and implement the project. The person identified as Project Director should have supervisory experience, experience in working with energy related problems of the poor, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired.

Actual resumes and/or position descriptions of key staff should be included in an Appendix to the proposal.

It is suggested that applicants use no more than 2 pages for this Sub-Element.

Element II. Project Theory, Design, and Plan under Priority Area 1.0

(Total Weight of 0–30 points in proposal review)

OCS seeks to learn from the application why and how the project as proposed is expected to lead to significant improvements in individual and family energy self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs a ''logic model'' or framework is described that suggests a way to present a project so as to show the ''logic'' of the cause-effect relations between project activities and project results. Applicants are not required to use the precise ''logic model'' language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve. Applicants are reminded that Part III–B, Section 4, Scope of the REACH Plan, includes a discussion of those activities which should be included in this element of their REACH Plan.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions

(Weight of 0–10 points in proposal review)

The ''logic model'' begins with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built: the assumptions about the needs of the client population to be served; about the current services available to those clients, and where and how they fail to meet their needs; about why the services or interventions proposed in the REACH Plan are appropriate, and will meet those needs; and about the impact the proposed interventions will have on the clients.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the REACH Plan the applicant should precisely identify the target population to be served. The geographic area to be impacted should then be briefly highlighted, selectively emphasizing the socioeconomic/poverty and other data that are relevant to the project design. This sub-element to the REACH Plan might include, for instance, data on the building type, condition, and age of low-income housing; the predominant fuel used for home heating; the number and percent of utility shut-offs among low-income energy consumers; climatic conditions; unemployment statistics for the area; the price of fuels; and the demand management services offered by local utilities. The needs of this target population should then be clearly defined, and the applicant should state its underlying assumptions about how these needs can be addressed by the proposed project.

Applicants must include in this element a brief description of the provision that has been and will be made for the systematic and regular solicitation by CBO Recipients of the views of eligible low-income individuals in the community on the design and implementation of the REACH Project, and the mechanism(s) that will be employed by the applicant and the CBO Recipients to assure their responsiveness to such views in the establishment of the REACH Project. (See Part III–A, Section 5.)

It is suggested that applicants use no more than 4 pages for this narrative sub-element.

Sub-Element II(b). Project Strategy and Design Framework: Interventions, Outcomes, and Goals

(Weight of 0–10 points in proposal review)

To continue with the ''logic model'':

The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to attainment of the final project goals.

So in this sub-element the applicant should describe the major activities, or interventions, which are to be carried out to address the needs and problems identified in the previous sub-element. And it should discuss the immediate changes, or outcomes, which are expected to result. These are the results expected from each service or intervention immediately after it is provided. For example, a survey of home furnaces for safety and efficiency might be expected to result in identification of repairs and retrofits that could increase efficiency and lower costs. Or providing energy efficiency education to families in the low income community might be expected to result in better understanding and knowledge of family members that if they would dress more warmly they could be more comfortable at a lower thermostat setting; that they could realize real savings by not leaving doors or windows open, or by hanging curtains over windows, or by using hot water more conservatively, by, for example, installing low-flow shower heads, etc.

At the next level are the intermediate outcomes which result from these immediate changes. Often an intermediate project outcome is the result of several immediate changes resulting from a number of related interventions such as repairs and education. Intermediate project outcomes should be expressed in measurable changes in knowledge, attitudes, behavior, or status/condition. In the above examples, the immediate changes achieved by the furnace survey program could be expected to lead to intermediate outcomes of furnace retrofits and home weatherization. The acquisition of energy conservation knowledge and skills, coupled with the availability of energy saving devices such as efficient light bulbs or low-flow shower heads, could result in the actual installation of these devices in the home.

Finally, the REACH Plan should describe how the achievement of these intermediate outcomes will be expected to lead to the attainment of the project goals: e.g. energy efficient and healthy housing, energy consumption at a level which is affordable for the household, a successful community fuel cooperative that lowers fuel prices, new demand management services, or whatever they may be.

Applicants don't have to use the precise ''logic model'' terminology described here, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to achievement of the project goals of greater energy self-sufficiency.

It is suggested that applicants use no more than 5 pages for this design section of the REACH Plan.

Sub-Element II(c), Work Plan

(Weight of 0–10 points in the proposal review)

Once the project strategy and design framework are established, the applicant should present the highlights of a work plan for the project. The plan should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources, time, staff, and partners available. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the Budget Justification included in the application. (See Element IV.)

Applicants may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

It is suggested that the applicant use no more than 3 pages for this Sub-Element.

Element III. Holistic Program Strategies, Mobilization of Resources, and Project Innovations under Priority Area 1.0

(Weight of 0 to 10 points in the proposal review)

Applicants should in this Element explain how its REACH Initiative approaches the energy needs of low-income families within a holistic context of the economic, social, physical, and environmental barriers to achieving self-sufficiency.

Thus REACH Initiatives are expected to be closely coordinated with other public and private sector programs involved with community revitalization, housing rehabilitation and weatherization, and family development; and OCS will give favorable consideration in the application review process to applicants who mobilize cash and/or third-party in-kind contributions for direct use in

the REACH Project. Even though there is no matching requirement for the REACH Program, grantees will be held accountable for any match, cash or in-kind contribution proposed or pledged as part of an approved application. (See Part III.B.3.)

Within the context of this holistic and coordinated plan, applicant should highlight the ways in which the proposed project represents a new and innovative approach or approaches to provide for greater energy self-sufficiency of the poor and/or to deal with particularly critical energy needs or problems of the poor that are common to a number of communities. Innovation can be in the characteristics of the target population to be served, or the needs to be addressed; the kinds of activities, or interventions, that will be carried out; the ways in which they will be carried out; new and different combinations of activities or interventions that will be implemented; or in the settings in which the project will function: e.g. new and innovative types of technologies or institutions in which the project will function.

It is suggested that applicants use no more than 4 pages for this element.

Element IV. Project Budget Appropriateness under Priority Area 1.0

(Weight of 0–10 points in the proposal review)

Applicants will be required to submit Federal forms with their REACH Plans to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (SF 424A). In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Justification, or explanatory budget information. This Budget Justification is not considered a part of the Project Narrative, and does not count as within the limitation on number of pages; but rather is to be included in the application following the budget forms. Each applicant under Priority Area 1.0 must also submit a signed SF 424, SF 424A and a Budget Justification covering the entire REACH project, in which the amount to be delegated to CBO Recipients should be shown as ''Contractual'' in line item x. (See Segment Two, Element VII for amounts which may be retained by the State Applicant for project administration and evaluation.) Each Application must also include one SF 424A and one Budget Justification for each local CBO Recipient. The Budget Narrative should briefly explain the adequacy of the Federal funds and other mobilized resources to accomplish project purposes, should explain the source and nature of mobilized resources, and should identify and briefly explain any imbalances between the level of activities undertaken and project funds expended.

Note: None of the costs of providing service or benefits under the REACH Program shall be considered to be an administrative cost or function for purposes of any limitation on administrative costs or functions contained in Section 2605(b)(9) of the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 *et seq.*

Element V. Significant and Beneficial Impact of Priority Area 1.0 Projects

(Weight of 0–10 points in the proposal review)

OCS seeks, with the REACH Program, to support innovative approaches that will create significant benefits for low-income energy consumers, their families, and their communities. Accordingly, it intends to make grants that have a strong likelihood of creating beneficial impacts both within the project communities and, through wide dissemination of useful project results and findings, in other communities facing similar challenges.

The proposed project is expected to lead to tangible achievements toward reducing household energy burdens on the poor and increasing their ability to pay for the household energy they need. As a result, the project should lead to verifiable improvements in regular energy payments and reductions in conditions such as disconnections of service, health and safety risks, and homelessness associated with high energy costs that are beyond the resources of low income families in the targeted community(ies). Applicants should summarize, in this section, the beneficial impacts that they propose to make in that community, their expectations for the continuation of those benefits beyond the project's life, and the kind of information that they expect to share with OCS and the broader social service/development community from their pilot project. Project proposals will be assessed, for this element, on the likely value of the project to the target community over time—given the proposed outcomes and the likelihood that they will be realized—and to the larger community of LIHEAP and CSBG grantees across the nation.

It is suggested that applicants use no more than 2 pages for this element. The score for this element will be based to some extent on the coherence and feasibility of the entire REACH Plan.

Element VI. Community Empowerment Consideration Under Priority Area 1.0

(Weight of 0–5 points in proposal review)

Special consideration will be given to applicants whose proposed REACH Projects will be focused on populations which are characterized by severe poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%; an area or areas designated as an Empowerment Zone or Enterprise Community; or having high levels of unemployment, and a high incidence of violence, gang activity, crime, or drug use. If such is the case, applicants should document that they or their proposed CBO Recipients were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner and how the proposed project supports the goal(s) of that plan. (See Part III–B, Section 3 and Section 4(C))

It is suggested that applicants use no more than 2 pages for this element.

Segment two

[Priority Area 1.0 applicants to complete once for overall REACH Plan; Segment Two limited to six pages in length.]

Element VII. Management and Organization of Priority Area 1.0 Projects

(Weight of 0 to 5 points in the proposal review)

Applicants should identify the State Project Coordinator and any other staff they feel are especially important to the success of the project, and include resumes as an Appendix to the REACH Plan. Where the staff have not been identified, a position description should be included in the Appendix. The REACH Plan should describe the staff's relevant capabilities for overseeing this multi-faceted project, with emphasis placed on successful management experience in directing both on-budget and leveraged resources to create community conditions capable of supporting effective interventions and transforming lives. REACH Plans will be assessed, for this element, on the relevant experience, capabilities, commitment and planned level of effort of the Project Coordinator and key staff members as described in the Plan.

Applicants should also, in this section, describe (and diagram if necessary) the organization of the project. The relationships among the State and the participating CBO Recipients, the Project Coordinator and the key officials in those organizations,

and any other partnering organizations should be depicted, and the project-related responsibilities of these key actors should be made clear. Applicants should in this Element explain that in the designation of CBO Recipients priority has been given, as required by the authorizing legislation, to eligible entities described in Section 673 of the Community Services Block Grant Act, as amended, which have a record of successfully providing service under LIHEAP and which receive funds from the Department of Energy's Weatherization Assistance Program. (See Part III–A, Section I, Eligible Applicants for Priority Area 1.0)

Applicants under Priority Area 1.0 may include in the REACH Initiative budget an amount up to ten percent (10%) of the total REACH grant for planning, administration, and coordinating costs at the State level during the first project year of the REACH Initiative, and for contracting with a third-party evaluator as defined under Element VI, below, and discussed in Part III–A.6.

Applicants should include funds in the project budget for travel by State and CBO Recipient Project Directors and Chief Evaluators to attend three national workshops in Washington, D.C. over the three year project period, and are encouraged to seek agreement from CBO Recipients to attend also. (See Part IX–B, Attendance at Workshops.)

It is suggested that applicants use no more than 2 pages for this element (not counting the resumes and/or position descriptions, which should be in an Appendix).

Element VIII. Project Evaluation Under Priority Area 1.0

(Weight of 0–10 points in the proposal review)

Sound evaluations are essential to the REACH Program. Applicants are required to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented (the Process Evaluation) and whether and why/why not the project activities, or interventions, achieved the expected outcomes and goals of the project (the Outcome Evaluation). (See Part I, Section B for definitions of process and outcome evaluation, and Part III–B.6. for a discussion of evaluation requirements.)

Applicants are not being asked to submit a complete and final Evaluation Plan as part of their REACH Plan; but they must include:

(1) A well thought through outline of an evaluation plan which identifies the principal cause-and-effect relationships to be tested, and which demonstrates the applicant's understanding of the role and purpose of both Process and Outcome Evaluations (see previous paragraph);

(2) The identity and qualifications of the proposed third party evaluator, or if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating social service delivery programs, and the planning and/or evaluation of programs designed to foster energy self-sufficiency in low income populations; and

(3) A commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the first six-months of the project, if funded.

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, and the hypotheses, or expected cause-effect relationships to be tested in the project: that the proposed project activities, or interventions, will address those needs in ways that will lead to the achievement of the project goals of energy self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, the CBO Recipient(s), and the community.

For these reasons, the evaluator that the applicant expects to work with should be involved—at least briefly but substantively—in the development of the project design and proposal.

It is suggested that applicants use no more than 4 pages for this element. The Resume or Position Description for the evaluator should be in an Appendix.

B. Special Program Elements, Review and Assessment Criteria for Reach Plans Under Priority Area 2.0

In order to simplify the application preparation and review process, OCS seeks to keep grant applications cogent and brief. For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that Project Narratives must not be more than twenty (20) pages in length.

REACH Plans with project narratives (excluding appendices) that exceed these limits will not be reviewed for funding. Project narratives should be on letter-sized pages in 12 c.p.i. type or equivalent on a single side. Applicants should prepare and assemble their project description using the following outline of required REACH Plan elements. They should, furthermore, build their project concept, plans, and project description upon the guidelines set forth for each of the elements.

Element I. Organizational Experience and Capability under Priority Area 2.0

(Weight of 0 to 10 points in proposal review)

Applicants should cite their capability and relevant experience in developing and operating programs which deal with energy and poverty problems similar to those to be addressed by the proposed project. While the proposed project management team will be identified and described below in Element III, applicants should identify organization executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation.

It is suggested that applicants use no more than 2 pages for this element.

Element II. Project Theory, Design, and Plan under Priority Area 2.0

(Total Weight of 0 to 50 points in proposal review)

OCS seeks to learn from the application why and how the project as proposed is expected to lead to significant improvements in individual and family energy self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs a ''logic model'', or framework, is described that suggests a way to present a project so as to show the ''logic'' of the cause-effect relations between project activities and project results. Applicants don't have to use the exact ''logic model'' language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Applicants under Priority Area 2.0 are not required to carry out REACH activities through community-based organizations (CBO Recipients), but may

implement REACH Plans directly themselves. However, as explained in Part II B, Budget Periods, above, applicants electing to implement their REACH Projects directly will be limited to projects of up to 17 months duration (Project and Budget Periods of up to 17 months). Applicants under Priority Area 2.0 may also elect to operate their projects through grants or contracts to nonprofit organizations. In such cases the nonprofit organization does not have to be a community based organization (CBO) as defined in Part I. If they choose to operate their projects through nonprofit organizations, the Project and Budget Periods applicable to Priority Area 1.0 will apply. Note also that applicants under Priority 2.0 need only include two of the REACH Program activities listed in Part III B. Section 4.(C) under ''Scope of the Priority Area 2.0 REACH Plan''.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions

(Weight of 0 to 20 points in proposal review)

[This sub-element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 4 pages of the Project Narrative.]

Sub-Element II(b). Project Strategy and Design Framework: Interventions, Outcomes, and Goals

(Weight of 0 to 20 points in proposal review)

[This sub-element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 4 pages of the Project Narrative.]

Sub-Element II(c), Work Plan

(Weight of 0 to 10 points in the proposal review)

[This sub-element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 2 pages of the Project Narrative.]

Element III. Management and Organization of Priority Area 2.0 Projects

(Weight of 0 to 10 points in the proposal review)

While the experience of agency leadership is important to project success, the caliber of day-to-day project management is critical. Applicants should identify key staff, including the Project Director, who will be implementing the project, and any other staff they feel are especially important to the success of the project. Resumes should be included as an Appendix to the REACH Plan. Where the staff have not been identified, a position description should be included in the Appendix. REACH Plans will be assessed, for this element, on the relevant experience, capabilities, commitment and planned level of effort to the project of the Project Director and key staff members as described in the Plan.

It is suggested that applicants use no more than 2 pages for this element (plus the resumes and/or position descriptions which should be in an Appendix).

Element IV. Project Budget Appropriateness under Priority Area 2.0

(Weight of 0–10 points in the proposal review)

Applicants will be required to submit Federal forms with their REACH Plans to provide basic applicant and project information (SF–424) and information about how Federal and other project funds will be used (SF–424A). Where Priority Area 2.0 applicants elect to have REACH services provided through a nonprofit organization sub-recipient, an SF–424A must be completed for the applicant, and another SF–424A must be completed for the nonprofit organization sub-recipient. The sub-recipient SF–424A should include budget information for all three years of the project period, divided into three separate budget periods as explained in Part VII and the instructions accompanying the forms. In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Justification, or explanatory budget information for the first 12-month budget period. Again, where a Priority Area 2.0 applicant elects to implement the REACH project services through a nonprofit sub-recipient, a Budget Justification should be included for the sub-recipient, covering the full three year project budget. The Budget Justification is not considered a part of the Project Narrative, and does not count as part of the twenty page limit; but rather is included in the application following the budget forms.

The Budget Justification should briefly explain the adequacy of the Federal funds and other mobilized resources to accomplish project purposes, and should explain the source and nature of any mobilized resources.

Applicants should include funds in the project budget for travel by the Project Director to attend an orientation workshop in Washington, D.C.

Note: None of the costs of providing service or benefits under the REACH Program shall be considered to be an administrative cost or function for purposes of any limitation on administrative costs or functions contained in Section 2605(b)(9) of the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. 8621 et seq.

Element V. Significant and Beneficial Impact of Priority Area 2.0 Projects

(Weight of 0–10 points in the proposal review)

[This element should be the same as under Priority Area 1.0 and it is suggested that it take no more than 3 pages of the Application Narrative.]

Element VI. Project Evaluation under Priority Area 2.0

(Weight of 0–10 points in the proposal review)

As noted in Part III above, REACH grantees under Priority Area 2.0 will not be required to carry out a third-party evaluation of their projects. However, their REACH Plans must describe the indicators they will use to measure whether the performance goals of their project have been achieved.

It is suggested that applicant use no more than 1 page for this Element.

Part V—Quality Standards for Energy Efficiency Education Services Plans

The REACH authorizing legislation includes a section which describes a separate Energy Efficiency Education Services program which applicants may include in their REACH Initiative. Those applicants which include this program in their REACH Initiative must submit separate Energy Efficiency Education Services Plans; and if they meet the quality standards set forth below and have the potential for being replicable model designs for other programs, are eligible for supplemental payments as outlined in Part II C. This Part sets out the Quality Standards for Energy Efficiency Education Services Plans.

Section 2607B(b)(2) of the REACH authorizing legislation provides for a reservation of funds by the Secretary to make additional payments to qualifying REACH applicants that have energy efficiency education services plans that meet quality standards established in consultation with the Secretary of Energy, and have the potential for being replicable model designs for other programs. This Part sets forth those standards. As explained in Part II above, those REACH applicants under Priority Area 1.0 that are selected to receive REACH grants will receive an additional amount of $100,000, and REACH applicants under Priority Area 2.0 will receive an additional $25,000, for the same project and budget periods, if they have submitted, as an appendix to their REACH Plans, an Energy Efficiency

Education (EEE) Services Plan that has the potential for being a replicable model design for other programs and meets the following quality standards:

A. Purpose

The Plan should state the purpose of the proposed EEE services, which should be generally consistent with and include the following goals: to assist low-income households, especially those with high energy burdens, to use energy efficiently, to reduce their home energy costs, to minimize health and safety risks within their homes, to increase their indoor comfort level, and to maintain their highest possible level of energy self-sufficiency.

B. Target Population

The Plan should identify a target population for the EEE services which includes LIHEAP recipients and at least some who have received services from the Weatherization Assistance Program, and others consistent with the stated purpose and goals of the program. The Plan should include assurances that the defined target population is one from whom data on energy usage and costs before and after receipt of the EEE services will be available, and should indicate how such data will be collected.

C. Needs Assessment and Project Design Process

The Plan should describe the needs assessment that the applicant has undertaken or will undertake among the target population, how the design of the EEE Services Program will respond to the needs identified (see Paragraph D, below), and how the EEE Program priorities have been or will be determined by the needs discovered.

D. Service Delivery

(1) *Setting:* the Plan should indicate the setting or settings—in-office instruction (e.g. at time of initial intake), workshops, or home visits—in which the EEE services will be delivered, and project the number of service units planned for each.

(2) *Services:* the Plan should identify the types of services to be delivered and how—whether by lecture, audio-visual media, written materials, hands on experience, or other educational technique—and if appropriate, which services are planned to be used in which of the identified settings.

E. Relation of Services to Changes, of Changes to Outcomes, and of Outcomes to Goals (a ''Logic Model'')

The Plan should briefly set forth each EEE service planned (e.g. a demonstration and discussion on air infiltration), the immediate changes expected to result from delivery of the service (e.g. a better understanding of the importance of stopping infiltration), the intermediate outcomes expected to result from the changes (e.g. action by the client to stop infiltration in their dwelling), and how these changes and outcomes will be expected to achieve a program goal (e.g. reduced energy consumption). This exact terminology need not be used in the Plan; but the cause and effect relationship between the EEE services planned and the achievement of program goals should be briefly explained. This part of the Plan should include provision for the development with EEE service recipients of an Action Plan through which the recipient will make a commitment to take actions based on the EEE information received; and it should also include a provision for reinforcement of the commitment through follow-up activities by the grantee or other ''interventions''.

F. Evaluation

The EEE Services Plan submitted by applicants under Priority Area 1.0 should provide for the inclusion of an Evaluation of the Energy Efficiency Education Services Program as a part of the Evaluation Plan Outline for the overall REACH Initiative. It should provide for Process and Outcome Evaluations, and should describe what data will be collected and how it will relate to the achievement of EEE program goals. The EEE portion of the evaluation plan outline should make specific provision for consumer evaluation of the EEE service program interventions; and should conclude with a commitment from the grantee to revise and improve its EEE program in response to the overall evaluation where appropriate. For applicants under Priority Area 2.0, the EEE Services Plan should provide assurances that the applicant will: (1) provide for consumer evaluation of the EEE Services program, and (2) revise and improve its EEE program in response to such evaluation, where appropriate.

The EEE Services Plan, if included, should be an Appendix to the Applicant's REACH Plan, and should not exceed ten (10) pages in length.

Part VI. Application Procedures

A. Availability of Forms

Attachments B through J contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts VI and VII of this Notice contain all the instructions required for submittal of applications.

Additional copies of this Notice may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT** at the beginning of this announcement. In addition, this Notice is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.

B. Application Submission

Number of Copies Required. One signed original REACH Plan and four copies should be submitted. Applicants have the option to omit from copies to be made available to non-Federal reviewers the specific salary rates or amounts for individuals identified in the application budget. Rather, only summary information is required in these copies.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Community Demonstration Programs, 370 L Enfant Promenade, S.W., Washington, D.C. 20447; Attention: Application for REACH Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at DHHS, Administration for Children and Families, Office of Community Services, Division of Community Demonstration Programs, Mail Room, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted

regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF will notify each late applicant that its application will not be considered in the current competition.

Extension of deadline: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

C. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, as amended, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0139.

D. Application Consideration

Applications which meet the screening requirements in Section E below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to the Legislative Authority, the Requirements outlined in Part III, and the Application Elements and Review Criteria set forth in Part IV of this Announcement.

The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be considered in rank order of the averaged scores. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to: the timely and proper completion by applicant of projects funded with OCS funds granted in the last (5) years; comments of reviewers and government officials; staff evaluation and input; the proposed project's consistency and harmony with agency goals and policy; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to determine the applicant's performance record.

E. Criteria For Screening Applications

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively:

1. Eligibility. The applicant must be an ''eligible applicant'' as defined in Part III-A, Section 1. or Part III-B, Section 1. Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

2. The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), signed by an official of the organization applying for the grant who has authority to obligate the organization legally; one budget form (SF–424A) covering the entire REACH Project, and one SF–424A for each CBO Recipient (or nonprofit sub-recipient in the case of Priority Area 2.0 applicants electing to delegate their REACH Projects) and signed ''Assurances'' (SF–424B) completed according to instructions published in Part VII and Attachment D to this Announcement.

3. A project narrative must also accompany the standard forms, and, for Priority Area 1.0, must be limited to no more than twenty-four (24) pages for Narrative Segment One and six (6) pages for Narrative Segment Two; and for Priority Area 2.0, must be limited to no more than twenty (20) pages. Narratives must be typewritten on one side of the paper only, in type no smaller than 12 c.p.i., 11 point, or equivalent, with margins no less than one inch. Charts, exhibits, letters of support, cooperative agreements, resumes and position descriptions are not counted against this page limit and should be included in the appendices to the proposal.

It is strongly recommended that applicants follow the format and content for the narrative set out in Parts IV and VIII.

Part VII—Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments B and C) as modified by the OCS specific instructions set forth below:

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessary, reasonableness, and allocability of the proposed costs.

A. SF–424—Application for Federal Assistance

(One SF–424 to be completed by applicant)

Top of Page

Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. Enter ''A'' in the box for State. If applicant is an Indian Tribe enter ''K'' in the box for Indian Tribe.

Item 9. Name of Federal Agency—Enter DHHS-ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.568. The title is ''LIHEAP/REACH''.

Item 11. Enter a brief descriptive title of the project.

Item 13. Proposed Project—The project start date must begin on or before September 30, 1997; the ending date should be calculated on the basis of a 17-month or 36-month Project Period, whichever is applicable.

Item 15a. This amount should be no greater than $1,500,000. for applications under Priority Area 1.0; no greater than $150,000 for applications under Priority Area 2.0.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the Project Period.

B. SF–424A—Budget Information—Non-Construction Programs

(One SF–424A completed for applicant, covering entire REACH Project, and one SF–424A to be completed for each CBO Recipient (or nonprofit sub-recipient in the case of Priority Area 2.0 applicants electing to delegate their REACH Projects).)

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in Non-Federal entries.

Sections A, B, and C of SF–424A should reflect budget estimates for each year of the Project Period.

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts).

Col. (a): Enter ''LIHEAP/REACH.

Col. (b): Catalog of Federal Domestic Assistance number is 93.568.

Col. (c) and (d): not relevant to this program.

Column (e)—(g): enter the appropriate amounts (column e should not be more than $1,500,000 for applications under Priority Area 1.0; or more than $150,000 for applications under Priority Area 2.0.

Section B—Budget Categories

(1) For applicants, a single SF–424A covering entire REACH Project: complete a one-year budget in accordance with the instructions provided, entering the amount of grant or contract to CBO Recipient(s) or nonprofit sub-recipient under the Object Class Category ''Contractual''.

(2) For CBO Recipients (or, in the case of Priority Area 2.0 applicants nonprofit sub-recipients, as appropriate), an SF–424A to be completed for each, covering the full three year project: (Note that the following information supersedes the instructions provided with the Form in Attachment C).

Columns (1)—(5): For each of the relevant Object Class Categories:

Column 1: Enter the OCS grant funds for the first year.

Column 2: Enter the OCS grant funds for the second year.

Column 3: Enter the OCS grant funds for the third year.

Column 4: Leave blank.

Column 5: Enter the total federal OCS grant funds for the three year budget by Class Categories, showing a total budget of not more than $1,500,000.

Note: With regard to Class Categories, only out-of-town travel should be entered under Category c. Travel. Local travel costs should be entered under Category h. Other. Costs of supplies should be included under Category e. ''Supplies'' is tangible personal property other than ''equipment''. ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) The capitalization level established by the organization for financial statement purposes, or (b) $5,000.

Section C—Non Federal Resources should be completed in accordance with the instructions provided, remembering that ''all non-OCS funds'' fall in this category.

Sections D, E, and F may be left blank.

As previously noted in Part IV, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, and justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances—Non-Construction

(One SF–424B to be submitted by applicant)

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 USC 1352.

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1988 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurances are located at the end of this announcement.

Applicants must make the appropriate certification on their compliance with the regulation regarding Environmental Tobacco Smoke. Signature on the application attests to the applicants intent to comply with the requirements of the Pro-Children Act of 1994 (no signature required on form).

Part VIII—Contents of Reach Plan and Receipt Process

Application pages should be numbered sequentially throughout the application package, beginning with an Abstract of the Plan as page number one, and each REACH Plan must include all of the following, in the order listed below:

A. Content and Order of REACH Plan

1. Table of Contents;

2. An Abstract of the plan—very brief, not to exceed 250 words, that would be suitable for use in an announcement that the application has been selected for a grant award; which identifies the type of project(s), the target population, the CBO Recipient(s) (in the case of Priority Area 1.0 applicants), and the nonprofit organization sub-recipient (in the case of Priority Area 2.0 applicants electing to delegate their REACH Project), and the major elements of the work plan(s).

3. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization];

4. A single Budget Information—Non-Construction Programs (SF–424A) for the applicant, covering the entire REACH Project; and separate SF–424A forms for each CBO Recipient or nonprofit sub-recipient as appropriate;

5. A narrative budget justification for each object class category included under Section B, for each SF–424A;

6. Filled out, signed and dated Assurances—Non-Construction Programs (SF–424B), Attachment D;

7. Signed and dated Statement of Assurances and Demonstration (See Attachment M);

8. Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements: fill out, sign and date form found at Attachment G;

9. Disclosure of Lobbying Activities, SF-LLL: Fill out, sign and date form found at Attachment H, if appropriate (omit Items 11–15 on the SF LLL and

ignore references to continuation sheet SF-LLL-A)

10. A project narrative, limited to the number of pages specified below, which includes all of the required elements described in Part IV; [Specific information/data required under each component is described in Part IV Application Elements and Review Criteria.]

For Plans submitted under Priority Area 1.0, the total number of pages for Segment One of the Project Narrative(s) dealing with Element I (Project Theory, Design, and Plan) through Element VI, must not exceed 24 pages for each such narrative submitted for a specific local project; and Segment Two of the narrative dealing with Elements VII and VIII must not exceed 6 pages, excluding Appendices. The Project Narratives for Plans submitted under Priority Area 2.0 must not exceed 20 pages in length. Plans for supplemental EEE Services should not exceed 10 pages in length. (See Part V) Plans must be typewritten on one side of the paper only, in type no smaller than 12 c.p.i., 11 point, or equivalent, with margins no less than one inch. Pages should be numbered sequentially throughout the application package, excluding Appendices, beginning with the Abstract as Page #1.

11. Appendices, including Maintenance of Effort Certification (See Attachment J); signed Letter(s) of Agreement from designated CBO Recipients (or nonprofit sub-recipients, as appropriate) through which project will be implemented; résumés and/or position descriptions (see Program Element IV); Certification Regarding Lobbying, if appropriate; and any letters from cooperating or partnering agencies in target communities. Such letters are not part of the Narrative and should be included in the Appendices. These letters are therefore not counted against the page limitations of the Narrative.

REACH Plans must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8–½×11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound plans, or plans enclosed in binders is specifically discouraged.

B. Acknowledgement of Receipt

Acknowledgment of Receipt—All applicants will receive an acknowledgement with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their State Plan which can be attached to this acknowledgement. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the State Plan. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–9365.

Part IX—Post-Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the REACH Plans selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required grantee financial participation, if any.

B. Attendance at Workshops

Subject to the availability of resources, OCS is planning to sponsor a REACH Conference/Workshop during each of the three years following award of the REACH grants. REACH Project coordinators, Project Directors at the local CBO Recipient(s), and chief evaluators (in the case of REACH Initiatives funded under Priority Area 1.0) and Project Directors (in the case of REACH Initiatives funded under Priority Area 2.0) are encouraged to attend these conference/workshops held during the course of their Project Periods. These conference/workshops will include a national REACH Orientation workshop in Washington, D.C. scheduled during the first six months of the Project Period; and a workshop on evaluation, replication, and dissemination to be held in the last year of the project period. Project budgets should include funds for travel to and attendance at these conference/workshops. If for any reason these conference/workshops are not held, grantees will be free to reprogram such funds. (See Part IV, Element V, Budget Appropriateness)

C. Reporting Requirements

Grantees will be required to submit semi-annual program progress and financial reports (SF 269) throughout the project period, as well as a final program and financial report within 90 days of the termination of the project. For REACH Projects under Priority Area 1.0 an interim evaluation report, along with the written policies and procedures resulting from the process evaluation, will be due 30 days after the first eighteen months of the project period and a final evaluation report will be due 90 days after the expiration of the grant. These reports will be submitted in accordance with instructions to be provided by OCS, and will be the basis for the dissemination effort to be conducted by the Office of Community Services.

D. Audit Requirements

Grantees are subject to the audit requirements in Section 2605B(10) of the Low Income Home Energy Assistance Act of 1981, as amended, 42 USC 8621 *et seq.*

E. Prohibitions and Requirements with regard to Lobbying

Section 1352 of Pub. L. 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989 and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachments G and H for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment L indicates the regulations which apply to all applicants/grantees under the REACH Program.

Dated: April 22, 1997.

Donald Sykes,

Director, Office of Community Services.

BILLING CODE 4184–01–P

ATTACHMENT A

Size of family unit	Poverty guidelines
1997 Poverty Income Guidelines for the 48 Contiguous States and the District of Columbia	
1	$ 7,890
2	10,610
3	13,330
4	16,050
5	18,770
6	21,490
7	24,210

ATTACHMENT A—Continued

Size of family unit	Poverty guidelines
8	26,930

For family units with more than 8 members, add $2,270 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1997 Poverty Income Guidelines for Alaska	
1	9,870
2	13,270
3	16,670
4	20,070
5	23,470
6	26,870
7	30,270
8	33,670

ATTACHMENT A—Continued

Size of family unit	Poverty guidelines

For Family units with more than 8 members, add $3,400 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1997 Poverty Income Guidelines for Hawaii	
1	9,070
2	12,200
3	15,330
4	18,460
5	21,590
6	24,720
7	27,850
8	30,980

For family units with more than 8 members, add $3,130 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

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Attachment B

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ - ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify)_____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ - ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (REV 4-92)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF 424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including 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 the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State, if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities.)

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit allowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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Attachment C

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 4-92)
Prescribed by OMB Circular A-102

SECTION C – NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	$	$	$	$

SECTION F – OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 4-92) Page 2

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INSTRUCTIONS FOR THE SF 424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including 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 the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple function or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number of each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the total for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6J—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k, should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals in Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5. Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D

ASSURANCES—NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including 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 the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043). Washington, DC 20503

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award: and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. §§ 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard areas to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A–133, Audits of Institutions of Higher Learning and other Non-profit Institutions.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

Attachment E

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) an (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW, Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements

(Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State higway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios). 7. If the workplace identified to the agency changes during the performance of the grant,the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules;

Controlled substance means a controlled substance in Schedule I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substances;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code):

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment F

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered

transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension,and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department of agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debared, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility or Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment G

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–M

Attachment H

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For material change only** Year_____ Quarter_____ date of last report_____

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, *if known.* Congressional District, *if known*	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, *if known*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:*
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

Items 11 through 15 are deleted.

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4184–01–C

Attachment I

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The application/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

BILLING CODE 4184–01–M

Attachment J

Certification Regarding Maintenance of Effort

In accordance with the applicable program statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the Residential Energy Assistance Challenge Option (REACH) Program by _____, will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Date

Attachment K

Low-Income Home Energy Assistance Act of 1981

Omnibus Budget Reconciliation Act of 1981

[Public Law 97–35, August 13, 1981, as amended (95 Stat. 357)]

TITLE XXVI—LOW-INCOME HOME ENERGY ASSISTANCE

SHORT TITLE.

Sec. 2601.

This title may be cited as the ''Low-Income Home Energy Assistance Act of 1981''.

APPLICATIONS AND REQUIREMENTS.

Sec. 2605.

* * * * *

(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

* * * * *

(2) make payments under this title only with respect to—

(A) households in which 1 or more individuals are receiving—

(i) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act);

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses (2)(A) and (2)(B) of this subsection;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the ''Single Audit Act'');

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness;

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610;

* * * * *

(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.

(e) Each State shall, in carrying out the requirements of subsection (b)(10), obtain financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted in accordance with chapter 75 of title 31, United States Code.

(f)(1) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(h) The Comptroller General of the United States shall, from time to time (but not less frequently than every three years), evaluate the expenditures by States of grant under this title in order to assure that expenditures are consistent with the provisions of this title and to determine the effectiveness of the State in accomplishing the purposes of this title.

(i) A household which is described in subsection (b)(2)(A) solely by reason of clause (ii) thereof shall not be treated as a household described in subsection (b)(2) if the eligibility of the household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments under title XIX of the Social Security Act with respect to such individual;

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of the Social Security Act applies; or

(3) a child described in section 1614(f)(2) of the Social Security Act who is living together with a parent, or the spouse of a parent, of the child.

(j) In verifying income eligibility for purposes of subsection (b)(2)(B), the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under subtitle B of title VI of this Act (relating to community services block grant program), under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act, or under other income assistance or service programs (as determined by the State).

NONDISCRIMINATION PROVISIONS

Sec. 2606.

(a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 also shall apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 8625)

Attachment L

Residential Energy Assistance Challenge Option (REACH) Program

Applicable Regulations

The following DHHS regulations codified in Title 45 of the Code of Federal Regulations are applicable to the Residential Energy Assistance Challenge Option (REACH) Program:

Part 16—Department Grant Appeals Board.
Part 30—Claims Collection.
Part 75—Informal Grant Appeals Procedure.
Part 76—Debarment and Suspension from Eligibility for Financial Assistance. Subpart F. Drug-Free Workplace.
Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964.
Part 81—Practice and Procedure for hearings under Part 80 of this title.
Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving Federal financial assistance.
Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving Federal financial assistance.
Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance.
Part 93—New restrictions on lobbying.
Part 96—Block grants.

Attachment M

Residential Energy Assistance Challenge Option (REACH) Program

Statement of Assurances and Demonstration

In accordance with the applicable program statute and the FY 1997 REACH Program Announcement, the undersigned certifies that the REACH Plan/Application submitted herewith meets all of the legislative requirements listed in Part III Section A of the FY 1997 REACH Program Announcement.

Signature of Authorized Certifying Official

Title

Date

[FR Doc. 97–11515 Filed 5–2–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

Part D, Chapter DE, Office of External Affairs (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 60 FR 56605, November 9, 1995, and in pertinent part at 56 FR 29484, June 27, 1991) is amended to reflect the title change of the Office of AIDS and Special Health Issues. The title is being changed to more accurately reflect the expanding constituency base of the office. The Office of AIDS and Special Health Issues will be retitled as the Office of Special Health Issues. The title change does not affect the functions of the office.

1. Delete the *Office of AIDS and Special Health Issues* (DES) in its entirety and insert the following:

Office of Special Health Issues (DES). Serves as an information resource to

FDA and provides advice to the Commissioner, Deputy Commissioners, and other senior FDA staff on matters related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

Coordinates interactions between FDA and consumer and professional groups dealing with AIDS, cancer, Alzheimer's Disease, and other special health issues.

Serves as a liaison point to coordinate contacts between FDA and other Federal agencies to ensure effective coordination and communication on AIDS, cancer, Alzheimer's Disease, and other special health issues.

Provides internal coordination on FDA activities related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

Assists in the planning, administration, development, and evaluation of FDA policies related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

2. **Prior Delegations of Authority**. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: April 25, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–11593 Filed 5–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–816–N]

RIN 0938–AH14

Medicare Program; Update of the Reasonable Compensation Equivalent Limits for Services Furnished by Physicians

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

ACTION: Notice.

SUMMARY: This notice sets forth updated payment limits on the amount of allowable compensation for services furnished by physicians to providers that are not covered by the prospective payment system or per resident payments for graduate medical education. These services are paid by Medicare on a reasonable cost basis. The revised reasonable compensation equivalent limits are based on updated economic index data and replace the limits that were published in the **Federal Register** on February 20, 1985 (50 FR 7123).

EFFECTIVE DATE: These limits are effective for cost reporting periods beginning on or after May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Ward Pleines (410) 966–4528.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, payment for services furnished by a physician is made under either the Hospital Insurance Program (Part A) or the Supplementary Medical Insurance Program (Part B), depending on the type of services furnished. Physicians' charges for medical or surgical services to individual Medicare patients generally are covered under Part B on a fee-for-service basis, under the Medicare physician fee schedule, in accordance with section 1848 of the Social Security Act (the Act). On the other hand, the compensation that physicians receive from or through a provider for services that benefit patients generally (for example, administrative services, committee work, teaching, and supervision) can be covered under Part A or Part B, depending on the provider's setting.

Most hospitals are paid for inpatient hospital services under the prospective payment system. Before July 1, 1985, teaching hospitals were paid for graduate medical education (GME) costs on a reasonable cost basis. Section 9202 of the Consolidated Omnibus Budget Reconciliation Act (Public Law 99–272), enacted on April 7, 1986, added section (h) to section 1886 of the Act. That section changed the payment methodology for the direct costs of GME programs from a reasonable cost methodology to a methodology in which payment is fixed in advance based on the hospital's per resident amount. The change was effective for cost reporting periods beginning on or after July 1, 1985 (42 CFR 413.86).

The reasonable compensation equivalent (RCE) limits set forth in this notice do not apply to costs of physician compensation that are attributable to furnishing inpatient hospital services paid for under the hospital inpatient prospective payment system or that are attributable to GME costs. Further, compensation that a physician receives for activities that may not be paid for under either Part A or Part B are not considered in applying these limits. However, these limits will apply to the costs providers incur in compensating physicians for services to the provider in the following facilities:

- Hospitals and units of hospitals not subject to the prospective payment system, for both inpatient and outpatient services.
- Hospitals subject to the prospective payment system, but only for outpatient hospital services paid on a reasonable cost basis.
- Comprehensive outpatient rehabilitation facilities (CORFs).
- Skilled nursing facilities (SNFs).

As required by section 1887(a)(2)(B) of the Act, allowable compensation for services furnished by physicians to providers that are paid by Medicare on a reasonable cost basis is subject to RCE limits. Under these limits, payment is determined based on the lower of the actual cost of the services to the provider (that is, the compensation of the physician, whatever the form) or a reasonable compensation equivalent. For purposes of applying the RCE limits, physician compensation costs means monetary payments, fringe benefits, deferred compensation and any other items of value (excluding office space or billing and collection services), a provider or other organization furnishes a physician in return for the physician's services (42 CFR 405.481(a)).

If a physician receives any compensation from a provider for his or her physician services to the provider (that is, those services that benefit patients generally), payment to those affected providers for the costs of such compensation is subject to the RCE limits. The RCE limits are not applied to payment for services that are identifiable medical or surgical services to individual patients and paid for under the physician fee schedule, even if the physician agrees to accept compensation (for example, from a hospital) for those services. (However, payment to teaching hospitals that have elected to be paid for these services on a reasonable cost basis in accordance with section 1861(b)(7) of the Act is subject to the limits.) The limits apply equally to all physician services to providers that are payable on a reasonable cost basis under Medicare.

On March 2, 1983, we published in the **Federal Register** (48 FR 8902) the RCE limits (and the methodology used to calculate those limits) that were applicable to cost reporting periods beginning during calendar years 1982 and 1983. As part of that same publication, we issued regulations at § 405.482 that established a general authority to develop, publish and apply limits.

More specifically, § 405.482(f) requires that before the start of a period to which a set of limits will be applied, we will publish a notice in the **Federal**

Register that sets forth the limits and explains how they were calculated. If the limits are merely updated by applying the most recent economic index data without revising the methodology, then the revised limits will be published in a notice in the **Federal Register** without prior publication of a proposal or public comment period.

Thus, because we are calculating the 1997 limits using the same methodology that was used to calculate the limits published on March 2, 1983 (48 FR 8919–8923), and February 20, 1985 (50 FR 7123), we are now publishing these revised limits in final in this notice. The methodology for establishing reasonable compensation equivalent limits is based on an internal working paper (''A Methodology for Determination of Reasonable FTE Compensation for Hospital-Based Physicians'' by James R. Cantwell and William J. Sobaski (Working Paper No. OR–32, revised December 1982)) developed by HCFA's Office of Research and Demonstrations. Copies of this paper are available on request from: ORD Publication, Office of Research and Demonstrations, Health Care Financing Administration, Room C3–20–11, 7500 Security Boulevard, Baltimore, MD 21244, (410) 786–6588.

Our methodology for establishing reasonable levels of compensation includes five steps, as follows:

- We estimated the national average (mean) income for all physicians (Y in formula below) using 1979 physician net incomes from the American Medical Association (AMA) Periodic Survey of Physicians (PSP), published by the AMA in its *Profile of Medical Practices*, 1981.
- We then projected physicians' 1979 base net income levels to the appropriate future year to account for changes in net income levels occurring after the period for which we have data. To make this calculation, we needed to determine an appropriate inflation factor to project future year estimated net incomes on the basis of 1970 to 1980 data. We believe we can achieve the most accurate projection by using the historical relationship (1970 through 1980) between physician incomes and the Consumer Price Index (CPI), and projecting this using forecasts of the CPI for future years.
- Third, we determined the relationship between average net income for all physicians (estimated in the first step, above) and net income of certain categories of specialist physicians that are commonly compensated by providers for services furnished to Medicare beneficiaries. This resulted in separate specialty adjusters for nine physician specialties.
- Using the specialty-specific adjusters, we also adjusted for differences in costs between types of geographic locations.
- Finally, we calculated the average hours practiced per year by specialty and location, which we then related to a standard full-time equivalent (FTE) work year of 2080 hours. We used these ratios to weight the specialty-location adjusters from the previous step.

The updated RCE limits set forth in this notice were calculated using the forecasting equation that appears on page five of Working Paper No. OR–32, adjusted to reflect the rebasing of the CPI that occurred between 1967 and 1982–1984:

$yt=a_1D+a_2CPI_t$

a_1D represents special circumstances that might impact physician earnings other than the basic relationship with CPI

a_2CPI_t is the historic relationship of physician earnings to the CPI.

D=a dummy variable taking a value of 1 for years 1971 through 1973 and 0 otherwise

CPI=Consumer Price Index for all urban consumers in year 1 (base year).

For 1997, the estimating equation takes on the following values:

D=0

CPI_t=162.0*

*Calculated from the Congressional Budget forecasts of changes in CPI-U for 1996 and 1997 as presented in Table 1 of ''The Economic and Budget Outlook: An Update,'' August 1996, and adjusted by a multiplicative factor of 2.994225 to convert the current index value which uses 1982 through 1984 as 100, to one equivalent to the 1967-based index value that was used in previous equations.

Therefore, when $_t$=1995,

$Y_t=343.684\times1.620\times2.994225\times100$

Y_t=$166,707.

For 1997, $166,707 is the estimated net income for all physicians. After applying the specialty-locality adjusters, we are able to produce an array of estimated 1997 average annual FTE compensation levels for nine specialty categories by type of location. We are setting the updated RCE limits, adjusted by the proportion of an FTE year actually worked, at these annual incomes.

II. Application of RCE Limits

We will use the RCE limits to compute Medicare payment when the physician is compensated by a provider that is subject to the RCE limits in some or all of its areas. We will also use these limits when the physician is compensated by any other related organization for physician administrative, supervisory, and other provider services paid under Medicare. In applying the RCE limits, the intermediary will assign each compensated physician to the most appropriate specialty category. If no specialty category is appropriate (for example, in determining the reasonable cost for an emergency room physician), the intermediary will use the reasonable compensation equivalent level for the ''Total'' category, which is based on income data for all physicians. The intermediary will determine the appropriate geographic area classification given in Table II of section IV of this notice.

If the physician's contractual compensation covers all duties, activities, and services furnished to the provider and to its patients, and the physician is employed full-time, the appropriate specialty compensation limit will be used and adjusted by the physician's allocation agreement to arrive at the program's share of allowable costs as physician compensation costs. In the absence of an allocation agreement, we generally will assume that 100 percent of the compensation was related to services paid for under the physician fee schedule, and that there are no allowable costs for the physician's services to the provider.

If a physician's compensation from the provider represents payment only for services that benefit patients generally (that is, the physician bills fees for all services furnished to individual patients), then the appropriate specialty compensation limit will be used. If a physician is employed by a provider to furnish services of general benefit to patients on other than a full time basis, the reasonable compensation limit will be adjusted upward or downward to reflect the percentage of time his or her actual hours related to a full work year of 2,080 hours.

III. Exceptions to the RCE Limits

Some providers, particularly but not exclusively small or rural hospitals, may be unable to recruit or maintain an adequate number of physicians at a compensation level within the prescribed limits. In accordance with section 1887 (a)(2)(C) of the Act, if a provider is able to demonstrate to the intermediary its inability to recruit or maintain physicians at a compensation level allowable under the RCE limits (as documented, for example, by unsuccessful advertising through national medical or health care

publications), then the intermediary may grant an exception to the RCE limits established under these rules.

IV. Geographic Area Classifications for RCE Limits

We adjust the RCE limits to account for differences in salary levels by location as well as by specialty. In our methodology for establishing limits, and in the limits as set forth in Table I, we have classified geographic areas into three types: nonmetropolitan areas, metropolitan areas less than one million, and metropolitan areas greater than one million.

As we do for purposes of the hospital inpatient prospective payment system and the physician fee schedule, we use the most current Metropolitan Statistical Area (MSA) designations for purposes of establishing the RCE limits. In New England, we use New England County Metropolitan Areas (NECMAs) for this purpose.

Table II identifies by type of location the geographic areas affected. It enables providers, physicians, Medicare fiscal intermediaries, and other members of the public to determine which RCE limit level will apply in specific areas. The table lists all MSAs and their constituent counties, and identifies whether their population is less than or greater than one million. (MSAs with populations greater than one million are designated by asterisks.) All counties not listed in Table II, and all other affected U.S. possessions and territories not part of a State, are considered rural areas.

TABLE I.—ESTIMATES OF FTE ANNUAL AVERAGE NET COMPENSATION LEVELS FOR 1997*

Specialty	Nonmetropolitan areas	Metropolitan areas less than one million	Metropolitan areas greater than one million
Total	$138,400	$148,400	$153,400
GP/FP	123,400	118,400	120,000
Int. Med.	130,000	133,400	143,400
Surgery	158,400	176,700	180,000
Pediatrics	113,400	131,700	121,700
OB/GYN	173,400	168,400	170,000
Radiology	188,400	200,100	195,000
Psychiatry	120,000	123,400	133,400
Anesthesiology	145,000	173,400	173,400
Pathology	180,000	190,000	186,700

*All figures are rounded to the nearest $100. est. CPI 1997=162.0.

Table II.—Geographic Area Classification for RCE Limits

Abilene, TX
  Taylor, TX
Aguadilla, PR
  Aguada, PR
  Aguadilla, PR
  Moca, PR
Akron, OH
  Portage, OH
  Summit, OH
Albany, GA
  Dougherty, GA
  Lee, GA
Albany-Schenectady-Troy, NY
  Albany, NY
  Montgomery, NY
  Rensselaer, NY
  Saratoga, NY
  Schenectady, NY
  Schoharie, NY
Albuquerque, NM
  Bernalillo, NM
  Sandoval, NM
  Valencia, NM
Alexandria, LA
  Rapides, LA
Allentown-Bethlehem-Easton, PA
  Carbon, PA
  Lehigh, PA
  Northampton, PA
Altoona, PA
  Blair, PA
Amarillo, TX Potter, TX
  Randall, TX
Anchorage, AK
  Anchorage, AK
Ann Arbor, MI
  Lenawee, MI
  Livingston, MI
  Washtenaw, MI
Anniston, AL
  Calhoun, AL
Appleton-Oshkosh-Neenah, WI
  Calumet, WI
  Outagamie, WI
  Winnebago, WI
Arecibo, PR
  Arecibo, PR
  Camuy, PR
  Hatillo, PR
Asheville, NC
  Buncombe, NC
  Madison, NC
Athens, GA
  Clarke, GA
  Madison, GA
  Oconee, GA
*Atlanta, GA
  Barrow, GA
  Bartow, GA
  Carroll, GA
  Cherokee, GA
  Clayton, GA
  Cobb, GA
  Coweta, GA
  De Kalb, GA
  Douglas, GA
  Fayette, GA
  Forsyth, GA
  Fulton, GA
  Gwinnett, GA
  Henry, GA
  Newton, GA
  Paulding, GA
  Pickens, GA
  Rockdale, GA
  Spalding, GA
  Walton, GA
Atlantic City-Cape May, NJ
  Atlantic City, NJ
  Cape May, NJ
Augusta-Aiken, GA–SC
  Columbia, GA
  McDuffie, GA
  Richmond, GA
  Aiken, SC
  Edgefield, SC
Austin-San Marcos, TX
  Bastrop, TX
  Caldwell, TX
  Hays, TX
  Travis, TX
  Williamson, TX
Bakersfield, CA
  Kern, CA
*Baltimore, MD
  Anne Arundel, MD
  Baltimore, MD
  Baltimore City, MD
  Carroll, MD
  Harford, MD
  Howard, MD
  Queen Annes, MD
Bangor, ME
  Penobscot, ME
Barnstable-Yarmouth, MA

Barnstable, MA
Baton Rouge, LA
Ascension, LA
East Baton Rouge, LA
Livingston, LA
West Baton Rouge, LA
Beaumont-Port Arthur, TX
Hardin, TX
Jefferson, TX
Orange, TX
Bellingham, WA
Whatcom, WA
Benton Harbor, MI
Berrien, MI
*Bergen-Passaic, NJ
Bergen, NJ
Passaic, NJ
Billings, MT
Yellowstone, MT
Biloxi-Gulfport-Pascagoula, MS
Hancock, MS
Harrison, MS
Jackson, MS
Binghamton, NY
Broome, NY
Tioga, NY
Birmingham, AL
Blount, AL
Jefferson, AL
St. Clair, AL
Shelby, AL
Bismarck, ND
Burleigh, ND
Morton, ND
Bloomington, IN
Monroe, IN
Bloomington-Normal, IL
McLean, IL
Boise City, ID
Ada, ID
Canyon, ID
*Boston-Brockton-Nashua, MA–NH
Bristol, MA
Essex, MA
Middlesex, MA
Norfolk, MA
Plymouth, MA
Suffolk, MA
Worcester, MA
Hillsborough, NH
Merrimack, NH
Rockingham, NH
Strafford, NH
Boulder-Longmont, CO
Boulder, CO
Brazoria, TX
Brazoria, TX
Bremerton, WA
Kitsap, WA
Brownsville-Harlingen-San Benito, TX
Cameron, TX
Bryan-College Station, TX
Brazos, TX
*Buffalo-Niagara Falls, NY
Erie, NY
Niagara, NY
Burlington, VT
Chittenden, VT
Franklin, VT
Grand Isle, VT
Caguas, PR
Caguas, PR
Cayey, PR
Cidra, PR
Gurabo, PR
San Lorenzo, PR
Canton-Massillon, OH
Carroll, OH
Stark, OH
Casper, WY
Natrona, WY
Cedar Rapids, IA
Linn, IA
Champaign-Urbana, IL
Champaign, IL
Charleston-North Charleston, SC
Berkeley, SC
Charleston, SC
Dorchester, SC
Charleston, WV
Kanawha, WV
Putnam, WV
*Charlotte-Gastonia-Rock Hill, NC–SC
Cabarrus, NC
Gaston, NC
Lincoln, NC
Mecklenburg, NC
Rowan, NC
Union, NC
York, SC
Charlottesville, VA
Albemarle, VA
Charlottesville City, VA
Fluvanna, VA
Greene, VA
Chattanooga, TN–GA
Catoosa, GA
Dade, GA
Walker, GA
Hamilton, TN
Marion, TN
Cheyenne, WY
Laramie, WY
*Chicago, IL
Cook, IL
De Kalb, IL
Du Page, IL
Grundy, IL
Kane, IL
Kendall, IL
Lake, IL
McHenry, IL
Will, IL
Chico-Paradise, CA
Butte, CA
*Cincinnati, OH–KY–IN
Dearborn, IN
Ohio, IN
Boone, KY
Campbell, KY
Gallatin, KY
Grant, KY
Kenton, KY
Pendleton, KY
Brown, OH
Clermont, OH
Hamilton, OH
Warren, OH
Clarksville-Hopkinsville, TN–KY
Christian, KY
Montgomery, TN
*Cleveland-Lorain-Elyria, OH
Ashtabula, OH
Cuyahoga, OH
Geauga, OH
Lake, OH
Lorain, OH
Medina, OH
Colorado Springs, CO
El Paso, CO
Columbia, MO
Boone, MO
Columbia, SC
Lexington, SC
Richland, SC
Columbus, GA–AL
Russell, AL
Chattanoochee, GA
Harris, GA
Muscogee, GA
*Columbus, OH
Delaware, OH
Fairfield, OH
Franklin, OH
Licking, OH
Madison, OH
Pickaway, OH
Corpus Christi, TX
Nueces, TX
San Patricio, TX
Cumberland, MD–WV
Allegany, MD
Mineral, WV
*Dallas, TX
Collin, TX
Dallas, TX
Denton, TX
Ellis, TX
Henderson, TX
Hunt, TX
Kaufman, TX
Rockwall, TX
Danville, VA
Danville City, VA
Pittsylvania, VA
Davenport-Rock Island-Moline, IA–IL
Scott, IA
Henry, IL
Rock Island, IL
Dayton-Springfield, OH
Clark, OH
Greene, OH
Miami, OH
Montgomery, OH
Daytona Beach, FL
Flagler, FL
Volusia, FL
Decatur, AL
Lawrence, AL
Morgan, AL
Decatur, IL
Macon, IL
*Denver, CO
Adams, CO
Arapahoe, CO
Denver, CO
Douglas, CO

Jefferson, CO
Des Moines, IA
Dallas, IA
Polk, IA
Warren, IA
*Detroit, MI
Lapeer, MI
Macomb, MI
Monroe, MI
Oakland, MI
St. Clair, MI
Wayne, MI
Dothan, AL
Dale, AL
Houston, AL
Dover, DE
Kent, DE
Dubuque, IA
Dubuque, IA
Duluth-Superior, MN–WI
St. Louis, MN
Douglas, WI
Dutchess County, NY
Dutchess, NY
Eau Claire, WI
Chippewa, WI
Eau Claire, WI
El Paso, TX
El Paso, TX
Elkhart-Goshen, IN
Elkhart, IN
Elmira, NY
Chemung, NY
Enid, OK
Garfield, OK
Erie, PA
Erie, PA
Eugene-Springfield, OR
Lane, OR
Evansville-Henderson, IN–KY
Posey, IN
Vanderburgh, IN
Warrick, IN
Henderson, KY
Fargo-Moorhead, ND–MN
Clay, MN
Cass, ND
Fayetteville, NC
Cumberland, NC
Fayetteville-Springdale-Rogers, AR
Benton, AR
Washington, AR
Flint, MI
Genesee, MI
Florence, AL
Colbert, AL
Lauderdale, AL
Florence, SC
Florence, SC
Fort Collins-Loveland, CO
Larimer, CO
*Ft. Lauderdale, FL
Broward, FL
Fort Myers-Cape Coral, FL
Lee, FL
Fort Pierce-Port St. Lucie, FL
Martin, FL
St. Lucie, FL
Fort Smith, AR-OK
Crawford, AR
Sebastian, AR
Sequoyah, OK
Fort Walton Beach, FL
Okaloosa, FL
Fort Wayne, IN
Adams, IN
Allen, IN
DeKalb, IN
Huntington, IN
Wells, IN
Whitley, IN
*Forth Worth-Arlington, TX
Hood, TX
Johnson, TX
Parker, TX
Tarrant, TX
Fresno, CA
Fresno, CA
Madera, CA
Gadsden, AL
Etowah, AL
Gainesville, FL
Alachua, FL
Galveston-Texas City, TX
Galveston, TX
Gary, IN
Lake, IN
Porter, IN
Glens Falls, NY
Warren, NY
Washington, NY
Goldsboro, NC
Wayne, NC
Grand Forks, ND-MN
Polk, MN
Grand Forks, ND
Grand Rapids-Muskegon-Holland, MI
Allegan, MI
Kent, MI
Muskegon, MI
Ottawa, MI
Great Falls, MT
Cascade, MT
Greeley, CO
Weld, CO
Green Bay, WI
Brown, WI
*Greensboro-Winston-Salem-High Point, NC
Alamance, NC
Davidson, NC
Davie, NC
Forsyth, NC
Guilford, NC
Randolph, NC
Stokes, NC
Yadkin, NC
Greenville, NC
Pitt, NC
Greenville-Spartanburg-Anderson, SC
Anderson, SC
Cherokee, SC
Greenville, SC
Pickens, SC
Spartanburg, SC
Hagerstown, MD
Washington, MD
Hamilton-Middletown, OH
Butler, OH
Harrisburg-Lebanon-Carlisle, PA
Cumberland, PA
Dauphin, PA
Lebanon, PA
Perry, PA
*Hartford, CT
Hartford, CT
Litchfield, CT
Middlesex, CT
Tolland, CT
Hickory-Morganton, NC
Alexander, NC
Burke, NC
Caldwell, NC
Catawba, NC
Honolulu, HI
Honolulu, HI
Houma, LA
Lafourche, LA
Terrebonne, LA
*Houston, TX
Chambers, TX
Fort Bend, TX
Harris, TX
Liberty, TX
Montgomery, TX
Waller, TX
Huntington-Ashland, WV-KY-OH
Boyd, KY
Carter, KY
Greenup, KY
Lawrence, OH
Cabell, WV
Wayne, WV
Huntsville, AL
Limestone, AL
Madison, AL
*Indianapolis, IN
Boone, IN
Hamilton, IN
Hancock, IN
Hendricks, IN
Johnson, IN
Madison, IN
Marion, IN
Morgan, IN
Shelby, IN
Iowa City, IA
Johnson, IA
Jackson, MI
Jackson, MI
Jackson, MS
Hinds, MS
Madison, MS
Rankin, MS
Jackson, TN
Madison, TN
Jacksonville, FL
Clay, FL
Duval, FL
Nassau, FL
St. Johns, FL
Jacksonville, NC
Onslow, NC
Jamestown, NY
Chautaqua, NY
Janesville-Beloit, WI
Rock, WI

Jersey City, NJ
Hudson, NJ
Johnson City-Kingsport-Bristol, TN-VA
Carter, TN
Hawkins, TN
Sullivan, TN
Unicoi, TN
Washington, TN
Bristol City, VA
Scott, VA
Washington, VA
Johnstown, PA
Cambria, PA
Somerset, PA
Joplin, MO
Jasper, MO
Newton, MO
Kalamazoo-Battlecreek, MI
Calhoun, MI
Kalamazoo, MI
Van Buren, MI
Kankakee, IL
Kankakee, IL
*Kansas City, KS-MO
Johnson, KS
Leavenworth, KS
Miami, KS
Wyandotte, KS
Cass, MO
Clay, MO
Clinton, MO
Jackson, MO
Lafayette, MO
Platte, MO
Ray, MO
Kenosha, WI
Kenosha, WI
Killeen-Temple, TX
Bell, TX
Coryell, TX
Knoxville, TN
Anderson, TN
Blount, TN
Knox, TN
Loudon, TN
Sevier, TN
Union, TN
Kokomo, IN
Howard, IN
Tipton, IN
La Crosse, WI-MN
Houston, MN
La Crosse, WI
Lafayette, LA
Acadia, LA
Lafayette, LA
St. Landry, LA
St. Martin, LA
Lafayette, IN
Clinton, IN
Tippecanoe, IN
Lake Charles, LA
Calcasieu, LA
Lakeland-Winter Haven, FL
Polk, FL
Lancaster, PA
Lancaster, PA
Lansing-East Lansing, MI
Clinton, MI
Eaton, MI
Ingham, MI
Laredo, TX
Webb, TX
Las Cruces, NM
Dona Ana, NM
Las Vegas, NV-AZ
Mohave, AZ
Clark, NV
Nye, NV
Lawrence, KS
Douglas, KS
Lawton, OK
Comanche, OK
Lewiston-Auburn, ME
Androscoggin, ME
Lexington, KY
Bourbon, KY
Clark, KY
Fayette, KY
Jessamine, KY
Madison, KY
Scott, KY
Woodford, KY
Lima, OH
Allen, OH
Auglaize, OH
Lincoln, NE
Lancaster, NE
Little Rock-North Little Rock, AR
Faulkner, AR
Lonoke, AR
Pulaski, AR
Saline, AR
Longview-Marshall, TX
Gregg, TX
Harrison, TX
Upshur, TX *Los Angeles-Long Beach, CA
Los Angeles, CA
Louisville, KY–IN
Clark, IN
Floyd, IN
Harrison, IN
Scott, IN
Bullitt, KY
Jefferson, KY
Oldham, KY
Lubbock, TX
Lubbock, TX
Lynchburg, VA
Amherst, VA
Bedford City, VA
Bedford, VA
Campbell, VA
Lynchburg City, VA
Macon, GA
Bibb, GA
Houston, GA
Jones, GA
Peach, GA
Twiggs, GA
Madison, WI
Dane, WI
Mansfield, OH
Crawford, OH
Richland, OH
Mayaguez, PR
Anasco, PR
Cabo Rojo, PR
Hormigueros, PR
Mayaguez, PR
Sabana Grande, PR
San German, PR
McAllen-Edinburg-Mission, TX
Hidalgo, TX
Medford-Ashland, OR Jackson, OR
Melbourne-Titusville-Palm Bay Fl
Brevard, Fl
*Memphis, TN–AR–MS
Crittenden, AR
De Soto, MS
Fayette, TN
Shelby, TN
Tipton, TN
Merced, CA
Merced, CA
*Miami, FL
Dade, FL
*Middlesex-Somerset-Hunterdon, NJ
Hunterdon, NJ
Middlesex, NJ
Somerset, NJ
*Milwaukee, WI
Milwaukee, WI
Ozaukee, WI
Washington, WI
Waukesha, WI
*Minneapolis-St Paul, MN-WI
Anoka, MN
Carver, MN
Chisago, MN
Dakota, MN
Hennepin, MN
Isanti, MN
Ramsey, MN
Scott, MN
Sherburne, MN
Washington, MN
Wright, MN
Pierce, WI
St. Croix, WI
Mobile, AL
Baldwin, AL
Mobile, AL
Modesto, CA
Stanislaus, CA
Monmouth-Ocean, NJ
Monmouth, NJ
Ocean, NJ
Monroe, LA
Ouachita, LA
Montgomery, AL
Autauga, AL
Elmore, AL
Montgomery, AL
Muncie, IN
Delaware, IN
Myrtle Beach, SC
Horry, SC
Naples, FL
Collier, FL
*Nashville, TN
Cheatham, TN
Davidson, TN
Dickson, TN
Robertson, TN
Rutherford TN

Sumner, TN
Williamson, TN
Wilson, TN
*Nassau-Suffolk, NY
Nassau, NY
Suffolk, NY
*New Haven-Bridgeport-Stamford-Danbury-Waterbury, CT
Fairfield, CT
New Haven, CT
New London-Norwich, CT
New London, CT
*New Orleans, LA
Jefferson, LA
Orleans, LA
Plaquemines, LA
St. Bernard, LA
St. Charles, LA
St. James, LA
St. John The Baptist, LA
St. Tammany, LA
*New York, NY
Bronx, NY
Kings, NY
New York, NY
Putnam, NY
Queens, NY
Richmond, NY
Rockland, NY
Westchester, NY
*Newark, NJ
Essex, NJ
Morris, NJ
Sussex, NJ
Union, NJ
Warren, NJ
Newburgh, NY-PA
Orange, NY
Pike, PA
*Norfolk-Virginia Beach-Newport News, VA-NC
Currituck, NC
Chesapeake City, VA
Gloucester, VA
Hampton City, VA
Isle of Wight, VA
James City, VA
Mathews, VA
Newport News City, VA
Norfolk City, VA
Poquoson City, VA
Portsmouth City, VA
Suffolk City, VA
Virginia Beach City VA
Williamsburg City, VA
York, VA
*Oakland, CA
Alameda, CA
Contra Costa, CA
Ocala, FL
Marion, FL
Odessa-Midland, TX
Ector, TX
Midland, TX
Oklahoma City, OK
Canadian, OK
Cleveland, OK
Logan, OK
McClain, OK
Oklahoma, OK
Pottawatomie, OK
Olympia, WA
Thurston, WA
Omaha, NE-IA
Pottawattamie, IA
Cass, NE
Douglas, NE
Sarpy, NE
Washington, NE
*Orange County, CA Orange, CA
*Orlando, FL
Lake, FL
Orange, FL
Osceola, FL
Seminole, FL
Owensboro, KY
Daviess, KY
Panama City, FL Bay, FL
Parkersburg-Marietta, WV-OH
Washington, OH
Wood, WV
Pensacola, FL
Escambia, FL
Santa Rosa, FL
Peoria-Pekin, IL
Peoria, IL
Tazewell, IL
Woodford, IL
*Philadelphia, PA-NJ
Burlington, NJ
Camden, NJ
Gloucester, NJ
Salem, NJ
Bucks, PA
Chester, PA
Delaware, PA
Montgomery, PA
Philadelphia, PA
*Phoenix-Mesa, AZ
Maricopa, AZ
Pinal, AZ
Pine Bluff, AR
Jefferson, AR
*Pittsburgh, PA
Allegheny, PA
Beaver, PA
Butler, PA
Fayette, PA
Washington, PA
Westmoreland, PA
Pittsfield, MA
Berkshire, MA
Ponce, PR
Guayanilla, PR
Juana Diaz, PR
Penuelas, PR
Ponce, PR
Villalba, PR
Yauco, PR
Portland, ME
Cumberland, ME
Sagadahoc, ME
York, ME
*Portland-Vancouver, OR-WA
Clackamas, OR
Columbia, OR
Multnomah, OR
Washington, OR
Yamhill, OR
Clark, WA
*Providence-Warwick, RI
Bristol, RI
Kent, RI
Newport, RI
Providence, RI
Washington, RI
Provo-Orem, UT
Utah, UT
Pueblo, CO
Pueblo, CO
Punta Gorda, FL
Charlotte, FL
Racine, WI
Racine, WI
Raleigh-Durham-Chapel Hill, NC
Chatham, NC
Durham, NC
Franklin, NC
Johnston, NC
Orange, NC
Wake, NC
Rapid City, SD
Pennington, SD
Reading, PA
Berks, PA
Redding, CA
Shasta, CA
Reno, NV
Washoe, NV
Richland-Kennewick-Pasco, WA
Benton, WA
Franklin, WA
Richmond-Petersburg, VA
Charles City County, VA
Chesterfield, VA
Colonial Heights City, VA
Dinwiddie, VA
Goochland, VA
Hanover, VA
Henrico, VA
Hopewell City, VA
New Kent, VA
Petersburg City, VA
Powhatan, VA
Prince George, VA
Richmond City, VA
*Riverside-San Bernardino, CA
Riverside, CA
San Bernardino, CA
Roanoke, VA
Botetourt, VA
Roanoke, VA
Roanoke City, VA
Salem City, VA
Rochester, MN
Olmsted, MN
*Rochester, NY
Genesee, NY
Livingston, NY
Monroe, NY
Ontario, NY
Orleans, NY
Wayne, NY
Rockford, IL
Boone, IL
Ogle, IL
Winnebago, IL

Rocky Mount, NC
Edgecombe, NC
Nash, NC
*Sacramento, CA
El Dorado, CA
Placer, CA
Sacramento, CA
Saginaw-Bay City-Midland, MI
Bay, MI
Midland, MI
Saginaw, MI
St. Cloud, MN
Benton, MN
Stearns, MN
St. Joseph, MO
Andrews, MO
Buchanan, MO
*St. Louis, MO–IL
Clinton, IL
Jersey, IL
Madison, IL
Monroe, IL
St. Clair, IL
Franklin, MO
Jefferson, MO
Lincoln, MO
St. Charles, MO
St. Louis, MO
St. Louis City, MO
Warren, MO
Salem, OR
Marion, OR
Polk, OR
Salinas, CA
Monterey, CA
*Salt Lake City-Ogden, UT
Davis, UT
Salt Lake, UT
Weber, UT
San Angelo, TX
Tom Green, TX
*San Antonio, TX
Bexar, TX
Comal, TX
Guadalupe, TX
Wilson, TX
*San Diego, CA
San Diego, CA
*San Francisco, CA
Marin, CA
San Francisco, CA
San Mateo, CA
*San Jose, CA
Santa Clara, CA
*San Juan-Bayamon, PR
Aguas Buenas, PR
Barceloneta, PR
Bayamon, PR
Canovanas, PR
Carolina, PR
Catano, PR
Ceiba, PR
Comerio, PR
Corozal, PR
Dorado, PR
Fajardo, PR
Florida, PR
Guaynabo, PR
Humacao, PR
Juncos, PR
Los Piedras, PR
Loiza, PR
Luguillo, PR
Manati, PR
Naranjito, PR
Rio Grande, PR
San Juan, PR
Toa Alta, PR
Toa Baja, PR
Trujillo Alto, PR
Vega Alta, PR
Vega Baja, PR
Yabucoa, PR
San Luis Obispo-Atascadero-Paso Robles, CA
San Luis Obispo, CA
Santa Barbara-Santa Maria-Lompoc, CA
Santa Barbara, CA
Santa Cruz-Watsonville, CA
Santa Cruz, CA
Santa Fe, NM
Los Alamos, NM
Santa Fe, NM
Santa Rosa, CA
Sonoma, CA
Sarasota-Bradenton, FL
Manatee, FL
Sarasota, FL
Savannah, GA
Bryan, GA
Chatham, GA
Effingham, GA
Scranton—Wilkes-Barre—Hazleton, PA
Columbia, PA
Lackawanna, PA
Luzerne, PA
Wyoming, PA
*Seattle-Bellevue-Everett, WA
Island, WA
King, WA
Snohomish, WA
Sharon, PA
Mercer, PA
Sheboygan, WI
Sheboygan, WI
Sherman-Denison, TX
Grayson, TX
Shreveport-Bossier City, LA
Bossier, LA
Caddo, LA
Webster, LA
Sioux City, IA–NE
Woodbury, IA
Dakota, NE
Sioux Falls, SD
Lincoln, SD
Minnehaha, SD
South Bend, IN
St. Joseph, IN
Spokane, WA
Spokane, WA
Springfield, IL
Menard, IL
Sangamon, IL
Springfield, MO
Christian, MO
Greene, MO
Webster, MO
Springfield, MA
Hampden, MA
Hampshire, MA
State College, PA
Centre, PA
Steubenville-Weirton, OH–WV
Jefferson, OH
Brooke, WV
Hancock, WV
Stockton-Lodi, CA
San Joaquin, CA
Sumter, SC
Sumter, SC
Syracuse, NY
Cayuga, NY
Madison, NY
Onondaga, NY
Oswego, NY
Tacoma, WA
Pierce, WA
Tallahassee, FL
Gadsden, FL
Leon, FL
*Tampa-St. Petersburg-Clearwater, FL
Hernando, FL
Hillsborough, FL
Pasco, FL
Pinellas, FL
Terre Haute, IN
Clay, IN
Vermillion, IN
Vigo, IN
Texarkana, AR-Texarkana, TX
Miller, AR
Bowie, TX
Toledo, OH
Fulton, OH
Lucas, OH
Wood, OH
Topeka, KS
Shawnee, KS
Trenton, NJ
Mercer, NJ
Tucson, AZ
Pima, AZ
Tulsa, OK
Creek, OK
Osage, OK
Rogers, OK
Tulsa, OK
Wagoner, OK
Tuscaloosa, AL
Tuscaloosa, AL
Tyler, TX
Smith, TX
Utica-Rome, NY
Herkimer, NY
Oneida, NY
Vallejo-Fairfield-Napa, CA
Napa, CA
Solano, CA
Ventura, CA
Ventura, CA
Victoria, TX
Victoria, TX
Vineland-Millville-Bridgeton, NJ
Cumberland, NJ
Visalia-Tulare-Porterville, CA
Tulare, CA

Waco, TX
McLennan, TX
*Washington, DC–MD–VA–WV
District of Columbia, DC
Calvert, MD
Charles, MD
Frederick, MD
Montgomery, MD
Prince Georges, MD
Alexandria City, VA
Arlington, VA
Clarke, VA
Culpepper, VA
Fairfax, VA
Fairfax City, VA
Falls Church City, VA
Fauquier, VA
Fredericksburg City, VA
King George, VA
Loudoun, VA
Manassas City, VA
Manassas Park City, VA
Prince William, VA
Spotsylvania, VA
Stafford, VA
Warren, VA
Berkeley, WV
Jefferson, WV
Waterloo-Cedar Falls, IA
Black Hawk, IA
Wausau, WI
Marathon, WI
West Palm Beach-Boca Raton, FL
Palm Beach, FL
Wheeling, OH–WV
Belmont, OH
Marshall, WV
Ohio, WV
Wichita, KS
Butler, KS
Harvey, KS
Sedgwick, KS
Wichita Falls, TX
Archer, TX
Wichita, TX
Williamsport, PA
Lycoming, PA
Wilmington-Newark, DE–MD
New Castle, DE
Cecil, MD
Wilmington, NC
New Hanover, NC
Brunswick, NC
Yakima, WA
Yakima, WA
Yolo, CA
Yolo, CA
York, PA
York, PA
Youngstown-Warren, OH
Columbiana, OH
Mahoning, OH
Trumbull, OH
Yuba City, CA
Sutter, CA
Yuba, CA
Yuma, AZ
Yuma, AZ

*Population greater than one million.

V. Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians are considered to be small entities. Individuals and States are not included in the definition of a small entity.

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

As noted above, we are updating the RCE limits by applying the most recent economic index data without revising the methodology. This notice announces an update of the limits, as required by regulations at 42 CFR 405.482(f)(3), and does not alter any regulations or policy. As discussed above, the RCE limits apply only to providers paid on a reasonable cost basis, and to compensation a physician receives from a provider for services that benefit patients generally or otherwise but that are not eligible for payment under the physician fee schedule. Also, the limits do not apply to costs of physician compensation that are attributable to furnishing inpatient hospital services paid for under the hospital prospective payment system or that are attributable to GME costs. As a result of the application of the RCE limits, we estimate the costs associated with the updated limits for the next 5 fiscal years as follows:

UPDATE OF RCE LIMITS*

Fiscal year	Costs
1997	$ 30
1998	40
1999	50
2000	50
2001	50

*All figures are rounded to the nearest $5 million.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

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

VI. Waiver of Prior Notice and 30-Day Delay in the Effective Date

We are publishing this notice as a final notice without prior publication of a proposed notice for public comment. For the reasons discussed below, we believe that publishing a proposed notice is unnecessary.

Section 405.482(f) permits us to publish revised RCE limits in final without prior publication of a proposal for public comment if the limits are merely updated by applying the most recent economic index data without revising the methodology. This notice does not implement any change in the methodology for determining the RCE limits.

Therefore, we believe that publication of a proposal is unnecessary, and we find good cause to waive the procedure.

We also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date. The RCE limits set forth in this notice are effective for cost reporting periods beginning on or after the date of publication of the notice in the **Federal Register**. As a practical matter, if we allowed a 30-day delay in the effective date of this notice, those providers with cost reporting periods beginning during those thirty days, and the physicians who are based in these providers, would be unable to take timely advantage of the increase in limits contained in this notice. This eventually would be contrary to the public interest. Therefore, we find good cause to waive the usual 30-day delay in the effective date.

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

Dated: December 20, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: January 16, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–11521 Filed 5–2–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Proposed Collection; Comment Request; National Donor Research and Education Study-II

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

PROPOSED COLLECTION: *Title:* National Donor Research and Education Study-II. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This study is the second large anonymous mail survey to be sent to a random sample of blood donors at five blood centers participating in the Retrovirus Epidemiology Donor Study (REDS). In addition to the REDS blood centers, this survey will also be sent to a sample of donors in selected non-REDS regions that utilize a variety of donor incentives. Study results will provide data for monitoring the safety of the U.S. blood supply, and will facilitate the development, evaluation and refinement of educational, recruitment and qualification strategies for U.S. blood donors. The proposed new study will update and extend the unique findings obtained in the first blood donor survey so as to minimize the likelihood that donors with risk factors for transfusion-transmitted diseases will enter the blood donor pool. There is a strong likelihood that, like the first survey effort, the resulting findings will be directly applied to blood banking operational practice. the new survey is specifically designed to obtain data on the prevalence and impact of donor incentives on donor retention and blood safety. The FDA has identified this as a priority area for investigation. Other specific objectives of this survey are to: (1) Evaluate donor understanding and acceptance, and the safety impact of newly-changed laboratory and donor screening procedures that have been implemented since the previous donor survey study (e.g., removal of the confidential unit exclusion ''CUE'' process at two REDS sites; additional questions about Creutzfeldt-Jakob and parasitic diseases; and addition of HIV p24 antigen testing); (2) Estimate the efficacy, safety impact and donor acceptance of new donor screening procedures that are anticipated to occur within the next 12-24 months (e.g., improved CUE procedures, implementation of computer-assisted donor screening); (3) Provide ''pre-'' (baseline) and ''post-'' (evaluation) measures for new donor qualification procedures expected to occur operationally at blood centers within the time period of study including: deferral for intranasal cocaine use in the past year; modification of the time period for sexual risk deferrals from ''since 1977'' to within the past 12 (or 24) months; clarification of wording regarding sexual contact with ''at risk'' individuals; and addition of questions about donating primarily for the purpose of receiving the test results for the AIDS virus; (4) Assess changes in the prevalence and characteristics of donors who report donating for therapeutic reasons (e.g., those with iron storage disease), and donors who report donating primarily to receive test results for the AIDS virus as a result of the March 1996 implementation of HIV p24 antigen testing; (5) Determine the extent to which active donors with reactive tests for anti- HBc and syphilis have increased levels of behavioral risks that should have resulted in deferral; (6) Measure the extent to which seropositivity for current syphilis screening tests predicts a recent history of diagnosed syphilis; and (7) Measure blood donor knowledge of infectious disease risks and the behavioral factors that should defer them from donating, to identify weaknesses in the current donor educational process. *Frequency of Response:* One-time data collection. *Affected Public:* Individuals.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per responses	Estimated total annual burden hours requested
Blood Donors	77,000	1	.3333	25,664

The annualized cost to respondents is estimated at: $256,641 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have 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 to be collected; and (4) Ways to minimize the burden 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.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. George J. Nemo, Group Leader, Transfusion Medicine, Scientific Research Group, Division of Blood Diseases and Resources, NHLBI, NIH, Two Rockledge Centre, Suite 10042, 6701 Rockledge Drive, MSC 7950, Bethesda, MD 20892–7950, or call non-toll free number (301) 435–0075 or e-mail your request, including your address to: nemog@gwgate.nhlbi.nih.gov.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before July 7, 1997.

Dated: April 25, 1997.

Sheila E. Merritt,

Executive Officer, NHLBI.

[FR Doc. 97–11649 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Proposed Data Collection Available for Public Comment and Recommendation; Pilot Study for the Johnston County ADHD Study: Environmental, Reproductive and Familial Risk Factors for Attention Deficit/Hyperactivity Disorder

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Institute of Environmental Health Sciences (NIEHS) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the NIEHS Project Clearance Liaison, at (919) 541–5047.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This notice regards a request for emergency OMB processing for a pilot study for a proposed project: Pilot Study for the Johnston County ADHD Study: Environmental, Reproductive and Familial Risk Factors for Attention Deficit/Hyperactivity Disorder in accordance with 5 CFR 1320.13 of the OMB guidelines. We are requesting for OMB clearance by May 29, 1997. Use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information for this pilot study. We intend to submit a regular OMB request for the full study in October 1997, in anticipation for beginning data collection for the study in February 1998.

New—Proposed Project: Pilot Study for the Johnston County ADHD Study: Environmental, Reproductive and Familial Risk Factors for Attention Deficit/Hyperactivity Disorder. For the pretest we plan to collect data from 18 classes. Teachers will use a brief symptom checklist to screen all the children in their class; 360 children will be screened in all. We will conduct telephone interviews with the mothers of children identified as possible cases and a 15% random sample of control children. If children meet DSM–IV criteria for ADHD after both screens they will be considered cases. For the pretest, we expect there will be 15 cases and 35 controls. The primary hypotheses of the study are that preterm delivery and other reproductive risk factors increase risk of ADHD and childhood lead exposure increases risk of ADHD. The data collected in the pretest will allow us to evaluate subject recruitment procedures, evaluate data collection procedures, and provide initial estimates of the prevalence of ADHD in this population which will help us estimate the statistical power of the study more accurately and make adaptations to our design if necessary.

Type of respondents	Estimated Number of respondents	Estimated Number of responses	Average Number of responses per respondent	Average burden hours per response	Estimated total burden hours
Teachers	18	522	29	.18	94
Mothers/guardians	63	189	3	.53	100

Total Yearly Burden: 194 hours.

Direct Comments to OMB: Please send written comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time, as soon as possible to the Office of Management, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH.

Dated: April 22, 1997.

Charles Leasure,

Associate Director for Management, NIEHS.

[FR Doc. 97–11650 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the following Special Programs Emphasis Panel of the Office of the Director, National Institutes of Health.

The meeting will be open to the public to provide a forum in which individuals from Government, industry, and voluntary health organizations work together to prepare a report on steps to coordinate rare disease research programs within existing research funds and resources. This report will be submitted to the Senate Appropriations Committee.

A portion of the meeting on May 28 will be available for public comment. Anyone who would like to provide comments at this meeting should contact the Executive Secretary (Contact Person) of the Advisory Group on the Coordination of Rare Diseases Research.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Panel: Advisory Group on the Coordination of Rare Diseases Research

Dates of Meeting: May 27–28, 1997

Time of Meeting: May 27—1:00 p.m. May 28—8:30 a.m.

Place of Meeting: May 27—Wilson Hall, Shannon Building, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892; May 28—Hyatt Regency Hotel, 1 Bethesda Metro Center, Bethesda, Maryland 20814.

Agenda: To identify the following:

- Existing approaches, barriers, and novel methods of research planning, coordination, and collaboration of research initiatives;
- Strategies that will remove existing barriers to the coordination of research;
- Methods that have been particularly effective in bridging the gap between basic and applied or clinical research;
- The extent of co-funding or sharing of research resources in the public and private sectors (What mechanisms could be utilized to foster more co-funded research projects?); and
- Innovative mechanisms to stimulate the coordination of research on rare diseases.

• *Contact Person:* Dr. Stephen C. Groft (Executive Secretary), Director, Office of Rare Disease Research, National Institutes of Health, Federal Building, Room 618, 7550 Wisconsin Avenue, Bethesda, MD 20892–9120, Telephone: (301) 402–4336, Fax: (301) 402–0420.

Dated: April 28, 1997.

LaVerne Y. Springfield,

Committee Management Officer, NIH.

[FR Doc. 97–11647 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following National Heart, Lung, and Blood Institute Special Emphasis Panel.

The meeting will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Panel: National Heart, Lung, and Blood Institute Special Emphasis Panel on Airway Biology and Disease.

Date: June 4–5, 1997.

Time: 7:00 p.m.

Place: Holiday Inn Chevy Chase, Mayfair Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Agenda: To review concepts in the Airway Biology Diseases Program including asthma, cystic fibrosis, chronic obstructive lung disease, neurobiology and sleep, and their related education and training for future research directions and priorities.

Contact Person: James P. Kiley, Ph.D., NHLBI/ABDP, Two Rockledge Center, 6701 Rockledge Drive, Rm. 10018, MSC 7952, Bethesda, Maryland 20892, (301) 435–0202.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 29, 1997.

LaVern Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11643 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Initial Review Group (IRG) meeting:

Name of IRG: Heart, Lung, and Blood Program Project Review Committee.

Date: June 19–20, 1997.

Time: 8:00 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Contact Person: Dr. Jeffrey H. Hurst, Scientific Review Administrator, NHLBI/Review Branch, 6701 Rockledge Drive, Rm. 7208, Bethesda, Maryland 20892, (301) 435–0303.

Purpose/Agenda: To review and evaluate program project grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11645 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: June 2, 1997.

Time: 8:30 a.m.

Place: River Inn, 924 25th Street NW, Washington, DC 20037.

Contact Person: Salvador H. Cuellar, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Initial Review Group Services Research Review Committee.

Date: June 3–June 4, 1997.

Time: 8:30 a.m.

Place: River Inn, 924 25th Street NW, Washington, DC 20037.

Contact Person: Gavin T. Wilkom, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Initial Review Group Clinical Psychopathology Review Committee.

Date: June 5–June 6, 1997.

Time: 8:30 a.m.

Place: Barcelo Washington Hotel, 2121 P Street, N.W., Washington, DC 20037.

Contact Person: Gavin T. Wilkom, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Initial Review Group Epidemiology and Genetics Review Committee.

Date: June 9–June 10, 1997.

Time: 8:30 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Ave., N.W., Washington, DC 20037.

Contact Person: Shirley Williams, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Initial Review Group Treatment Assessment Review Committee.

Date: June 9–June 10, 1997.

Time: 8:30 a.m.

Place: Barcelo Washington Hotel, 2121 P Street, N.W., Washington, DC 20037.

Contact Person: Gavin T. Wilkom, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Initial Review Group Violence and Traumatic Stress Review Committee.

Date: June 11–June 12, 1997.

Time: 8:30 a.m.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Sheri L. Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Initial Review Group Mental Disorders of Aging Review Committee.

Date: June 12–June 13, 1997.

Time: 8:30 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Initial Review Group Social and Group Processes Review Committee.

Date: June 12–June 13, 1997.
Time: 9 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Rehana A. Chowdhury, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Initial Review Group Child/Adolescent Development, Risk, and Prevention Review Committee.
Date: June 12–June 13, 1997.
Time: 9 a.m.
Place: The Latham Hotel Georgetown, 3000 M. Street, NW., Washington, DC 20007.
Contact Person: Phyllis D. Artis, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Initial Review Group Child Psychopathology and Treatment Review Committee.
Date: June 12–June 13, 1997.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Initial Review Group Clinical Neuroscience and Biological Psychopathology Review Committee.
Date: June 17–June 19, 1997.
Time: 9 a.m.
Place: One Washington Circle, One Washington Circle, NW., Washington, DC 20037.
Contact Person: Maureen L. Eister, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Initial Review Group Health Behavior and Prevention Review Committee.
Date: June 17–June 18, 1997.
Time: 8:30 a.m.
Place: Embassy Suites, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Monica F. Woodfork, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Initial Review Group Cognitive Functional Neuroscience Review Committee.
Date: June 19–June 20, 1997.
Time: 8:30 a.m.
Place: One Washington Circle, One Washington Circle, NW., Washington, DC 20037.
Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Initial Review Group Perception and Cognition Review Committee.
Date: June 19–June 20, 1997.
Time: 9 a.m.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.
Contact Person: Regina M. Thomas, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Initial Review Group Mental Health AIDS and Immunology Review Committee—1.
Date: June 20, 1997.
Time: 8:30 a.m.
Place: Wyndham Bristol Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Regina M. Thomas, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Initial Review Group Psychobiology, Behavior, and Neuroscience Review Committee.
Date: June 23–June 24, 1997.
Time: 8 a.m.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Deborah A. DeMasse, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Initial Review Group Molecular, Cellular, and Developmental Neurobiology Review Committee.
Date: June 23–June 24, 1997.
Time: 8:30 a.m.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Initial Review Group Neuropharmacology and Neurochemistry Review Committee.
Date: June 26–June 27, 1997.
Time: 8 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Initial Review Group Mental Health AIDS and Immunology Review Committee—2.
Date: June 30, 1997.
Time: 8:30 a.m.
Place: The George Washington University Inn, 824 New Hampshire Avenue, N.W., Washington, DC 20037.
Contact Person: Rehana A. Chowdhury, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Initial Review Group Mental Health Small Business Research Review Committee.
Date: June 30–July 1, 1997.
Time: 8:30 a.m.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave, Chevy Chase, MD 20815.
Contact Person: Yolanda M. White, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Initial Review Group Clinical Centers and Special Projects Review Committee.
Date: July 7, 1997.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Initial Review Group Clinical Centers and Special Projects Review Committee.
Date: July 8, 1997.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Initial Review Group Clinical Centers and Special Projects Review Committee.
Date: July 9, 1997.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

Committee Name: National Institute of Mental Health Special Emphasis Panel.
Date: July 15, 1997.
Time: 8:30 a.m.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave, Chevy Chase, MD 20815.
Contact Person: Jean K. Paddock, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: April 29, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11640 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

The meeting will be open to the public, only for the time period indicated, to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ida Nestorio at 301–443–4376.

The meeting will be closed to the public, as indicated below, in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the productivity of individual staff scientists, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and the roster of committee members may be obtained from Ms. Ida Nestorio, National Institute on Alcohol Abuse and Alcoholism, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003. Telephone: 301–443–4376.

Other information pertaining to the meeting can be obtained from the Executive Secretary.

Name of Committee: Board of Scientific Counselors, NIAAA.

Executive Secretary: Theodore Colburn, Ph.D., 9000 Rockville Pike, Building 31—MSC 2088, Room 1B58, Bethesda, MD 20892–2088, 301–402–1226.

Date of Meeting: June 12–13, 1997.

Place of Meeting: Flow Building, 12501 Washington Avenue, Rockville, MD 20852.

Open: June 12, 7:30 a.m. to 8:00 a.m.

Agenda: Discussion of administrative details and other issues related to management of intramural program research.

Closed: June 12, 8:00 a.m. to recess; June 13, 8:00 a.m. to adjournment.

Agenda: Review and evaluation of intramural research projects of the laboratory of membrane biochemistry and biophysics.

Dated: April 29, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11641 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on June 5–6, 1997 at the Washington National Airport Hilton, Charleston 1 Room, 2399 Jefferson Davis Highway, Arlington, Virginia.

The meeting will be open to the public from 9 a.m. to 10 a.m. on June 5, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. until recess on June 5, and from 10 a.m. until adjournment on June 6. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Gary Madonna, Scientific Review Administrator, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Solar Building, Room 4C21, Rockville, Maryland 20892, telephone 301–496–3528, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 29, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11642 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meetings:

Name of SEP: Oncogene Analysis for Epidemiologic Studies (Telephone Conference Call).

Date: May 8, 1997.

Time: 1:00 P.M.

Place: National Institute of Environmental Health Sciences, Building 17, Room 1713, Research Triangle Park, NC 27709.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446.

Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Chromosome-Specific Probes for Non-Human Mammals (Telephone Conference Call).

Date: May 14, 1997.

Time: 1:00 P.M.

Place: National Institute of Environmental Health Sciences, Building 17, Room 1713, Research Triangle Park, NC 27709.

Contact Person: Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446.

Purpose/Agenda: To review and evaluate contract proposals.

This notice is being published less than fifteen days prior to these meetings due to the urgent need to meet timing limitations imposed by the contract review and funding cycle.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information

concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: April 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11644 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council on June 2–3, 1997. The meeting will be held in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland. The meeting of the Subcommittee on Planning and Policy will be open on June 2. The Subcommittee meeting will be held in Building 31, Room 2A03, from 8:00 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

The Council meeting will be open to the public on June 2 from 10:00 a.m. until 5:30 p.m. The agenda includes a report by the Director, NICHD, a report by the Division of Epidemiology, Statistics and Prevention Research, a presentation by the Director, Division of Research Grants, and other business of Council. The meeting will be open on June 3 upon completion of applications at approximately 1:00 p.m. to adjournment if any policy issues are raised which need further discussion.

In accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6), Title 5, United States Code and section 10(d) of Public Law 92–463, the meeting of the full Council will be closed to the public on June 3 from 8:00 a.m. to approximately 1:00 p.m. for the review, discussion, and evaluation of individual 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, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NACHHD Council, 6100 Executive Boulevard, Room 5E03, National Institutes of Health, Rockville, Maryland 20852, Area Code (301) 594–7232, will provide a summary of the meeting and a roster of Council members as well as substantive program information. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research and 93.865, Research for Mothers and Children, National Institute of Health)

Dated: April 28, 1997.

LaVerne Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11646 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grant Review Committee, Subcommittee D.

Date: June 13, 1997.

Time: 8:00 a.m.–Adjournment.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C. 20036.

Contact Person: Ann A. Hagan, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS–37F, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8886.

Purpose/Agenda: To review and evaluate research grant applications.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grant Review Committee, Subcommittee B.

Date: June 2, 1997.

Time: 8:00 a.m.–Adjournment.

Place: Chevy Chase Pavilion, 5335 Wisconsin Avenue, N.W., Washington, D.C. 20015.

Contact Person: Ned Feder, M.D., Scientific Review Administrator, Natcher Building, Room 6AS–25S, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8890.

Purpose/Agenda: To review and evaluate research grant applications.

Name of Committee: National Diabetes and Kidney Diseases Special Grant Review Committee, Subcommittee C.

Date: June 26–27, 1997.

Time: 8:30 a.m.–Adjournment.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C. 20036.

Contact Person: Daniel Matsumoto, Ph. D., Scientific Review Administrator, Natcher Building, Room 6AS–37B, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8894.

Purpose/Agenda: To review and evaluate research grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 28, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–11648 Filed 5–2–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

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, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Dates: May 5, 1997

Place: Holiday Inn—Chevy Chase, Terrace Ballroom, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: May 5, 1997 8:30 a.m.—5:00 p.m.

Contact: Pamela C. Roddy, Ph.D., 17–89, Parklawn Building, Telephone: (301) 443–1001 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 29, 1997.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 97–11592 Filed 5–2–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–57]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Community Planning and Developing, 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: July 7, 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: Reports Liaison Officer, Shelia E. Jones, Department of Housing & Urban Development, 451 7th Street, SW, Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Gloria Montgomery, Office of Special Needs Assistance Programs, Room 7258, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone number (202) 708–1226.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The 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 proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Innovative Project Funding, Innovative Homeless Initiative Demonstration Program Progress Report.

OMB Control Number, if applicable: 2506–0147.

Description of the need for the information and proposed use: Annual Progress Reports will be completed at the end of each program year by State and local government and nonprofit organizations who have received funding from HUD under the Innovative Homeless Initiative Demonstration program. Grant recipients who have been approved for less than 12 months are to submit a final progress report. These reports to HUD will provide information necessary for program monitoring and evaluation.

Agency form numbers, if applicable:

Members of affected public: States, units of local government, not-for-profit institutions.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Status of the proposed information collection:

Activity	Number of respondents	Frequency of responses (annually)	Hours per response	Burden hours
Record Keeping	48	1	45	2,160
Report Preparation	48	1	20	960

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 USC Chapter 35, as amended.

Dated: April 23, 1997.

Jacquie Lawing,

General Deputy, Assistant Secretary.

[FR Doc. 97–11531 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–58]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for 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: July 7, 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: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT:

Barbara D. Hunter, Telephone number (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Definition of Income, Rents and Recertification of Family Income for the Rent Supplement, Section 236 and Section 8 Special Allocation Programs.

OMB Control Number: 2502–0352.

Description of the need for the information and proposed use: Utility rates, tenants, eligibility determinations, Fair Market rental rates, subsidies—When approval of a utility rate change would result in a cumulative increase of 10 percent or more in the most recently approved utility allowances, the project owner must advise the Secretary and request of new utility allowances.

Agency form numbers: None applicable.

Members of affected public: Businesses or other for-profit state or local government, non-profit institutions.

An estimation of the total number of hours needed to prepare the information collection is ½, the number of respondents is 1,200, frequency of response is 1, and the hours of response is 600.

Status of the proposed information collection: Extension without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 28, 1997.

Nicolas P. Retsinas,

A/S Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–11532 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–59]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for expedited review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 7, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: John Goering, Office of Policy Development and Research—telephone (202) 708–3700 Extension 131 (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 U.S.C. 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 proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Extension of the Moving to Opportunity (MTO) Demonstration data collection forms (OMB Clearance Number 2528–161, Expires 6/97).

Description of the need for the information and proposed use: The information is being collected to establish this research demonstration and to fulfill the reporting requirements mandated by Congress, including the number of families served, short- and long-term effects of MTO program participation on families, cost comparison to regular Section 8 operations, and information on the types of counseling services provided. The forms are currently in use under OMB clearance number 2528–161, expiration date June 1997. This request is for an extension of clearance, which is made necessary by a slower pace of lease-up than anticipated and by the addition families to the program.

This data collection is being done to assist the Department in providing congressionally mandated reports on the long-term effects of providing assistance to low-income families living in assisted housing to move out of the high poverty areas of central cities.

Members of affected public: Respondents for this continued data collection effort include new participants in the Moving to Opportunity Demonstration, as well as staff of public housing authorities and nonprofit organizations participating in the demonstration. We estimate that 2,110 people will apply for MTO during the period July 1997 through the end of the demonstration.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: We estimate 2,110 new MTO applicants and extended use of the forms being completed by PHA and NPO staff. See Exhibit 1 for details. Note that total burden for applicants will remain within the original estimates (dated April 1994). However, total burden for PHA and NPO staff will exceed original estimates due to the longer demonstration period.

BILLING CODE 4210–62–M

Estimated Respondent Burden
(Through June 30, 1997)

Form	Respondent	Number of Respondents (See notes)	Time to complete (in minutes)	Frequency	Total Burden
Enrollment Form	Eligible MTO applicants	4,249	5 minutes	1 per respondent	354 hours
Participant Baseline Survey	• Experimental group • Section 8 control group • In-place control group	4,249	40 minutes	1 per respondent	2,833 hours
Participant Counseling Contact Log	NPO staff	5 optional	20 hours	1 per month	3,180 hours
Landlord Outreach Log	NPO staff	5	8 hours	1 per month	1,200 hours
Program Cost Forms	NPO staff PHA staff	5 5	4 hours	1 each per NPO, PHA per month	516 hours
Participant Tracking Forms	PHA staff NPO staff	5 5	40 hours	1 each per NPO, PHA per month	6,600 hours

Estimated Future Burden

Form	Respondent	Number of Respondents (See notes)	Time to complete (in minutes)	Frequency	Total Burden
Enrollment Form	Eligible MTO applicants	2,110	5 minutes	1 per respondent	176 hours
Participant Baseline Survey	• Experimental group • Section 8 control group • In-place control group	2,110	40 minutes	1 per respondent	1,407 hours
Participant Counseling Contact Log	NPO staff	4	20 hours	1 per month	840 hours
Landlord Outreach Log	NPO staff	4	8 hours	1 per month	336 hours
Program Cost Forms	NPO staff PHA staff	1 0	4 hours	1 per month	12 hours

Form	Respondent	Number of Respondents (See notes)	Time to complete (in minutes)	Frequency	Total Burden
Participant Tracking Forms	PHA staff NPO staff	4 4	40 hours	1 each per NPO, PHA per month	1,680 hours

NOTES: Figures through 6/30/97 include actual data through 3/31/97 plus estimated activity 4/1 - 6/30/97.
Estimated future burden assumes sites end operations as planned (LA 9/30/98; Boston, Chicago, New York City 12/1/97).

Status of the proposed information collection: Ongoing under existing approval through June 1997, and continued pending extended OMB approval through June 2000.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 23, 1997.

Michael A. Stegman,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 97–11533 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–62–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4182–N–02]

Fiscal Year 1997 Notice of Funding Availability for Continuum of Care Homeless Assistance; Supportive Housing Program (SHP); Shelter Plus Care (S+C); Sec 8 Moderate Rehabilitation Single Room OccupancyProgram for Homeless Individuals (SRO)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA); Notice of extension of deadline.

SUMMARY: On April 8, 1997 (62 FR 17024), HUD published a notice announcing the availability of fiscal year (FY) 1997 funding for three of its programs which assist communities in combatting homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals.

The April 8, 1997 NOFA provided for an application deadline of July 8, 1997. This notice extends the application deadline to July 31, 1997. Because the FY 1997 NOFA for Continuum of Care Homeless Assistance introduced new procedures for awarding project renewal funds, HUD determined that these new procedures may necessitate, in certain communities, additional time for re-analyzing the gaps that exist in continuum of care systems within the communities, and for reformulating plans and priorities for how best to fill those gaps. The extension of the application deadline to July 31, 1997 is the only change made by this notice to the April 8, 1997 NOFA.

This notice also announces the OMB approval number for the information collection requirements contained in the April 8, 1997 NOFA.

DEADLINE DATES: Applications Delivered. Applications are due before midnight on *July 31, 1997.*

Before and on the deadline date, and during normal business hours (up to 6:00 pm) completed applications will be accepted at the Office of Special Needs Assistance Programs (Room 7270) in Washington at the address below.

On the deadline date and after normal business hours (after 6:00 pm), hand-carried applications will be received at the South Lobby of the Department of Housing and Urban Development at the address below. HUD will treat as ineligible for consideration delivered applications that are received after that deadline.

Applications Mailed. Applications will be considered timely filed if postmarked before midnight on *July 31, 1997,* and received by HUD Headquarters within ten (10) days after that date.

Applications Sent by Overnight Delivery. Overnight delivery items will be considered timely filed if received before or on *July 31, 1997,* or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than *July 31, 1997.*

No facsimile (FAX). Applications may not be sent by FAX.

Copies of Applications to Field Offices. Two copies of the application must also be sent to the HUD Field Office serving the State in which the applicant's projects are located. Field office copies must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at HUD Headquarters in Washington. All three copies may be used in reviewing the application.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (42 U.S.C. 3501–3520), and assigned OMB approval number 2506–0112. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

April 8, 1997 NOFA and Extension of Application Deadline

On April 8, 1997 (62 FR 17024), HUD published a notice announcing the availability of fiscal year (FY) 1997 funding for three of its programs which assist communities in combatting homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals.

The April 8, 1997 NOFA provided for an application deadline of July 8, 1997.

This notice extends the application deadline to July 31, 1997. Because the FY 1997 NOFA for Continuum of Care Homeless Assistance introduced new procedures for awarding project renewal funds, HUD determined that these new procedures may necessitate, in certain communities, additional time for re-analyzing the gaps that exist in continuum of care systems within the communities, and for reformulating plans and priorities for how best to fill those gaps. The extension of the application deadline to July 31, 1997 is the only change made by this notice to the April 8, 1997 NOFA.

Dated: April 28, 1997.

Jacquie Lawing,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 97–11620 Filed 5–2–97; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Pelly Amendment to the Fishermen's Protective Act; Petition for Certification of the Republic of Korea; Conservation of Bears

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: On February 7, 1997, the Department of the Interior received a petition to certify the Republic of Korea (''South Korea'') under the Pelly Amendment to the Fishermen's Protective Act for undermining the effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The petition asserts that: (1) The Republic of Korea is the world's primary consumer of bear parts and its nationals are the most active in illegal trade in bear parts; (2) Illegally imported bear gall bladder is widely available in the Republic of Korea; (3) Republic of Korea authorities have failed to take measures to suppress the illegal trade in bears and bear parts; (4) The Republic of Korea's domestic legislation does not adequately implement CITES; and (5) Despite having acceded to CITES in 1993, the Republic of Korea has failed to implement CITES. This notice requests comments and information from the public on the following: Existence of poaching, taking, smuggling, and trade in bears and bear parts by Republic of Korea nationals; whether or not actions by Republic of Korea nationals are undermining the effectiveness of CITES; any illegal trade in bears and bear parts by nationals of other countries; and any measures taken by the Republic of Korea to implement CITES with respect to trade in bears and bear parts. This information will be taken into account by the Service in determining what recommendations it should make to the Secretary of the Interior on the disposition of the petition.

DATES: The Fish and Wildlife Service will consider written information and comments on these issues received by August 4, 1997.

ADDRESSES: Comments should be sent to the Director, U.S. Fish and Wildlife Service, c/o Office of Management Authority, 4401 N. Fairfax Drive, Room 420C, Arlington, VA 22203. Comments may also be sent via fax to: (703) 358–2280.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman or Theodora Greanias, U.S. Fish and Wildlife Service, Office of Management Authority, telephone (703) 358-2093.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Address: R9OMA__CITES@mail.fws.gov.

Background

On February 7, 1997, the Department of the Interior received a petition to certify the Republic of Korea (''South Korea'') under the Pelly Amendment to the Fishermen's Protective Act for undermining the effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The U.S. Fish and Wildlife Service (Service) is the lead agency in the Department of the Interior responsible for implementation of CITES. The Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. 1978(a)(2), provides that the Secretary of the Interior shall make a certification to the President if he determines that nationals of a foreign country, directly or indirectly, are engaged in trade or taking which diminishes the effectiveness of any international program for the conservation of endangered or threatened species. CITES, a multi-lateral convention to regulate international wildlife trade, is such a program.

The February 7, 1997 petition (petition) was submitted by Sierra Club Legal Defense Fund on behalf of four organizations. The petition asserts the following: (1) Republic of Korea nationals are engaging in the illegal trade in and taking of bears and bear parts in many areas of the world; (2) Pharmacies and traditional medicine stores in the Republic of Korea continue to obtain and openly offer bear gall bladder from other nations' Appendix I bear species, in direct violation of CITES trade restrictions; (3) Even the few bear gall bladders that pass through official channels in the Republic of Korea are not traded in accordance with CITES; (4) The government has failed to seize bear gall bladder or prosecute bear gall bladder smuggling in the Republic of Korea; (5) Republic of Korea officials charged with policing the trade are alleged to be benefiting from its continuation; (6) Republic of Korea domestic legislation implementing CITES is inadequate and has not been bolstered by the creation or training of wildlife enforcement authorities, crackdowns on illegal trade, or public education campaigns; (7) Since their own bear population has been all but destroyed, Republic of Korea nationals regularly travel to China, Sri Lanka, Ecuador, Viet Nam, Thailand, Russia, Canada, and the United States to buy bear gall bladders; (8) Citizens of the Republic of Korea engage in extensive trading in Appendix I bears in direct violation of the protective provisions of CITES; (9) In violation of domestic laws of range countries, Republic of Korea nationals continue to buy, sell and smuggle large numbers of Appendix II bear parts, and have been involved in the majority of cases of illegal bear gall trade in North America; and (10) Despite its accession to CITES in July 1993, the Republic of Korea has undermined and continues to undermine CITES with respect to trade in bears and bear parts.

All bear species are listed in either CITES Appendix I or II, which means they are either threatened with extinction (Appendix I), or may become so unless their trade is subject to strict regulation (Appendix II). In the case of Appendix I species, all primarily commercial trade is in violation of the Convention. Commercial trade in Appendix II species is allowed only if a permit is issued attesting that the trade is not detrimental to the species' survival in the wild and that the specimens were lawfully obtained. Law enforcement efforts are hindered by the fact that no forensic methodology exists to distinguish between Appendix I and Appendix II bear viscera, including gall bladders. This creates an opening for the laundering of Appendix I bear parts, which undermines CITES enforcement.

Worldwide, bear populations are at risk due to habitat loss, coupled with a vigorous, mostly illegal trade in bears and bear parts driven largely by the demand for traditional medicinals, especially those containing bear bile.

Bear gall bladders and bile are among the most coveted ingredients in traditional Asian medicine. To address this situation, CITES member countries focussed on the bear trade during recent meetings of the Animals Committee and Standing Committee. At its September 1996 meeting in the Czech Republic, the Animals Committee adopted a decision regarding the continued illegal trade in bear parts and derivatives, to direct the CITES Secretariat to request certain information from range States of bears and from countries of import, re-export, and consumption of bear parts and derivatives. The Standing Committee subsequently agreed to accept the recommendation of the Animals Committee, and referred it to the CITES Secretariat for action. The Secretariat issued a Notification to the Parties (No. 946) requesting that all range states supply all available information on the status of their wild bear populations, trade threats, and legislative and regulatory controls on the killing of bears and on trade in their parts and derivatives; and that all countries of import, re-export, and consumption of bear parts and derivatives supply all information on their enforcement efforts to interdict illegal shipments of bear parts and derivatives, legislative and regulatory controls on trade in these parts and derivatives, prosecutions relating to illegal trade in bear parts or derivatives, the kinds of bear derivatives available on the market, efforts to promote the use of substitutes in traditional medicine, and education programs. At the 10th meeting of the Conference of the Parties in Zimbabwe in June 1997, the CITES Parties will consider two very similar proposals to transfer all Asian and European populations of the brown bear (*Ursus arctos*) from CITES Appendix II to Appendix I.

As part of its ongoing responsibility to implement CITES, the Office of Management Authority of the Service monitors the trade in species protected by CITES to determine whether or not any country is diminishing the effectiveness of CITES. The Service has been assessing information on the international bear trade for a number of years, particularly its impact on North American bear populations. The Service is aware that poaching of wild specimens can be extremely detrimental to bear populations, and is cognizant of the important role of bear species within an ecosystem. Further, the U.S. government supported recent actions taken by the CITES Animals and Standing Committees to address the international bear trade problem. The Service is aware that, upon acceding to CITES in July 1993, the Republic of Korea took a three-year reservation on Appendix II bear species, effectively allowing unrestricted trade with non-Party countries. In October 1996, after that reservation had expired, domestic trade in bear species was banned, according to Korean English-language press reports. The Service fully intends to examine closely all evidence submitted during the comment period in order to assess the accuracy and implications of these reports. The Service is currently reviewing and analyzing the petition, as well as other information in the Service's files on trade in bears and bear parts. After the close of the public comment period, the Service will review all of the data in its administrative record before submitting its recommendation to the Secretary of the Interior.

Request for Information and Comments

This notice requests comments and information from the public on the following: (1) Existence of poaching, taking, smuggling, or trade in bears, bear parts or bear products/derivatives by Republic of Korea nationals; (2) The effect of take or trade in bears, bear parts or bear products/derivatives on bear species' conservation status in the Republic of Korea or elsewhere; (3) Whether or not actions of Republic of Korea nationals are undermining the effectiveness of CITES; (4) Any illegal trade in bear species, bear parts, or bear products/derivatives by nationals of other countries; (5) Any affirmative measures taken by the Republic of Korea to enhance CITES implementation, especially measures to regulate trade in bears, bear parts or bear products/derivatives, as well as evidence regarding the efficacy of these measures. This information will be used by the Department of the Interior in determining what actions should be taken.

Authors: This notice was prepared by Dr. Susan S. Lieberman and Theodora Greanias, Office of Management Authority, U.S. Fish and Wildlife Service (703/358–2093; FAX 703/358–2280).

Dated: April 28, 1997.

John G. Rogers,

Acting Director.

[FR Doc. 97–11616 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Conservation Strategy for the Southern Rocky Mountain Population of the Boreal Toad for Review and Comment

AGENCY: US Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The Fish and Wildlife Service announces the availability of a Draft Conservation Strategy for the southern Rocky Mountain population of the boreal toad. (*Bufo boreas boreas*). This population of the boreal toad is a candidate for listing under the Endangered Species Act of 1973. The Draft Conservation Strategy compliments a State recovery plan for this population of the boreal toad which the Colorado Division of Wildlife had the lead for preparing. Several agencies and organizations were involved in preparation of the recovery plan which appears as an appendix to the Draft Conservation Strategy. The Conservation Strategy was written by ad hoc members of the Boreal Toad Recovery Team and included personnel with the Biological Resources Division of the US Geological Survey, Bureau of Land Management, Colorado Division of Wildlife, National Park Service, US Fish and Wildlife Service, and the US Forest Service. Earlier drafts of the Conservation Strategy underwent peer review by three scientists. One of the scientists is an amphibian expert, Dr. Paul Bartelt, who is a professor at Waldorf College in Iowa. Another amphibian expert, Dr. David Pettus, was a former professor at Colorado State University. The third person, Dr. David Cooper, is a wetland specialist at Colorado State University. The Conservation Strategy focuses on land management practices that can be applied to reduce or eliminate threats to the boreal toad that warrant its candidate status. Full implementation of the Conservation Strategy and recovery plan represents the best approach to the long-term survival of this population of the boreal toad. The Service solicits review and comment from the public on the Draft Conservation Strategy.

DATES: Comments on the Draft Conservation Strategy must be received on or before June 4, 1997, to be considered for preparation of the final Conservation Strategy.

ADDRESSES: Persons wishing to review the Draft Conservation Strategy may obtain or request a copy from the US

Forest Service, Pike-San Isabel National Forest, 1920 Valley Dr., Pueblo, CO 81008, (719) 545–8737. Comments on the Draft Conservation Strategy should be sent to the Acting Assistant Colorado Field Supervisor, US Fish and Wildlife Service, 764 Horizon Dr., S. Annex A, Grand Junction, CO 81506. Comments and materials received will be available upon request, by appointment, during normal business hours at the Fish and Wildlife Service address.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Ireland, Fish and Wildlife Biologist, at the Fish and Wildlife Service's Grand Junction address or call (970) 243–2778.

SUPPLEMENTARY INFORMATION:

Background

The boreal toad *(Bufo boreas boreas)* is one of the two subspecies of the western toad which is found throughout western North America. The southern Rocky Mountain population is geographically isolated from boreal toad populations to the north and west by dry, non-forested intermountain valleys. It is genetically differentiated and probably represents an independently evolving lineage or species.

The southern Rocky Mountain boreal toad occupies forest habitats between 2250 to 3600 m (7500–12000 ft.) in Colorado, southwest Wyoming, and north-central New Mexico. Boreal toad occupy three different types of habitat during the course of the year: breeding ponds, summer range, and overwinter refugia. All of these specific habitats occur within lodgepole pine or spruce-fir forests. Few boreal toads have been recorded from lower-elevation ponderosa pine forests and willow/sage communities.

Southern Rocky Mountain boreal toads were once considered common to abundant throughout the higher elevations of Colorado and southeastern Wyoming along the Snowy and Sierra Madre ranges (Medicine Bow, Sierra Madre and Pole Mountains). The southern periphery of the species range was located in New Mexico along the San Juan Mountains at Lagunitas, Canjilon, and Trout Lakes.

Boreal toad decline in New Mexico was first observed in the mid 1980's. Surveys conducted in 1989 and 1993 at the three previously occupied boreal toad locations revealed no populations. Recent observations of boreal toads in Colorado, within 29 km (20 miles) of New Mexico's historically occupied areas provide some hope that boreal toads may still exist in New Mexico. Between 1974 and 1982, 11 populations of boreal toads disappeared to the West Elk Mountains of west-central Colorado. By the late 1980's boreal toads were absent from 85 percent of known localities in northern Colorado. Once known to occur in 25 of 63 counties, and potentially in 7 others, the boreal toad is absent in over 83 percent of previously known locations in Colorado. Rangewide, primarily in Colorado, and including a single breeding location in Wyoming, there are now 50 known breeding sites. However, most of the sites have only a few breeding adults.

The Service received a petition to list the southern Rocky Mountain population of the boreal toad as endangered on September 30, 1993, by the Biodiversity Legal Foundation. The Service made a 90-day petition finding (59 FR 37439) on July 22, 1994, that stated that sufficient information existed to indicate that Federal listing may be warranted. Subsequently, the Service made a 12-month finding (60 FR 15281) on March 23, 1995, that stated that Federal listing was warranted, but precluded by higher listing priorities.

In an effort to address the threats to the boreal toad prior to Federal listing the Colorado Division of Wildlife assembled a Recovery Team and published a recovery plan in 1994. The Recovery Team recently completed a revised recovery plan in 1997 that addressed the range of the boreal toad in Colorado as well as Wyoming and New Mexico and provided more details for research and management recommendations. It was also decided that a conservation strategy was needed to address more specific land management practices. A Conservation Agreement is also planned and signatory parties will be agreeing to follow recommendations in the recovery plan and Conservation Strategy. The Conservation Strategy focuses on eight general impacts to the boreal toad and ways to reduce or eliminate those impacts.

Author

The primary author of this notice is Terry Ireland (see **FOR FURTHER INFORMATION** section).

Authority: Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*).

Dated: April 25, 1997.

Terry T. Terrel,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 97–11568 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) has submitted the proposed renewal of the collection of information for Documented Petitions for Federal Acknowledgment as an Indian Tribe 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 February 7, 1997, BIA published a notice in the **Federal Register** (62 FR 5837) requesting comments on this proposed collection. The comment period ended on April 8, 1997. BIA received no comments from the public in response to the notice.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed collection of information and related forms and explanatory materials may be obtained by contacting Holly Reckord, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, NW., MS: 4603–MIB, Washington, DC 20240, (202) 208–3592.

DATES: OMB is required to respond to this request within 60 days of publication of this notice or before July 7, 1997 but may respond after 30 days. For maximum consideration, your comments should be submitted by June 4, 1997.

ADDRESSES: Your comments and suggestions on the requirements should be made directly to the Office of Management and Budget, Interior Department Desk Officer (1076–0104) Office of Information and Regulatory Affairs, Washington, DC 20503, (202) 395–7340. Please provide a copy of your comments to Holly Reckord, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, NW., MS: 4603–MIB, Washington, DC, (202) 208–3592.

SUPPLEMENTARY INFORMATION:

1. Abstract

The information collection is needed to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a Government-to-Government relationship with the United States.

2. Request for Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

2. The accuracy of the Bureau's estimate of the burden of the collection of 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 the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of information technology.

3. Data

Title: Collection of Information for Federal Acknowledgment under 25 CFR part 83.

OMB Number: 1076–0104.

Affected Entities: Groups petitioning for Federal acknowledgment as tribes.

Frequency of Response: Once.

Estimated Number of Annual Responses: 10.

Estimated Time per Petition: 2075 hours.

Estimated Total Annual Burden Hours: 20, 767.

Dated: April 29, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–11638 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grant Availability to Federally Recognized Indian Tribes for Projects Implementing Traffic Safety on Indian Reservations

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs intends to make funds available to Federally recognized Indian tribes on an annual basis for the purpose of implementing traffic safety projects which are designed to reduce the number of traffic accidents within Indian Country. Due to the limited funding available for this program, all projects will be reviewed and selected on a competitive basis. This notice informs Indian tribes that grant funds are available. Information packets were distributed in February 1997, to all tribal leaders on the latest tribal leaders list.

DATES: Requests for funds must be received by June 1 of each program year.

ADDRESSES: Each tribe must submit its request to the Bureau of Indian Affairs, Division of Safety Management, Attention: Indian Highway Safety Program Coordinator, 505 Marquette Avenue, NW, Suite 1705, Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Tribes should direct questions concerning the grant program to Larry Archambeau, the Bureau's Indian Highway Safety Program Coordinator or to Charles L. Jaynes, Program Administrator, Bureau of Indian Affairs, 505 Marquette Avenue, NW, Suite 1705, Albuquerque, NM 87102, Telephone (505) 248–5053.

SUPPLEMENTARY INFORMATION:

Background

The Federal-Aid Highway Act of 1973 (Pub. L. 93–87) provides for U.S. Department of Transportation (DOT) funding to assist Indian tribes in implementing Highway Safety Projects. These projects are designed to reduce the number of traffic crashes and their resulting fatalities, injuries, and property damage within Indian reservations. All Federally-recognized Indian tribes on Indian reservations are eligible to receive this assistance. All tribes receiving awards of program funds are reimbursed for costs incurred under the terms of 23 U.S.C. Sec. 402 and subsequent amendments.

Responsibilities

For purposes of application of the Act, Indian reservations are collectively considered a ''State'' and the Secretary, U.S. Department of the Interior (DOI), is considered the ''Governor of a State.'' The Secretary, DOI, delegated the authority to administer the programs throughout all the Indian reservations in the United States to the Assistant Secretary-Indian Affairs. The Assistant Secretary-Indian Affairs further delegated the responsibility for primary administration of the Indian Highway Safety Program to the Central Office, Division of Safety Management (DSM), located in Albuquerque, New Mexico. The Chief, DSM as program administrator of the Indian Highway Safety Program, has two full-time staff members to assist in program matters and provide technical assistance to the Indian tribes. It is at this level that contacts with the DOT are made with respect to program approval, funding of projects and technical assistance. DOT, through the National Highway Traffic Safety Administration (NHTSA), and the Federal Highway Administration (FHWA), is responsible for ensuring that the Indian Highway Safety Program is carried out in accordance with 23 U.S.C. 402 and other applicable Federal statutes and regulations.

NHTSA is responsible for the apportionment of funds to the Secretary of the Interior, review and approval of the Indian Highway Safety Plan involving NHTSA highway safety program areas and technical guidance and assistance to BIA.

FHWA is responsible for review and approval of the Indian Highway Safety Plan involving FHWA highway safety program areas and technical guidance and assistance to BIA.

Program Areas

The Surface Transportation and Uniform Relocation Assistance Act of 1987, 23 USC 402(j), required DOT to conduct a rulemaking process to determine those programs most effective in reducing traffic crashes, injuries, and fatalities. Those programs areas were determined to be national priority program areas, and include the following:

(1) NHTSA Program areas:

(a) Alcohol and Other Drug Countermeasures;

(b) Police Traffic Services;

(c) Occupant Protection;

(d) Traffic Records; and

(e) Emergency Medical Services.

(2) FHWA Program Area: Roadway Safety.

(3) NHTSA and FHWA Program Area: Pedestrian and Bicycle Safety.

Funding Criteria

The Bureau of Indian Affairs will reimburse for eligible costs associated with the following:

(1) *Alcohol and Other Drug Countermeasure*—salary (DWI enforcement officer); enforcement/education; NHTSA—approved training; approved breath-testing equipment (must be included on most recent Consumer Products List published by NHTSA); community/school alcohol traffic safety education; DWI offender education; prosecution; adjudication; and vehicle expenses.

(2) *Police Traffic Services*—salary (traffic enforcement/education); traffic law enforcement/radar training; speed enforcement equipment (must be listed on Consumer Products List published by NHTSA); community/school education; and vehicle expenses.

(3) *Occupant Protection:*

(a) Child passenger safety—child car seat loaner program; car seat transportation/storage, and public information/education.

(b) Community seat belt program—salary; education/promotional materials;

office expense, and NHTSA-approved Occupant Protection Usage and Enforcement (OPUE) training.

(4) *Traffic-Records*—salary; computerized equipment.

(5) *Emergency Medical Services*—training; public information education.

(6) *Roadway Safety*—traffic signs (warning, regulatory, workzone); hardware and sign posts.

(7) *Community Traffic Safety Projects (CTSP)*—project management; public information and education training; law enforcement; prosecution; djudication; data management.

Project Guidelines

BIA will send information packets to the tribes in the month of February of each program year. Upon receipt of the information packet, each tribe should prepare a proposed project based upon the following guidelines:

(1) *Program Planning.* Program planning shall be based upon the highway safety problems identified and countermeasures selected by the tribe for the purpose of reducing traffic crash factors.

(2) *Problem Identification.* Highway traffic safety problems shall be identified from the best data available. This data may be found in tribal enforcement records on traffic crashes. Other sources of data include ambulance records, court and police arrest records. The problem identification process may be aided by using professional opinions of personnel in law enforcement, Indian Health Service, driver education, road engineers, etc. This data should accompany the funding request. Impact problems should be indicated during the identification process. An impact problem is a highway safety problem that contributes to car crashes, fatalities and/or injuries, and one which may be corrected by the application of countermeasures. Impact problems can be identified from analysis of statewide and/or tribal traffic records. The analyses should consider, as a minimum: pedestrian, motorcycle, bicycle, passenger car, school bus, and truck accidents; records on problem drivers, roadside and roadway hazards, alcohol involvement, youth involvement, defective vehicle involvement, suspended or revoked driver involvement, speed involvement, and child safety seat usage. Data should accompany the funding request.

(3) *Countermeasures Selection.* When tribal highway traffic safety problems are identified, the tribe must develop appropriate countermeasures to solve or reduce the problems. The tribe should take into account the overall cost of the countermeasures versus their possible effect on the problem.

(4) *Objectives/Performance Indicator.* After countermeasure selection, the objective(s) of the project must be expressed in clearly defined, time-framed and measurable terms.

(5) *Budget Format.* The activities to be funded shall be outlined according to the following object groups: personnel services, travel, and transportation, rent/communications, printing and reproduction, other services, equipment, and training. Each object group shall be quantified, i.e., personnel activities should show number to be employed, hours to be employed, hourly rate of pay, etc. Each object group shall have sufficient detail to show what is to be procured, unit cost, quarter in which the procurement is to be made and the total cost, including any tribal contribution to the project.

(6) *Evaluation Plan.* Evaluation is the process of determining whether a highway safety activity should be undertaken, if it is being properly conducted, and if it has accomplished its objectives. The tribe must include in the funding request a plan explaining how the evaluation will be accomplished and identifying the criteria to be used in measuring performance.

(7) *Technical Assistance.* The Indian Highway Safety Program staff will be available to tribes for technical assistance in the development of tribal projects.

(8) *Section 402 Project Length.* Section 402 funds may not be used to fund the same project at one location or jurisdiction for more than 3 years.

(9) *Certification Regarding Drug-Free Workplace Requirement.* Indian tribes receiving highway safety grants through the Indian Highway Safety Program must certify that they will maintain a drug-free workplace. The certification must be signed by an individual authorized to sign for the tribe or reservation. The certification must be received by the Department of Transportation before it will release grant funds for that tribe or reservation. The certification must be submitted with the tribal Highway Safety Project proposal.

Submission Deadline

Each tribe must submit its funding request to the BIA Indian Highway Safety Program, Albuquerque, New Mexico. The request must be received by the Indian Highway Safety Program by June 1 of each program year. Requests for extension to this deadline will not be granted. Modifications of the funding request received after the close of the funding period will not be considered in the review and selection processes.

Notification of Selection

The tribes selected to participate will be notified by letter. Each tribe selected must include in its proposal a certification regarding drug-free workplace requirements and a duly authorized tribal resolution. The certification and resolution must be on file before grant funds for the tribe or reservations can be released.

Notification of Non-Selection

The Program Administrator will notify each tribe of non-selection. The tribe will be provided the reason for non-selection.

Uniform Administrative Requirements for Grant-in-Aid

Uniform grant administration procedures have been established on a national basis for all grant-in-aid programs by DOT/NHTSA under 49 CFR part 18, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments''. Uniform procedures for State Highway Safety Programs have been codified by NHTSA and FHWA in 23 CFR parts 1200, 1204, and 1205. Cost principles applicable to grants and contracts with State and local government have been established by OMB Circular A–87 and NHTSA Order 462–13A. It is the responsibility of the Indian Highway Safety Program to establish operating procedures consistent with the applicable provisions of these rules.

Standards for Financial Management System

Tribal financial management systems must provide for:

(1) Accurate, current, and complete disclosure of financial results of the Highway Safety Project.

(2) Adequate recordkeeping.

(3) Control over and accountability for all funds and assets.

(4) Comparison of actual with budgeted amounts.

(5) Documentation of accounting records.

(6) Appropriate auditing. Highway Safety Projects will be included in the tribal A–128 single audit requirement.

Tribes will provide a quarterly financial and a program status report to the Bureau's Indian Highway Safety Program Coordinator, 505 Marquette Avenue, NW, Suite 1705, Albuquerque, NM 87102. These reports will be submitted no later than 7 days beyond the reporting month.

Project Monitoring

During the program year, it is the responsibility of the BIA Indian Highway Safety Program to maintain a degree of project oversight, provide technical assistance as needed to assist the project in fulfilling its objectives, and assure that grant provisions are complied.

Project Evaluation

BIA will conduct a performance evaluation for each Highway Safety Project. The evaluation will measure the actual accomplishments to the planned activity. BIA will evaluate the project on-site at the discretion of the Indian Highway Safety Program Administrator.

Dated: April 24, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–11570 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–018–1430–01; NMNM 93820]

Public Land Order No. 7257; Withdrawal of Public Lands for Protection of Pueblo Ruins Within the Ojo Caliente Area of Critical Environmental Concern; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 291.10 acres of public lands from surface entry and mining for a period of 50 years, for the Bureau of Land Management to protect the cultural resources of four Tewa Indian pueblo ruins within the Ojo Caliente Area of Critical Environmental Concern. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Hal Knox, BLM Taos Resource Area, 226 Cruz Alta Road, Taos, New Mexico, 87571, 505–758–8851.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws, (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect four pueblo ruins within the Ojo Caliente Area of Critical Environmental Concern:

New Mexico Principal Meridian

T. 23 N., R. 8 E.,
Sec. 1, lot 5 and W½SE¼NW¼;
Sec. 13, lots 13 and 14;
Sec. 24, N½NE¼NE¼ and NW¼NE¼.
T. 24 N., R. 8 E.,
Sec. 12, lots 17 and 18;
Sec. 13, lot 6;
Sec. 23, lots 11 and 12.

The areas described aggregate 291.10 acres in Taos and Rio Arriba Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 25, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–11569 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

TITLE: Payor Information Form for Oil and Gas, OMB Control Number 1010–0033.

COMMENTS: This collection of information has been submitted to the Office of Management and Budget for approval. In compliance with the Paperwork Reduction Act of 1995, Section 3506 (c)(2)(A), each agency shall provide notice and otherwise consult with members of the public and affected agencies concerning this collection of information in order to solicit comment to (a) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility, (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, (c) enhance the quality, utility, and clarity of the information to be collected, and (d) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Comments should be made directly to the Attention: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Comments should also be directed to the agency. The U.S. Postal Service address is Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3101, Denver, Colorado, 80225–0165; the courier address is Building 85, Room A–212, Denver Federal Center, Denver, Colorado 80225; and the e:Mail address is David__Guzy@smtp.mms.gov. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

Copies of the proposed information collection and related explanatory material may be obtained by contacting Dennis C. Jones, Rules and Publications Staff, telephone (303) 231–3046, FAX (303) 231–3194, e-Mail Dennis__C__Jones@smtp.mms.gov.

DATES: Written comments should be received on or before June 4, 1997.

SUMMARY: The Minerals Management Service (MMS) is proposing to continue collecting certain information to establish payor accounts for mineral leases on Federal and Indian lands, and to assign unique accounting identification numbers that will enable MMS to maintain, reconcile, and audit lease accounts. Detailed data are necessary to enable the Secretary to provide reliable, comprehensive sources of information for Federal, State, and Indian auditors and inspectors checking payors and lease operators, as required by the Federal Oil and Gas Royalty Management Act of 1982. The Payor Information Form, Form MMS–4025, identifies the party who pays rentals, minimum royalty, or royalties on production to MMS, and the products on which the payments are to be made.

Description of Respondents: Approximately 2,200 royalty payors on Federal and Indian mineral leases.

Frequency of Response: Initially and as necessary to update.

Estimated Reporting and Recordkeeping Burden: 50 minutes.

Annual Responses: 23,000 responses.

Annual Burden Hours: 19,167 hours.

Bureau Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: April 23, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97–11591 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan/ Environmental Impact Statement for Gettysburg National Military Park/ Soldiers' National Cemetery, Pennsylvania

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The National Park Service (NPS) will prepare a General Management Plan/Environmental Impact Statement (GMP/EIS) for Gettysburg National Military Park/ Soldiers' National Cemetery in Gettysburg, Pennsylvania. The GMP will establish a management philosophy and develop a broad framework for future decision making in the park for the next 15–20 years. The NPS will be working closely with representatives of Adams County; the Commonwealth of Pennsylvania; local agencies and businesses; concerned local and national organizations; and private citizens.

Among the major issues likely to be addressed in the Gettysburg National Military Park/Soldiers' National Cemetery GMP/EIS are resource protection, visitor activities and interpretation, visitor use and levels, development, support facilities, and operations. A full range of alternatives, including a ''no action'' and a ''minimum requirements'' alternatives, will be considered in the GMP/EIS to address these and other issues that may emerge during the planning process.

Scoping, the process by which the issues to be addressed in the GMP/EIS are identified, will be conducted through public newsletters and public meetings during the summer of 1997. The first scoping meeting will be held on May 21, 1997 from 7:00–9:00 pm at the Holiday Inn, 516 Baltimore Street, Gettysburg, PA. Additional meeting dates, locations, and times will be announced through local media. Representative of Federal, State and local agencies, private organizations and individuals from the general public are invited to participate in the scoping process by responding to this Notice with written comments. All comments that are received will become part of the public record and copies of comments, including any names, addresses and telephone numbers provided by respondents, may be released for public inspection. The draft GMP/EIS is expected to be available for public review during November 1997, with the final version of the GMP/EIS and the Record of Decision to be completed by March 1998.

Because the responsibility for approving the GMP/EIS has been delegated to the NPS, the EIS is a ''delegated'' EIS. The responsible official is Marie Rust, Regional Director, Northeast Region, National Park Service.

DATES: Written comments about the scope of issues to be analyzed in the GMP/EIS should be received no later than July 15, 1997.

ADDRESSES: Written comments concerning the GMP/EIS should be sent to John Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, PA 17325, or at telephone number (717) 334–1124 ext. 436. Requests for information should be directed to Katie Lawhon, (717) 334–1124 ext. 452, at the same address.

Dated: April 28, 1997.

John A. Latschar,

Superintendent, Gettysburg National Military Park, National Park Service.

[FR Doc. 97–11622 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, May 9, 1997.

The Commission was reestablished pursuant to Pub. L. 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will convene at Headquarters, Marconi Station at 1 p.m. for the regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (03/28/97)
3. Reports of Officers
4. Reports of Subcommittees:
   Dune Shacks
   Nickerson
   Use/Occupancy
5. Superintendent's Report
   GMP
   News from Washington
   ORV
   Fee Program
6. Old Business
   Former NTAFS—new name
7. New Business
   Request from Provincetown for Special Subcommittee
8. Agenda for next Meeting
9. Date for next meeting
10. Public comment
11. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/ written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: April 18, 1997

Maria Burks,

Superintendent.

[FR Doc. 97–11623 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Josephine County Water Management Improvement, Fish Passage Improvements, Savage Rapids Dam, Oregon: Notice of Availability of the Record of Decision; Correction

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of record of decision, correction.

SUMMARY: The Bureau of Reclamation published a document in the **Federal Register** of April 2, 1997, concerning availability of a Record of Decision (ROD) in the Josephine County Water Management Improvement Study. The ROD concluded Reclamation's study of alternatives to improve salmon and

steelhead passage at Savage Rapids Dam.

FOR FURTHER INFORMATION CONTACT: J. Eric Glover (503) 872–2795.

SUPPLEMENTARY INFORMATION: Both the ROD and the notice contained an incorrect statement. The ROD has been amended and this notice is issued to clarify that the Grants Pass Irrigation District (GPID) has not voted to support an alternative other than the one presented as the Preferred Alternative. GPID's current fish passage plan is the same as the Preferred Alternative, and GPID has not requested permission from the Oregon Water Resources Commission to modify its current fish passage plan.

Correction of Publication

In the **Federal Register** issue of April 2, 1997, in FR Doc. 97–8312, on page 15727, in the second column, correct the Summary caption information by deleting the fifth sentence and replacing it with:

However, the Preferred Alternative lacks widespread public acceptance.

Dated: April 17, 1997.

John W. Keys, III,

Regional Director.

[FR Doc. 97–11585 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection requests for the titles described below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and their expected burden and cost.

DATES: Comments must be submitted on or before June 4, 1997, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783. You may also contact Mr. Trelease at jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OSM has submitted two requests to OMB to renew its approval of the collections of information found at 30 CFR Part 779, Surface mining permit applications—minimum requirements for environmental resources; and for the Coal Production and Reclamation Fee Report—Form OSM–1. OSM is requesting a 3-year term of approval for these information collection activities.

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 number for these collections of information are 1029–0035 and 1029–0063, respectively.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on February 18, 1997 (62 FR 7254). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

Title: Surface mining permit applications—minimum requirements for environmental resources, 30 CFR Part 779.

OMB Control Number: 1029–0035.

Summary: Applicants for surface coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed surface mining activities. The information will be used by the regulatory authority to determine if the applicant can comply with environmental protection performance standards.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Coal mining companies.

Total Annual Responses: 500.

Total Annual Burden Hours: 39,185 hours.

Title: Coal Reclamation Fee Report—OSM–1 Form.

OMB Control Number: 1029–0063.

Summary: The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR 870 and section 401 of P.L. 95–87. Individual reclamation fee payment liability is based on this information. Without the collection of information OSM could not implement its regulatory responsibilities and collect the fee.

Bureau Form Number: OSM–1.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine permittees.

Total Annual Responses: 15,900.

Total Annual Burden Hours: 4,307.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503.

Dated: April 30, 1997.

Arthur W. Abbs,

Chief, Division of Regulatory Support.

[FR Doc. 97–11559 Filed 5–2–97; 8:45 am]

BILLING CODE 4310–05–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States; Committee on Rules of Practice and Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: June 19–20, 1997.

TIME: June 19, 8:30 a.m.–5 p.m.; June 20, 8:30 a.m.–5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE, Washington, DC

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of

the United States Courts, Washington, DC 20544, telephone (202) 273–1820.

Dated: April 19, 1997.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 97–11589 Filed 5–2–97; 8:45 am]

BILLING CODE 2210–55–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–055]

NASA Advisory Council, Minority Business Resource Advisory Committee 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 forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: May 29, 1997, 8 a.m. to 4 p.m.

ADDRESSES: Johnson Space Center, 2101 NASA Road 1, Bldg. 1, Rm. 457, Houston, TX, 77058.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas, III, Office of Small and Disadvantaged Business Utilization, National Aeronautics and Space Administration, Room 9K70, 300 E Street SW, Washington, DC 20546, (202) 358–2088.

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:

—Call to Order
—Reading of Minutes
—Overview of NASA SDB Program
—Report from the Chairman
—Public Comment
—Establishment of Subcommittee
—New Business
—Adjourn

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 29, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–11663 Filed 5–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services, Office of Museum Services; Proposed Collection, Comment Request

April 30, 1997.

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: This notice announces that the agency requests comment on an information collection prior to submitting it to the Office of Management and Budget for review. A copy of the proposed ICR with applicable supporting documentation may be obtained by calling the Institute of Museum and Library Services, Public Information Officer, Tania Said (202) 606–4646. Individuals who use a TTY, telecommunications device for the deaf may call (202) 606–8636 between 9 am and 4 pm EST, Monday through Friday.

ADDRESSES: Submit written comments to: Rebecca Danvers, Program Director, Office of Museum Services, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506. Comments may also be submitted by e-mail to imsinfo@ims.fed.us.

DATES: Comments must be submitted by July 7, 1997.

FOR FURTHER INFORMATION CONTACT: Submit requests for more information, including copies of the proposed collection of information and supporting documentation, to IMLS Office of Museum Services, Institute of Museum and Library Services, Room 609, 1100 Pennsylvania Ave., NW, Washington, DC 20506.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

Agency: Institute of Museum and Library Services.

Title: IMLS OMS Guidelines, Interim and Final Performance Reports.

OMB Number: 3137–0029.

Agency Number: 3137.

Frequency: Once.

Affected Public: Eligible museums.

Number of Respondents: 679.

Estimated Time Per Respondent: 1–40 hours (time varies by form, please see chart).

Total Burden Hours: 6,751.

Total Annualized capital/startup costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Tania Said, Public Information Officer, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, telephone (202) 606–4646.

Tania Said,

Public Information Officer.

For Public Distribution

IMLS OMS GUIDELINES, INTERIM AND FINAL PERFORMANCE REPORTS

Title of publication	Burden hours per form
Museum Assessment Program (MAP) Grant & Application Guidelines	2
MAP Final Performance Report	1
Conservation Assessment Program (CAP) Grant & Application Guidelines	1
CAP Final Performance Report	1
Conservation Project (CP) Grant Application & Guidelines	9
CP Interim Performance Report	1
CP Final Performance Report	1
General Operating Support (GOS) Grant Application & Guidelines	18
GOS Final Performance Report	1
Professional Services Program (PSP) Grant Application & Guidelines	4
PSP Interim Performance Report	1
PSP Final Performance Report	1
Museum Leadership Initiative (MLI) Grant Application & Guidelines	40
MLI Final Performance Report	1

[FR Doc. 97–11673 Filed 5–2–97; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Institute of Museum and Library Services, Office of Library Services; Submission for OMB Review; Proposed Collection, Comment Request

April 30, 1997.

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13,44 U.S.C. Chapter 35). A copy of this ICR with applicable supporting documentation may be obtained by calling the Institute of Museum and Library Services, Public Information Officer, Tania Said (202) 606–4646. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636 between 9 am and 4 pm EST, Monday through Friday.

Background

Public Law 104–208 enacted on September 30, 1996 contains the Library Services and Technology Act, a reauthorization and refocusing of federal library programs. This legislation retains the state-based approach to library programs and sharpens the focus to two key priorities: information access through technology and information empowerment through special services.

Pub. L. 104–208 authorizes the Director of the Institute of Museum and Library Services to make grants to States to assist them to—

(1) Consolidate Federal library service programs;

(2) stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

(3) promote library services that provide all users access to information through State, regional, national and international electronic networks;

(4) provide linkages among and between libraries;

(5) promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

Under Section 224(a)(2), the State plan shall cover a period of 5 years. Section 224(b) requires that the State plan shall

(1) Establish goals, and specify priorities, for the State consistent with the purposes of the subtitle;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

Section 224(c) requires each State library administrative agency receiving a grant under this subtitle to independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

DATES: Comments must be submitted by July 7, 1997.

ADDRESSES: Comments must be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for the Institute of Museum and Library Services, NEOB, Washington, DC 20503, (202) 395–7316.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

Agency: Institute of Museum and Library Services.

Title: Library Services and Technology Act Five Year Plan.

OMB Number: 3137–0034.

Agency Number: 3137.

Frequency: Once.

Affected Public: State Library Administrative Agencies.

Number of Respondents: 55.

Estimated Time Per Respondent: 90 hours.

Total Burden Hours: 4,950.

Total Annualized capital/startup costs: 0.

Total Annual Costs: 0.

Description: This State plan is needed to assist in determining each State's compliance with the enabling statute, and to provide information for the IMLS Director's Report to Congress on the status of library services nationwide.

FOR FURTHER INFORMATION CONTACT: Tania Said, Public Information Officer, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW Washington, DC 20506, telephone (202) 606–4646.

Tania Said,

Public Information Officer.

[FR Doc. 97–11674 Filed 5–2–97; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 131st Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on May 15, 1997 from 1:30 to 5:30 p.m. and on May 16, 1997 from 9 a.m. to 3 p.m. in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

The Council will meet in closed session on May 15 from 1:30–5:30 p.m. for discussion of National Medal of Arts nominations. In accordance with the determination of the Chairman of April 28, 1997, this session will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code. The remainder of the meeting, from 9 a.m. to

3 p.m. on May 16, will be open to the public. Topics for discussion will include Congressional Update; Budget Update; Application Review; Folk & Traditional Arts Infrastructure Initiative Guidelines and the Endowment's FY 1997–2002 Strategic Plan.

If, in the course of discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of Accessability, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: April 29, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 97–11537 Filed 5–2–97; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Reports Concerning Possible Non-Routine Emergency Generic Problems.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Nuclear power plant, non-power reactor, and materials applicants and licensees.

6. *An estimate of the number of responses:* 210 responses.

7. *The estimated number of annual respondents:* 210 respondents (110 reactor licensees; 100 materials licensees).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 46,200 hours (420 hours per reactor licensee respondent); 10,000 hours (100 hours per materials licensee respondent).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC is requesting approval authority to collect information concerning non-routine, emergency generic problems which would require prompt action from NRC to preclude potential threats to public health and safety.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by June 4, 1997: Edward Michlovich, Office of Information and Regulatory Affairs (3150–0012), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 25th day of April 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–11574 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, 50–287]

Oconee Nuclear Station Units 1, 2, and 3; 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–38, DPR–47, and DPR–55 issued to Duke Power Company (the licensee) for operation of the Oconee Nuclear Station Units 1, 2, and 3 located in Seneca, South Carolina.

The proposed amendments would add a License Condition to address a revision to the Oconee Updated Final Safety Analysis Report to clarify the main turbine-generated missile protection criteria. The licensee has determined that this clarification is necessary in order to resolve an unreviewed safety question (USQ) related to the design of certain portions of the low pressure service water system piping as it relates to the separation criteria of Regulatory Guide 1.115, Revision 1, and Section 3.5.1.3 of NUREG–0800.

Oconee Unit 2 is currently in a forced outage for repairs on the High Pressure Injection System. It is the staff's position that a plant that is shut down may not restart if a USQ exists. The USQ associated with high trajectory turbine missiles was self-identified within the last 2 weeks as a result of engineering design reviews associated with the Oconee Service Water Project. Prior to the forced shutdown of Unit 2, the licensee aggressively developed a proposed license amendment to resolve the issue. Therefore, the issue could not have been resolved prior to the shutdown and must be resolved on an exigent basis so that it does not delay

restart of Unit 2 once repairs to the high pressure injection system are completed.

Before issuance of the proposed license amendments, 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 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 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:

This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards considerations, in that operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated?

No. The proposed license amendment proposes the use of less restrictive guidance with respect to application of the turbine missile design criterion. Oconee's current licensing basis is to protect ES [Emergency Safeguards] equipment against turbine missiles by use of shielding or separation. The proposed changes to the Oconee licensing basis would allow Oconee to use NRC approved methodology, as described in Regulatory Guide 1.115, Revision 1 and NUREG 0800 Revision 2 (for low trajectory turbine missiles) and NUREG 0800 Revision 2 (for high trajectory turbine missiles) in evaluating the credibility and probability of a turbine missile strike on ES equipment prior to imposing a separation or shielding design requirement. If the probability is sufficiently low of a turbine missile strike, then shielding or separation would not be required. Therefore, the separation and shielding design requirements would only be waived on equipment which has a very low probability of being struck by a turbine missile.

Design to protect ES equipment against a turbine missile as described above is not an accident initiator. In addition, under this new license amendment, some ES equipment would be exempted from separation and shielding design requirements for turbine missiles. The basis for this exemption is that the probability of this equipment being hit by a turbine missile is very low as evaluated through NRC approved methods.

Therefore, based on this analysis and the information presented in Attachment 2 [of the licensee's submittal], the probability or consequences of an accident previously evaluated will not be significantly increased by the proposed change.

2. Create the possibility of a new or different kind of accident from the accidents previously evaluated?

No. Design to protect ES equipment against a turbine missile as described above is not an accident initiator.

Therefore, based on this analysis and the supporting information in Attachment 2, no new failure modes or credible accident scenarios are postulated.

3. Involve a significant reduction in a margin of safety?

No. Under this new license amendment, some ES equipment would be exempted from separation and shielding design requirements for turbine missiles. The basis for this exemption is that the probability of this equipment being hit by a turbine missile is very low as evaluated through NRC approved methods.

Therefore, based on this analysis and the supporting information in Attachment 2, the margin of safety is not significantly reduced as a result of this proposed amendment.

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 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 amendment 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 amendment before the expiration of the 14-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. 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 am to 4:15 pm 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 June 9, 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 Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina. 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 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 the amendment is 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 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, US 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 Herbert N. Berkow: 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 J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036, 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 April 29, 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 Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 30th day of April 1997.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–11578 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Energy Fuels Nuclear, Inc.; Designation of Presiding Officer

[Docket No. 40–8681–MLA; ASLBP No. 97–726–03–MLA]

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

Energy Fuels Nuclear, Inc.
White Mesa Uranium Mill

(Request for License Amendment)

The hearing, if granted, will be conducted pursuant to 10 C.F.R. Subpart L of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' This proceeding concerns a request for hearing submitted by the Native American People Historical Foundation on an amendment to the Source Material License of Energy Fuels Nuclear, Inc. to allow receipt and processing of uranium-bearing material. The license amendment was granted by the Nuclear Regulatory Commission staff on April 2, 1997.

The Presiding Officer in this proceeding is Administrative Judge Peter B. Bloch. Pursuant to the provisions of 10 C.F.R. § 2.722, Administrative Judge Charles N. Kelber has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bloch and Judge Kelber in accordance with 10 C.F.R. § 2.701. Their addresses are:

Administrative Judge Peter B. Bloch, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear

Regulatory Commission, Washington, D.C. 20555

Dr. Charles N. Kelber, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Rockville, Maryland, this 29th day of April 1997.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 97–11581 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 55–20726–SP]

Ralph L. Tetrick; (Denial of Application for Reactor Operator License); Notice of Appointment of Adjudicatory Employee

Pursuant to 10 CFR § 2.4, notice is hereby given that Mr. Jesse A. Arildsen, a Commission employee in the Office of Nuclear Reactor Regulation, has been appointed as a Commission adjudicatory employee within the meaning of section 2.4, to advise the Commission regarding issues related to the pending petition for review of LBP–97–2 and LBP–97–6. Mr. Arildsen has not previously performed any investigative or litigating function in connection with this or any factually-related proceeding.

Until such time as a final decision is issued in this matter, interested persons outside the agency and agency employees performing investigative or litigating functions in this proceeding are required to observe the restrictions of 10 C.F.R. §§ 2.780 and 2.781 in their communications with Mr. Arildsen.

It is so ordered.

For the Commission.

Dated at Rockville, Maryland, this 29th day of April, 1997.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–11580 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

IES Utilities Inc.; Central Iowa Power Cooperative; Corn Belt Power Cooperative; Duane Arnold Energy Center; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order approving, under 10 CFR 50.80, an application regarding the proposed merger involving IES Industries (IESI), WPL Holdings, Inc., and Interstate Power Corporation (IPC). IESI is the parent company of IES Utilities Inc. (IESU). IESU is the licensee for the Duane Arnold Energy Center (DAEC) located in Linn County, Iowa.

Environmental Assessment

Identification of the Proposed Action

By letter dated September 27, 1996, IESU informed the Commission that under a merger agreement between IESI, WPL Holdings, Inc., and IPC, IESI will merge with and into WPL Holdings, Inc., to be renamed Interstate Energy Corporation (IEC), of which IESU would become a wholly-owned subsidiary. IESU will remain the holder of its license for DAEC. Under the restructuring, current stockholders of IESI will become stockholders of IEC pursuant to a formula stipulated in the merger agreement. IESU requested the Commission's approval, pursuant to 10 CFR 50.80. IESU would remain an electric utility as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail sale, subject to the rate regulation of the Iowa Utilities Board and the Federal Energy Regulatory Commission.

The Need for the Proposed Action

Approval under 10 CFR 50.80 is needed to the extent the proposed transactions effect an indirect transfer of control of the DAEC license. IESI believes the proposed combination will offer significant strategic and financial benefits, including: (1) Maintenance of competitive rates that will improve the combined entity's ability to meet the challenges of the increasingly competitive environment in the utility industry; (2) reduced operating costs resulting from integration of corporate and administrative functions; (3) reduced electric production costs through the joint dispatch of systems; (4) greater purchasing power for goods and services; (5) more efficient pursuit of diversification into non-utility areas; (6) increased customer diversity and geographic diversity of service territories; and (7) expanded management resources and ability to select leadership from a larger and more diverse management pool.

Environmental Impacts of the Proposed Action

The Commission has reviewed the proposed action and concludes that there will be no changes to the facility or its operation as a result of the proposed action. Accordingly, the NRC staff concludes that there are no significant radiological environmental impacts associated with the proposed action. With regard to potential non-radiological impacts, the proposed action will not affect non-radiological plant effluents and will have no other environmental impact. Accordingly, the NRC staff concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are identical.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the DAEC dated March 1973.

Agencies and Persons Consulted

In accordance with NRC policy, on February 21, 1997, the staff consulted with an official of the Iowa Utilities Board regarding the environmental impact of the proposed action. The state official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this proposed action, see the licensee's letter dated September 27, 1996, with the following exhibits: (A) Information to support the request for the Commission's consent; and (B) A copy of the merger agreement executed among IESI, WPL Holdings, Inc., and IPC. These 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 Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 29th day of April 1997.

For the Nuclear Regulatory Commission.

Gail Marcus,

Director, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–11577 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Individual Plant Examination Database: User's Guide, Draft

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of NUREG–1603, draft.

SUMMARY: The Nuclear Regulatory Commission has published a draft of ''Individual Plant Examination Database: User's Guide. This user's guide provides guidance for formulating queries on the Individual Plant Examination (IPE) database. The IPE database stores information extracted from a review of the IPEs submitted to the agency in response to Generic Letter 88–20.

SUPPLEMENTARY INFORMATION:

Draft NUREG–1603 is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001. A free single copy of Draft NUREG–1603, to the extent of supply, may be requested by writing to Distribution Series, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

It should be noted that the associated software to query the IPE database is not attached to the user's guide. However, the computer software is made available at NRC web site (www.nrc.gov) under the category, ''Nuclear Reactor.''

The Individual Plant Examination (IPE) database stores structured information about plant designs, core damage frequency (CDF) and containment performance. It records the presence or absence of hardware in each design, characterizes its functional dependencies, and relates these features to the CDF and containment performance. The IPE database supports detailed inquiries into these characteristics for a specific plant or class of plants. In particular, the IPE database is designed to answer questions that enable interested parties to compare the CDF and containment performance of boiling- and pressurized- water reactors (BWRs and PWRs) as a function of their design features, on the basis of information found in the IPE submittals.

It should be noted that the information in the IPE database has not been verified or validated. The database contains only information taken from the original IPEs submitted by the licensees and does not contain any changes to this information made because of updates to the licensees' IPEs.

To query the IPE database, two programs have been developed. The first is a self-contained, user friendly, menu-driven program written in Microsoft's Visual Basic language. This program answers the ''basic queries'' most often asked about the IPEs, through a process of sorting records within the IPE database. Queries of this type can be improvised on the spot. Other ''advanced queries'' that all for calculations, linking of data files, and ranking or sorting on the basis of calculation can be performed using the programming language within such personal computer data management applications as dBase, Access, or Paradox. This IPE database user's guide provides guidance for formulating basic and advanced queries.

Dated at Rockville, Maryland this 28th day of April, 1997.

For the Nuclear Regulatory Commission.

Mary T. Drouin,

Acting Chief, Probabilistic Risk Analysis Branch, Division of Systems Technology, Office of Nuclear Regulatory Research.

[FR Doc. 97–11575 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Boards for Senior Executive Service

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Appointment to performance review boards for Senior Executive Service.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to the NRC Performance Review Boards.

The following individuals are appointed as members of the NRC Performance Review Board (PRB) responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives:

Patricia G. Norry, Deputy Executive Director for Management Services

Richard L. Bangart, Director, Office of State Programs

Stephen G. Burns, Associate General Counsel, Office of the General Counsel

Guy P. Caputo, Director, Office of Investigations

Jesse L. Funches, Chief Financial Officer

Edward L. Halman, Director, Office of Administration

Malcolm R. Knapp, Deputy Director, Office of Nuclear Material Safety and Safeguards

Hubert J. Miller, Regional Administrator, Region I

Marylee M. Slosson, Deputy Division Director, Office of Nuclear Reactor Regulation

Ashok C. Thadani, Deputy Director, Office of Nuclear Regulatory Research

Roy P. Zimmerman, Associate Director for Projects, Office of Nuclear Reactor Regulation

The following individuals will serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

Hugh L. Thompson, Jr., Deputy Executive Director for Regulatory Programs

Karen D. Cyr, General Counsel, Office of the General Counsel

Edward L. Jordan, Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Swanson, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–7103.

Dated at Rockville, Maryland, this 24th day of April 1997.

For the U.S. Nuclear Regulatory Commission.

Carolyn J. Swanson,

Secretary, Executive Resources Board.

[FR Doc. 97–11576 Filed 5–2–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38546; File No. SR–CTA/CQ–97–1]

Consolidated Tape Association; Order Granting Approval of First Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan

April 25, 1997.

I. Introduction

On March 14, 1997, the Consolidated Tape Association (''CTA'') Plan Participants filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an amendment to the Restated CTA Plan pursuant to Rule 11Aa3–2 the Securities Exchange Act of 1934 (''Act''). Notice of the filing appeared in the **Federal Register** on March 27, 1997.[1] No comment letters were received in response to the Notice. For the reasons stated below, the Commission has determined to approve the filing.

II. Description of the Amendment

Section XI(a) of the Second Restatement of the CTA Plan recognizes the right of the primary market for a security to halt or suspend trading in the security if it feels that the non-disclosure of information relating to the security or other regulatory problems warrants that action. After the primary market notifies the Processor that the information that triggered the halt has been adequately disclosed, the Processor is required to disseminate indications of interest for the security that any Participant may provide.

If the primary market provides an indication of interest within 15 minutes of the time that it notifies the Processor about the adequate information disclosure, the Processor may resume its dissemination of last sale information relating to the security at the end of that 15-minute period.

If the primary market does not provide an indication of interest within 15 minutes of its notice to the Processor of the adequate information disclosure, then within five minutes of the end of that period, the primary market must cause the Processor to include on the consolidated tape an administrative message. The message must signify the continuation of the halt or announce the existence of a market condition that relates to the trading of the security in the primary market. In the latter case (i.e., the announcement), the halt terminates five minutes after the announcement, at which time the Processor is to resume disseminating last sale information relating to the security.

The instant amendment will reduce the 15-minutes period to ten minutes. This amendment will enable trading in the security to resume ten minutes after the security's primary market notifies the Processor that the requisite information has been adequately disclosed. In the context of a halt that involves the announcement of an existing market condition, the amendment will also expedite the time by which the primary market must make the announcement, thereby expediting the resumption of the Processor's dissemination of last sale information relating to the security.

The post-disclosure waiting period is primarily intended to allow an adequate opportunity for an appropriate level of dispersion of the information that triggered the trading halt. The Commission believes that significant increases in the speed of communications allow for rapid dissemination of information and rapid response to that disseminated information.

Moreover, the Commission believes the increases in the speed of communications have shifted the balance between timeliness and price discovery and believes that the CTA's choice of ten minutes, rather than 15 minutes, is a reasonable period to arrive at a price that reflects an appropriate equilibrium of buying and selling interest. The proposed amendment will allow a stock to open or re-open in a more expeditious manner, while still providing sufficient time for the appropriate pricing of orders. As a result, the proposed amendment strikes an appropriate balance between the preservation of the price discovery process and the provision of timely opportunities for investors to participate in the market.

In addition, the amendment conforms the CTA Plan to rule changes of the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''Amex'').[2] In relevant part, those rule changes reduce from 15 minutes to ten minutes the duration of the time period that must elapse between the first publication of an indication of interest following a trading halt and the reopening of trading in the halted security.

Without the instant amendment to the CTA Plan, the NYSE and Amex rule changes would create the following anomaly: If an indication of interest for a security is published less than five minutes after NYSE or Amex announces that the information that gave rise to a regulatory trading halt has been adequately dispersed, NYSE and Amex rules would allow the specialist to reopen trading in the security before the CTA Plan would allow the Processor to report the security's last sale price information. This amendment eliminates the anomaly.

III. Discussion

The Commission has determined that this amendment is consistent with the Act. Rule 11Aa3–2(c)(2) under the Act provides, *inter alia*, that the Commission approve an amendment to an effective National Market System plan is it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act. In making such a determination, the Commission must examine Section 11A of the Act and the rules promulgated thereunder. Rule 11Aa3–2(b) lists the requirements for filing or amending a national market system plan. The Commission has determined that the detailed description of the amendment, the rationale for the amendment, and plans for operation meet the requirements of Rule 11Aa3–2(b).

Furthermore, the amendments will remove impediments to and perfect the mechanisms of a National Market System by reducing the period of time that must elapse before the Processor can resume the dissemination of market data after the primary market for the halted security notifies the Processor that the Information that triggered the halt has been adequately disclosed.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed amendment to the CTA Plan is consistent with the Act, and the Rules thereunder.

It is therefore ordered, pursuant to Section 11A of the Act, that the amendment to the CTA Plan be, and hereby is, approved.

[1] Securities Exchange Act Release No. 38427 (March 21, 1997), 62 FR 14708.

[2] The Commission approved the NYSE rule change on January 31, 1997. *See* Securities Exchange Act Release No. 38225, 62 FR 5875 (February 7, 1997). The Amex had filed its version (the ''Proposed Amex Rule'') with the Commission and the Commission is by separate Order approving the proposed Amex rule. *See* Exchange Act Release No. 38549 (April 28, 1997).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11614 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26712]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 30, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 22, 1997, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–8875)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01809, a registered holding company and its wholly owned subsidiary companies (''Subsidiaries''), Holyoke Water Power Company (''HWP''), Canal Street, Holyoke, Massachusetts 01040, Western Massachusetts Electric Company (''WMECO''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01809, Public Service Company of New Hampshire (''PSNH'') and North Atlantic Energy Corporation (''NAEC''), both of 1000 Elm Street, Manchester, New Hampshire 03015, and The Connecticut Light & Power Company (''CL&P''), 107 Selden Street, Berlin, Connecticut 06037 (all companies collectively, ''Applicants''), have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 43, 45 and 54 thereunder.

By orders dated February 11, 1997 (HCAR No. 26665) and March 25, 1997 (HCAR No. 26692) (''Orders''), the Commission authorized among other things, the Applicants to enter into an unsecured revolving credit facility (''Facility'') with various lending institutions permitting borrowings thereunder aggregating up to $313.75 million.[1] The Orders also authorized NAEC to issue short-term notes aggregating not more than $50 million, and the continued use, through December 31, 2000, of the Northeast Utilities System Money Pool (''Money Pool'') to assist in meeting the short-term borrowing needs of the Applicants and certain other NU subsidiaries.[2] The Orders provided however, that NAEC could borrow through the Money Pool to the extent that funds attributable to contributions from NU are available for such borrowings.

The Applicants now propose that NU, CL&P and WMECO enter into amendments to their Facility, which will provide, among other things, that: (1) CL&P and WMECO collateralize their obligations under the Facility with first mortgage bonds;[3] (2) NU's borrowing limit under the Facility be reduced to zero, subject to reinstatement to up to $50 million, until such time as NU, CL&P and WMECO meet certain financial tests; (3) the levels of CL&P's and WMECO's respective borrowings may not exceed the aggregate principal amount of the first mortgage bonds securing their respective obligations under the Facility; (4) on the closing date of the amendment, the borrowers pay each lender an amendment fee equal to .25% of its commitment under the Facility; and (5) the amendments become effective no later than May 30, 1997.

The Applicants also propose to increase the short-term borrowing limit of NAEC from $50 million to $60 million and to amend the Money Pool to enable NAEC to borrow funds contributed by all of the NU system Money Pool participants. The Applicants request, however, that the Commission reserve jurisdiction over PSNH and NAEC borrowing Money Pool funds attributable to WMECO, unless and until authorization is granted by the Massachusetts Department of Public Utilities.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11615 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (T.J.T., Inc., Common Stock, $.001 Par Value; Redeemable Common Stock Purchase Warrants) File No. 1–14140

April 29, 1997.

T.J.T., Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons cited in the application for withdrawing the Securities from listing and registration on the BSE are that the Securities are traded on the Nasdaq SmallCap Market. The Company's listing on the BSE was required by the Company's underwriters, Toluca Pacific Securities Corp. (''Toluca''). Toluca has experienced operating difficulties and ceased to make a market in the Company's securities as of January 30, 1997.

The Securities trading volume on the BSE is exceedingly low. During January 1997 there was one trade of 100 shares, during February 1997 there was one trade of 10,100 shares, and during March 1997 there was one trade of 100 shares. In view of the limited activity on the BSE, it is not cost-effective for the Company to maintain its listing on two exchanges.

Any interested person may, on or before May 20, 1997, submit by letter to

[3] 17 CFR 200.20–3(a)(27).

[1] Under the Facility, the Applicants have the following maximum borrowing limits: NU—$150 million; CL&P—$313.75; and WMECO $150 million.

[2] The Orders authorized the issuance of short-term debt through December 31, 2000.

[3] CL&P's and WMECO's issuance and sale of such bonds are exempt from prior Commission authorization under rule 52.

the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–11526 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Genesis International Financial Services, Inc.; Order of Suspension of Trading

May 1, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Genesis International Financial Services, Inc. (''GIFS''), because of questions regarding the accuracy of assertions by GIFS, and by others, in documents sent to, and statements made to, market-makers of the stock of GIFS, other broker-dealers, and to investors concerning, among other things, the value of certain assets claimed by GIFS and the purported sale of a GIFS subsidiary.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, May 1, 1997 through 11:59 p.m. EDT, on May 14, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11738 Filed 5–1–97; 11:44 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38549; File No. SR–AMEX–97–13]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Exchange Policy on Indications, Openings and Reopenings

April 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 5, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and Ii below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to revise Exchange policy regarding indications, openings and reopenings. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

1. Purpose

Amex specialists disseminate indications of interest to the consolidated tape prior to the opening or reopening of trading in a previously halted stock, or in the event of a delayed opening. These indications communicate the probable price range where the stock will open or reopen.

The Amex's policy on dissemination of tape indications currently requires a minimum of 15 minutes to elapse between the first indication and the opening or reopening of a stock. In addition, when multiple indications are used, a minimum of 10 minutes must elapse after the last indication when it does not overlap the prior indication, and a minimum of 5 minutes must elapse after the last indication when it overlaps the prior indication.

The Exchange is proposing that these minimum time periods before opening or reopening a stock be compressed from 15 to 10 minutes after the first indication; and to 5 minutes after the last indication, regardless of whether it overlaps the prior indication, provided that a minimum of 10 minutes elapses between the first indication and the opening or reopening of a stock. The proposed rule shortens the time period for indications and strikes an appropriate balance between preserving the price discovery process while providing timely opportunities for investors to participate in the market.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–97–13 and should be submitted by May 27, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[3] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[4] requirements that rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.[5]

Specifically, the Exchange proposed that minimum time periods before opening or reopening a stock be compressed from 15 to 10 minutes after the first indication; and to 5 minutes after the last indication, provided that a minimum of 10 minutes elapsed between the first indication and the opening or reopening of a stock. For example, if only 3 minutes had elapsed from the time of the first indication to the second indication, the minimum waiting period after the second indication would be 7 minutes.

The Commission agrees with the Exchange that due to increases in the speed of communications, relevant market information can be disseminated and responded to very quickly. The Commission finds reasonable the Exchange's determination that the propose rule change will allow the opening or reopening of a stock in a more expeditious fashion while still providing sufficient time for appropriate pricing of orders. The Commission finds that in the rule change, the Exchange has made a reasonable determination that balances the preservation of the price discovery process while providing timely opportunities for investors to participation in the market. Exchange staff has represented that the change in the timing of tape indications is consistent with Intermarket Trading System re-opening procedures.[6]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The rule change is being approved with a corresponding amendment to Section XI(a) (Trading Halt and Suspension Procedures) of the Consolidated Tape Association Plan.[7] An identical policy on indications, openings, and reopenings was approved for use on the New York Stock Exchange on January 31, 1997 following a full notice period during which no comments were received.[8]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–AMEX–97–13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11607 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. § 78f(b).

[4] 15 U.S.C. § 78f(b)(5).

[5] In approving this rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[6] Telephone conversation between Mike Cavalier, Attorney, Amex and David Sieradzki, Attorney, SEC, on March 20, 1997.

[7] *See* Securities Exchange Release No. 38546 (Apr. 25, 1997).

[8] *See* Securities Exchange Act Release No. 38225 (Jan. 31, 1997), 62 FR 5875 (Feb. 7, 1997) (order approving File No. SR–NYSE–96–32).

[9] 15 U.S.C. § 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38547; File No. SR–CBOE–96–73]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Membership Committee Jurisdiction Over Continuing Membership

April 25, 1997.

I. Introduction

On November 26, 1996, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] On February 12, 1997, the Exchange filed an amendment to the rule proposal.[3] The rule change amends CBOE Rule 3.4, ''Denial of and Conditions to Membership,'' to grant CBOE's Membership Committee (''MC''), instead of the CBOE's Business Conduct Committee (''BCC''), the power to deny continued membership or association with a member, or to condition continuance in membership or association, if the member or associated person: (1) Fails to meet any of the qualification requirements for membership or association after the membership or association has been approved; (2) fails to meet any condition placed by the MC on such membership or association; (3) violates an agreement with the Exchange; or (4) becomes subject to a statutory disqualification under the Act. The rule change also amends CBOE Rule 3.4 to require a member or person associated with a member who is subject to a statutory disqualification to submit an application to the MC in order to continue as a member or as a person associated with a member.

Notice of the proposed rule change and Amendment No. 1, together with the substance of the proposal, was provided by issuance of a release (Securities Exchange Act Release No. 38290 (February 14, 1997)) and by publication in the **Federal Register** (62 FR 8472 (February 25, 1997)). No comments were received. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Currently, the CBOE's MC may deny or condition membership for new applicants for the reasons specified in CBOE Rule 3.4 (a), (b), and (c). CBOE Rule 3.4(e) currently authorizes the Exchange's BCC, rather than the MC, to take action against existing members or

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Arthur Reinstein, Senior Attorney, CBOE, to Janice Mitnick, Attorney, Division of Market Regulation, Commission, dated February 12, 1997 (''Amendment No. 1''). Amendment No. 1 provides that failure to file an application notifying the Exchange of a statutory disqualification would be a factor to be considered by the CBOE's Membership Committee in making determinations with respect to the person's membership or association pursuant to CBOE Rule 3.4(e), instead of constituting a waiver of the individual's right of appeal. Further, Amendment No. 1 describes the procedures to be followed by the Exchange's Membership Committee in reviewing an application submitted pursuant to proposed CBOE Rule 3.4(f). Finally, Amendment No. 1 describes the composition of the CBOE's Business Conduct Committee and CBOE's Membership Committee.

associated persons when any of the reasons delineated in CBOE Rule 3.4 (a), (b), or (c) for denying or conditioning membership or association arise.

The CBOE proposes to amend CBOE Rule 3.4(e) to allow the MC, rather than the BCC, to deny continued membership or association, or to condition the continuance of membership or association, if the member or associated person: (1) Fails to meet any of the qualification requirements for membership or association after the membership or association has been approved; (2) fails to meet any condition placed by the MC on such membership or association; (3) violates any agreement with the Exchange; or (4) becomes subject to a statutory disqualification under the Act.

The Exchange believes that it is more appropriate for the MC to deal with membership related issues (whether these issues concern an applicant for membership or an existing CBOE member), and for the BCC to limit its activities to disciplinary matters involving allegations of specific rule violations. According to the CBOE, the MC is more familiar with the considerations that properly bear on decisions to deny or condition membership, and is best able to evaluate cases involving whether to continue or condition the membership of an existing member by referring to the standards it applies when evaluating applicants for membership. Furthermore, the BCC may not be familiar with the factors considered by the MC when acting on membership applications, or the types of conditions that may be imposed on applicants. Therefore, the CBOE believes that the rule change will remove the possibility of disparate or inconsistent treatment of membership issues because the MC will make all membership-related decisions, both for individuals applying for membership and for CBOE members.

New CBOE Rule 3.4(g) preserves the right of persons denied membership under CBOE Rule 3.4 (a), (b) or (c) to appeal the MC's decision pursuant to Chapter XIX, ''Hearings and Review,'' of the CBOE's rules and grants the same right of review to existing members and associated persons who are not permitted to continue in membership or association, or whose membership or association is conditioned pursuant to CBOE Rule 3.4(e).[4] Further, pursuant to CBOE Rule 3.4(g), no determination by the MC to discontinue or condition membership or association shall take effect until the review procedures under Chapter XIX have been exhausted, or the time for such review has passed.

Although the BCC will no longer have authority over decisions regarding conditioned or continued membership under CBOE Rule 3.4(e), the CBOE notes that the BCC will retain its power to take action against existing members or associated persons pursuant to Section 2.2, ''Eligibility for Membership; Good Standing,'' of the Exchange's Constitution if a member or associated person violates any provision of the Constitution or the rules.[5] The Exchange believes that, as a practical matter, the rule change will have little effect on the BCC's ability to act because the BCC rarely relies on CBOE Rule 3.4(e), but instead takes disciplinary action for specific rule violations under the other provisions of the CBOE's rules. Accordingly, the Exchange states that, following the CBOE's current practice, the BCC will continue to take disciplinary action under CBOE Rule 4.2, ''Adherence to Law,'' and the Chairman of the Board or the Chairman of the Executive Committee will continue to take action under CBOE Rule 16.1, ''Imposition of Suspension.''

The rule change also clarifies that CBOE Rule 3.4(e) applies to associated persons as well as members. The Exchange states that the CBOE has always interpreted CBOE Rule 3.4(e) to apply to associated persons as well as members, and that the rule change clarifies CBOE Rule 3.4(e) to reflect this interpretation.

Finally, the rule change will add paragraph (f) to CBOE Rule 3.4, which will require members or persons associated with members who become subject to a statutory disqualification[6] to file an application with the MC within 30 days of becoming subject to the statutory disqualification if the member or associated person wishes to continue in membership or association. The MC will consider continued membership or association with a member under the same procedures as it will consider a new application of an individual who is subject to a statutory disqualification.[7] Absent extenuating circumstances, if a member or associated person fails to submit the required application, the Exchange may consider such failure as a factor to be considered by the MC when making a determination with respect to the member or associated person's continued membership or association.[8]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(6),[9] which requires that the rules of an exchange provide that its members and persons associated with its members be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the rules of the exchange. In addition, the Commission finds that the Exchange's proposal is consistent with Section 6(b)(7) of the Act,[10] which requires, among other things, that the rules of an exchange provide a fair procedure for the disciplining of members and associated persons, the denial of membership, and the barring of any person from association with a member.

The Commission believes that it is reasonable for the Exchange to amend its rules to provide the MC, rather than the BCC, with jurisdiction over membership issues relating to existing CBOE members and associated persons.[11] In this regard, the Commission notes that the CBOE has stated that the MC is more familiar with the considerations that bear on decisions to deny or condition membership and is best able to evaluate cases involving membership issues. In addition, the CBOE believes that the consolidation of membership issues with the MC will help to ensure consistent treatment of membership related issues, whether the issues concern an applicant for membership or association or an existing CBOE member or associated person.

The proposal also preserves the right of CBOE members and associated persons, as well as applicants for membership or association, to appeal decisions of the MC under CBOE Rule

[4] Under Chapter XIX, a person denied membership may be apply for a hearing before a panel of the Appeals Committee to obtain review of a MC denial. *See* CBOE Rule 19.2, ''Submission of Applications to the Exchange.'' The panel's decision may then be appealed to or reviewed by the CBOE's Board of Directors (''Board''). *See* CBOE Rule 19.5, ''Review.''

[5] Section 2.2 provides that ''the good standing of a member may be suspended, terminated or otherwise withdrawn, as provided in the Rules, if any of said conditions for approval cease to be maintained or the member violates any of its agreements with the Exchange or any of the provisions of the Constitution or the Rules.''

[6] *See* 15 U.S.C. § 78c(a)(39).

[7] *See* Amendment No. 1, *supra* note 3, and CBOE Regulatory Circular RG95–93.

[8] *See* Amendment No. 1, *supra* note 3.

[9] 15 U.S.C. § 78f(b)(6).

[10] 15 U.S.C. § 78f(b)(7).

[11] As noted above, the CBOE's MC currently may deny or condition membership or association with regard to applicants for membership or association under CBOE Rule 3.4 (a), (b), and (c).

3.4. Specifically, CBOE Rule 3.4(g) provides that an applicant or associated person who has been denied membership or association pursuant to CBOE Rule 3.4(a), (b), or (c), or whose continuance in membership or association has been conditioned pursuant to CBOE Rule 3.4 (e), may appeal the MC's decision under Chapter XIX of the CBOE's rules. As noted above, Chapter XIX of the CBOE's rules provides for a hearing before a panel of the CBOE's Appeals Committee and for review of the panel's decision by the CBOE's Board or a committee of the Board. In addition, CBOE Rule 3.4(g) states that no decision of the MC under CBOE Rule 3.4(e) will take effect until the review procedures under Chapter XIX have been exhausted or the time for review has expired. Accordingly, the Commission believes that the CBOE's proposal preserves the rights of members and applicants to appeal decisions of the MC, thereby helping to ensure that the CBOE's rules provide fair procedures for disciplining members and associated persons, and for denials of membership, consistent with Section 6(b)(7) under the Act.

In addition, the Commission believes that it is reasonable for the CBOE to clarify that CBOE Rule 3.4(e) applies to associated persons as well as members in order to reflect accurately the CBOE's interpretation and application of CBOE Rule 3.4(e). Finally, the Commission believes it is reasonable to add CBOE Rule 3.4(f), requiring a member or associated person who becomes subject to a statutory disqualification to submit an application to the MC to continue in membership in order to facilitate the CBOE's compliance with Commission Rule 19h–1.

IV. Conclusion

It is therefore ordered, pursuant to § 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–96–73) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11606 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. § 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38556; File No. SR–NSCC–97–01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change To Eliminate NSCC's Securities Transfer Service

April 29, 1997.

On January 22, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–97–01) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on March 7, 1997.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change eliminates NSCC's Securities Transfer Service (''STS'')[3] by deleting NSCC Rule 42. NSCC developed STS in 1976 to provide assistance with the manual processing of securities certificates that were not eligible for deposit at the Depository Trust Company (''DTC''). STS was an optional service that could be used by full settling participants to transfer and reregister physical securities, including DTC ineligible items, through various transfer agencies in the United States and Canada. To use STS, participants first sent envelopes containing securities certificates to an NSCC office. Pursuant to the participant's transfer instructions, NSCC then forwarded the envelopes to the offices of the indicated transfer agents. Upon completion of the reregistration, transfer agents returned the certificates to NSCC's office for pick up. Participants could also use STS to deliver book closing items, legal transfers, and accommodation transfers. As a result of the elimination of STS, participants will process items directly through the appropriate transfer agent.

NSCC wants to eliminate STS because of a decrease in its usage.[4] NSCC expects to eliminate STS thirty business days after notification to participants that this proposed rule change is approved by the Commission.

II. Discussion

Section 17A(b)(3)(F)[5] provides that the rules of a clearing agency must be designed to remove impediments to and perfect the mechanism for a national system for the prompt and accurate clearance and settlement of securities transactions. When STS was first begun, its use enhanced the transfer of physical securities. Because of the high volume processed through STS, it was more efficient for participants to deliver all of their physical certificates to one location, NSCC, instead of to many different transfer agents. In turn, because NSCC could aggregate multiple delivers to transfer agents, it could reduce the costs of delivery.

However, because of the low volumes of securities being processed through STS, STS has become an inefficient means of transferring securities. Because NSCC does not receive enough items to aggregate deliveries to transfer agents, it cannot provide lower costs. Because STS no longer provides a more economical means by which participants can make deliveries to transfer agents, there no longer is any reason to have an extra securities movement in the process (i.e., the delivery to NSCC before delivery to transfer agents only increases the number of deliveries that must be made). Thus, requiring participants to send their securities directly to the transfer agents may result in a better national clearance and settlement system. Furthermore, by eliminating an inefficient service that is not used by many participants, NSCC may be better able to devote its resources to other services that provide greater efficiencies to the clearance and settlement process.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular 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–

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38352 (February 28, 1997), 62 FR 10602

[3] STS is commonly referred to as the National Transfer Service.

[4] During the 1980s, STS processed approximately 670 securities certificates per day. However, after 1987 volume fell dramatically because DTC began increasing the number of securities eligible for deposit and because of the Group of 30 initiatives which encouraged the brokerage industry to move towards a book-entry registration environment. By 1994, STS' volume fell 82% to 120 securities certificates processed per day. STS processed just over twenty-five items per day in October 1996 or about an 80% decrease from its 1994 volume and a 96% decrease from its 1980s volume.

[5] 15 U.S.C. 78q–1(b)(3)(F)

NSCC–97–01) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11604 Filed 5–2–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38553; File No. SR–NSCC–96–22]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Making Orders from Defined Contribution Plans Eligible For NSCC's Mutual Fund Service

April 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 26, 1996, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on March 18, 1997, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested 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 amends NSCC's rules to permit transactions involving defined contribution plans to be cleared and settled through NSCC's mutual fund service.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend NSCC's rules to allow NSCC to offer clearance and settlement services to mutual fund orders from defined contribution plans that are authorized under Section 414(i) of the Internal Revenue Code. According to NSCC, the Investment Company Institute (''ICI'') on behalf of a committee of mutual fund companies, third party administrators (''TPAs''), and trustees of plans asked NSCC to provide clearance and settlement services to alleviate the processing and operational constraints that have occurred as a result of the rapid expansion of the defined contribution mutual fund business.

TPAs serve as the administrators of Plans, acting as the contact person for all participants. To provide better services and more flexible investment options, TPAs allow participants in their plans to select among investments in multiple mutual fund complexes. Participants in plans submit all purchase or redemption orders to the TPA which transmits the orders to the appropriate mutual fund. The TPA must communicate separately with each mutual fund to place orders to buy or sell shares. The TPA also must forward the trade information to the plan trustee which handles the plan's assets (*e.g.*, the participants' money contributions). The trustee also must maintain communications with several parties (*e.g.*, TPAs and mutual funds) to monitor trade activity and to satisfy multiple settlement obligations.

Under the proposed rule change, NSCC will permit TPAs to join NSCC as nonsettling members and to participate in the Fund/Serv, Networking, and the Mutual Fund Profile Service portions of NSCC Mutual Fund Services.[3] TPA members will be able to initiate and to respond to orders and redemptions on behalf of their plans.[4] Because settlement obligations for the TPA's orders and redemptions are the responsibility of the trustee,[5] the proposed rule change will require the TPA to submit to NSCC a form designating the appropriate trustee responsible for the settlement of its orders, and the trustee will be required to acknowledge its settlement responsibilities with respect to each TPA.

In order to become a TPA member and to maintain TPA membership, a TPA must demonstrate that its business and capabilities are such that it could reasonably expect material benefit from direct access to NSCC's services. In addition, NSCC must determine that the TPA: (1) Has a business history of a minimum of three years or has personnel with sufficient operational background and experience to ensure the ability of the TPA member to conduct such a business; (2) maintains adequate staff, physical facilities, books and records, and procedures so it is capable of handling mutual fund transactions with NSCC; and (3) is not subject to any statutory disqualification or an order of similar effect issued by court or agency.

If the TPA does not meet the operational standards of (1) Or (2) above, NSCC may approve the application if the TPA applicant demonstrates an acceptable alternative operational standard. To approve an application based upon an alternative operational standard, NSCC must determine that: (1) The alternative operational standard will not require any extended manual intervention on behalf of NSCC; (2) the TPA will be able to submit data within the time parameters established by NSCC; and (3) the alternative operational standard does not expose NSCC to undue risk.

In addition, NSCC will have the ability to examine the operational capability of TPA members on an ongoing basis. NSCC may also require the TPA member to provide adequate assurances of its operational capability, including: (1) Additional reporting by a TPA member of its operational condition at intervals and in detail as determined by NSCC and (2) assurances as may be required pursuant to NSCC's guidelines and procedures.

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[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by N SCC.

[3] As nonsettling members, TPAs may not participate in the Mutual Fund Commission Settlement portion of Mutual Fund Services.

[4] In addition to the changes described below, the following NSCC rules will be amended to apply to TPA members: Rule 5 (General Provisions relating to authorized representatives), Rule 6 (Distribution Facilities), Rule 17 (Fine Payments), Rule 18 (Procedures For When the Corporation Declines or Ceases to Act). Rule 20 (Insolvency), Rule 22 (Suspension of Rules), Rule 24 (Changes for Services Rendered), Rule 26 (Bills Rendered), Rule 27 (Admission to Premises of the Corporation), Rule 29 (Qualified Securities Depositories), Rule 32 (Facsimile Signatures), Rule 33 (Procedures), Rules 34 (Insurance), Rule 35 (Financial Reports), Rule 36 (Rule Changes), Rule 37 (Hearing Procedures), Rule 39 (Special Representative/Index Receipt Agent), Rule 45 (Notices), Rule 46 (Restrictions on Access to Services), and Rule 48 (Disciplinary Proceedings).

[5] The Trustee must be a NSCC participant bank or broker-dealer.

Before becoming a member, the TPA must agree: (1) That the only NSCC service or system that it will utilize is NSCC's Mutual Fund Services; (2) that it will abide by NSCC's rules, provisions, and remedies; (3) that NSCC's rules will be a part of the terms and conditions of every transaction that it submits to NSCC; (4) that it will not submit any transaction to the Mutual Fund Services unless NSCC's rules are part of the terms and conditions of the transaction, and it will not submit or confirm any transaction to or through NSCC's Mutual Fund Services in contravention of the Investment Company Act of 1940;[6] (5) that it will pay to NSCC any compensation provided for by NSCC's rules for a Mutual Fund Services transaction and pay any fines that may be imposed under NSCC's rules; (6) that it will be bound by any amendments of NSCC's rules that relate to any transaction submitted through the Mutual Fund Services; and (7) that its agreement with NSCC will inure to the benefit of and be binding upon the parties respective successors and assigns.

Once an NSCC member, the TPA may submit a mutual fund order to NSCC on the trade date of the order or on any date thereafter.

If the order does not contain the information required by NSCC, NSCC will reject the order and advise the TPA member of the rejection. If the TPA member desires to resubmit a rejected order, it must submit the order to NSCC as if it had never been submitted. Upon receipt of a TPA member's properly submitted mutual fund order, NSCC will transmit the information to the appropriate mutual fund member and to the trustee.[7]

The fund member may accept or reject the TPA member's mutual fund order. A rejection by the fund member will result in the deletion of the mutual fund order. The trustee also will have the ability to cause orders to be deleted from Fund/Serv by submitting an exit instruction.[8] If the trustee does not submit an exit instruction for an order submitted by a TPA member, NSCC's rules make it clear that the trustee will be responsible for such order. When an order is deleted, NSCC will notify the other parties, and the TPA member and fund member will have to adjust the order.[9] If the TPA member's order is accepted, the fund member will confirm the order. TPA members that do not agree with the terms of a mutual fund order as confirmed by a fund member may submit a correction to NSCC.

In addition to the ability to submit orders, the proposed rule change will provide TPA members with the ability to engage in the following activities. TPA members will be able to submit money only charges. A trustee who does not agree with the terms of a money related charge submitted by a TPA will be able to submit a deletion to NSCC. TPA members will submit exit orders when, for whatever reason, they do not want to settle through Fund/Serv. If a TPA member determines that data it transmitted to a fund member regarding a settled order is incorrect, it will be able to submit an extended correction instruction to NSCC. When this occurs, NSCC will notify both the fund member and the trustee. TPA members will have the option of submitting registration data for orders submitted through Fund/Serv. TPA members also will be entitled to participate in or process mutual fund orders that result from underwritings and tender offers.

NSCC also will provide data concerning the status of all Fund/Serv transactions to TPA members each business day, and TPA members may receive information through the Mutual Fund Profile Service.[10]

In addition to the amendments described above, the proposed rule change amends the definition of an NSCC fund member and member to include limited liability corporations as a named category of eligible entity. The proposed rule change also amends NSCC's rules to allow a bank or trust company to become a mutual fund services member, which is a broker-dealer, bank, trust company, or other entity that has agreed to limit its use of NSCC's services to NSCC's Mutual Fund Services. According to NSCC, the purpose of these changes is to update NSCC's rules to be consistent with NSCC's current practice.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[11] and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The ICI, on behalf of a committee of mutual fund companies, TPAs and trustees of plans, asked NSCC to develop a solution to existing defined contribution processing operational constraints. No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[12] The Commission believes that the rule change is consistent with this obligation because the proposal should enhance the clearance and settlement of plan orders by providing a centralized and automated facility for transmission of order data by TPAs. Currently, to process its customers orders, TPAs and trustees must communicate by various means with several parties, which may be a cumbersome process. Under the proposed rule change, TPA members will submit all plan orders to NSCC, and NSCC will automatically forward the information to the appropriate mutual fund and trustee. Because the orders will be sent through NSCC, the time and cost associated with processing should be reduced. Thus, the proposal promotes the prompt and accurate clearance and settlement of securities transactions.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. Commission finds good cause for approving the proposed rule change

[6] 15 U.S.C. 80a–1 *et seq.*

[7] The proposed rule change also will allow fund members to submit orders against TPA members instead of the TPA submitting the order. TPA members that do not agree with the terms of a fund originated order will be able to delete the order and then resubmit an adjusted order.

[8] The trustee may want to delete the order if for example the trustee no longer has the plan as a customer or the trustee does not have sufficient funds to pay for the order.

[9] In addition to deletions by the parties, NSCC may delete from Fund/Serv any uncompleted Fund/Serv items upon the withdrawal of a TPA member from participation in Fund/Serv but not earlier than five business days following notification to the trustee of the TPA member's intention to withdraw from Fund/Serv.

[10] NSCC will charge TPA members the standard fees for the Mutual Fund Services. NSCC will collect the fees through automated clearing house (''ACH'') debits. TPA members will be required to enter into an authorization agreement which will permit NSCC to initiate wire transfer debit entries through ACH.

[11] 15 U.S.C. 78q–1.

[12] 15 U.S.C. 78q–1(b)(3)(F).

prior to the thirtieth day after publication of the notice of filing because accelerated approval will permit NSCC to begin making mutual fund orders from TPAs for their plans eligible for NSCC's mutual fund service immediately. Thus, NSCC will be able to respond promptly to the processing and operational constraints that are currently being experienced in this area.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–96–22 and should be submitted by May 27, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–96–22) be, and hereby, is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11608 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38544; File No. SR–Phlx–97–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 thereto by the Philadelphia Stock Exchange, Inc. Relating to PACE Execution Guarantees.

April 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on March 3, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On April 4, 1997, the Phlx filed Amendment No. 1 to the proposal.[1] On April 21, 1997, the Exchange filed Amendment No. 2 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System (PACE), to amend the: (1) Execution guarantee applicable to PACE market[3] and marketable limit orders over 599 shares; (2) out-of-range protection provisions; (3) execution price for partial round lots; and (4) limit order provisions for clarity. First, the Exchange proposes to amend the execution guarantee applicable to orders greater than 599 shares.[4] Specifically, where a specialist voluntarily agrees to automatically execute market or marketable limit orders greater than 599 shares, an order is automatically executable at the PACE Quote,[5] if it is: (a) Greater than 599 shares; (b) within the specialist's automatic execution guarantee; and (c) less than or equal to the size of the PACE Quote. Orders greater than the size of the PACE Quote are guaranteed either: (1) A manual execution at the PACE Quote price up to the size of the PACE Quote, with the balance of the order receiving a professional execution, in accordance with Rule 229.10(b) (''the First Guarantee''); or (ii) an automatic execution at the PACE Quote, up to the size of the order (within the specialist's execution guarantee size), regardless of the size of the PACE Quote (''the Second Guarantee'').

The First Guarantee is applicable to all specialists who agree to accept orders greater than 599 shares. With respect to the portion of an order exceeding the size of the PACE Quote, such order shall receive a professional execution, meaning an execution consistent with prevailing market conditions, fair and orderly markets and other applicable Exchange rules; this language is proposed to be added to Supplementary Material .10(b). The Second Guarantee is applicable to orders greater than 599 shares and for which specialists have agreed to establish a guarantee for a security independent of the size of the PACE Quote. The First and Second execution guarantees are proposed to be added to Supplementary Material .05.

Second, the provisions respecting out-of-range executions also are being amended. Currently, pursuant to Supplementary Material .07(a), member organizations which enter market orders after the opening may elect to have such orders executed (i) In accordance with the procedures set forth in Supplementary Material .05, or (ii) if such execution price would be outside the New York market high-low range for the day, manually at or within the New York market high-low range of the day. This is referred to as out-of-range protection, a long-standing feature of the

[1] Amendment No. 1 makes several clarifying revisions to the proposal and corrects a typographical error. *See* Letter from Philip H. Becker, Senior Vice President, Chief Regulatory Officer, Phlx, to James T. McHale, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, dated April 3, 1997 (''Amendment No. 1'').

[2] Amendment No. 2 clarifies the operation of the proposed rule change by revising the fourth example under the heading ''Market orders.'' *See* letter from Philip H. Becker, Senior Vice President, Chief Regulatory Officer, Phlx, to James T. McHale, Attorney, OMS, Division, Commission, dated April 17, 1997 (''Amendment No. 2'').

[3] Market orders are defined as orders to buy or sell a stated amount of a security at the best price obtainable after the order is represented on the Exchange.

[4] Consistent with the existing provisions of Supplementary material .05, if an order is for 599 shares or less, it will continue to be automatically executable at the PACE Quote, regardless of the size of the PACE Quote, as the Exchange is not amending the automatic execution guarantee applicable to orders for 599 shares or less.

[5] The PACE Quote is defined as the best bid/ask quote among the American, Boston, Cincinnati, Chicago, New York, Pacific, or Philadelphia Stock Exchanges, or the Intermarket Trading System/Computer Assistant Execution System (''ITS/CAES'') quote, as appropriate.

PACE System.[6] At this time, the limitation to orders less than 599 shares in Supplementary Material .07(a) respecting market orders is proposed to be deleted, and a new provision applicable to limit orders is proposed to be adopted in Supplementary Material .10(a) to cover all sizes of limit orders. Currently, Supplementary Material .10(b) provides that orders executed under that paragraph will be executed at or within the primary market high-low range existing at the time of execution.

Third, the Exchange proposes to amend the provisions respecting the execution of partial round-lot orders. Currently, Supplementary Material .07(b) provides that, in the case of a partial round-lot order, the round-lot portion(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the last round-lot portion is executed. This provision is proposed to be amended to state that the execution should look back to the execution price of the first 100 shares. The same changes are proposed respecting Supplementary Material .09 and .10(b).

Lastly, the Exchange is also proposing to reorganize Rule 229 by separating marketable limit orders and otherwise clarifying Supplementary Material .10(a). Further, Supplementary Material .07(b) is proposed to be amended to reflect that orders exceeding a specialist's automatic execution guarantee may nevertheless be delivered through the PACE System. Currently, this provision states that market orders (round-lots of 600 to 1000 shares or such greater size which the specialist agrees to accept and partial round-lots of 601 to 1099 shares or such greater size which the specialist agrees to accept) which are entered after the opening shall not be subject to the execution parameters set forth in Rule 229 and shall be executed in accordance with other applicable rules of the Exchange. The proposal would clarify that this provision applies to orders which the specialist has not agreed to accept for automatic execution and are, instead, only delivered through the PACE System. The proposal would also codify that such orders are executable in accordance with Supplementary Material .10(b).

The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

[6] *See e.g.*, Securities Exchange Act Release No. 28629 (November 20, 1989) (SR–Phlx–90–19).

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Background

The PACE System has served as the Exchange's automatic order routing and execution system for securities on the equity trading floor, providing certain execution guarantees. Initially, the PACE System was created to provide an efficient mechanism for the delivery of small customer orders, meaning up to 599 shares. Thereafter, PACE order size eligibility increased, automatic execution became a feature and the professional execution standard for orders greater than 600 shares was codified.[7] Pursuant to Supplementary Material .02, only agency orders are currently executed through PACE.[8] PACE orders are only eligible for execution after the primary market has opened.[9]

b. Market Orders

At this time, the Exchange is proposing to amend the execution guarantee applicable to market and marketable limit PACE orders over 599 shares. With respect to market orders, currently, Rule 229.05 provides that market orders are stopped at the PACE Quote at the time of entry into the system (''Stop Price'') and subject to a delay of up to 15 seconds in order to receive an opportunity for price improvement. This feature is known as the ''Public Order Exposure System'' or ''POES.'' If such market order is not executed within the 15 second window, the order will be automatically executed at the Stop Price.[10]

Rule 229.05 further provides, that subject to these procedures, the specialist may voluntarily agree to execute market orders greater than 599 shares. Thus, market orders over 599 shares that a specialist voluntarily agrees to accept are currently entitled to the same execution at the PACE Quote, regardless of the size of the PACE Quote. These orders are also subject to POES.

The Exchange is proposing to adopt new language in Rule 229.05 to govern market orders over 599 shares that a specialist has agreed to automatically execute. The minimum execution guarantee for such orders, the First Guarantee, is proposed to be an automatic execution at the PACE Quote, up to the size of the PACE Quote. If the order size is greater than the size of the PACE Quote, the order shall manually receive an execution at the PACE Quote up to the size of the PACE Quote, with the balance of the order receiving a professional execution, in accordance with Supplementary Material .10(b). However, under the Second Guarantee, a specialist may agree to automatically execute orders greater than 599 shares that are also greater than the size of the PACE Quote in full at the PACE Quote (within the specialist's guarantee). The Exchange believes that although it is important to establish a minimum automatic execution guarantee, specialists should nevertheless be permitted, and encouraged, to voluntarily provide more favorable guarantees. The Exchange states that this belief is consistent with the rules and practices of other regional exchanges.[11]

A professional execution is described in Rule 229.10(b), listing specific circumstances and standards that apply. The Exchange is proposing to add the general standards that all orders subject to Supplementary Material .10(b) be executed consistent with prevailing market conditions, fair an orderly markets and other applicable rules of the Exchange. For instance, the rules of priority, parity and precedence apply to PACE orders, as do many other important trading rules.

The second paragraph of Rule 229.07 will continue to apply to market orders

[7] Securities Exchange Act Release Nos. 23630 (September 16, 1986) (SR–Phlx–86–30); and 25716 (May 16, 1988) (SR–Phlx–87–30).

[8] Securities Exchange Act Release Nos. 26968 (June 23, 1989) (SR–Phlx–89–13 defining agency orders); and 36442 (October 31, 1995) (SR–Phlx–95–32 permitting broker-dealer orders on PACE). Although approval for the delivery of broker-dealer orders through PACE was received, this feature is not currently utilized by broker-dealers.

[9] Securities Exchange Act Release No. 27596 (January 8, 1990) (SR–Phlx–89–15 at n.6). *See also* Chicago Stock Exchange, Incorporated (''CHX'') Rules, Article XX, Rule 37(a)(4).

[10] If the PACE Quote at the time of order entry into the system reflects a ⅛ point spread between the best bid and offer, that order will be executed immediately without the 15 second delay.

[11] *See e.g.*, CHX, Article XX, Rule 37(d).

greater than 599 shares where the specialist has *not* agreed to provide automatic executions. These PACE-delivered orders are not subject to the execution parameters set forth in Supplementary Material .05, but shall be executed in accordance with Supplementary Material .10(b) and other applicable rules of the Exchange.

The following is an example of how the proposal would operate, assuming the specialist has voluntarily agreed to provide an automatic execution guarantee for orders greater than 599 shares and thus would be required to provide at least the minimum guarantee (the First Guarantee). In this example, the PACE Quote bid is composed of 1,000 shares (Pacific Stock Exchange ''PSE''), 500 shares (New York Stock Exchange ''NYSE''), and 500 shares (CHX), for an aggregate total size [12] of 2,000 shares and the specialist's automatic execution guarantee is 2,500 shares.

(1) The specialist receives a market order to sell 1,000 shares. This order is equal to the size of the PACE Quote (single market PSE) bid (1,000 shares) and less than the specialist's automatic execution guarantee size of 2,500 shares, thus, is automatically executable.

(2) The specialist receives a market order to sell 1,100 shares. The order is greater than the PACE Quote bid size (PSE for 1,000 shares), and thus would revert to manual status, with the specialist obligated to fill 1,000 shares at the PACE Quote, and the remaining 100 shares entitled to a professional execution.

(3) The specialist receives a market order to sell 2,200 shares. Same result: the entire order would revert to manual status with the specialist obligated to fill 1,000 shares at the PACE Quote, and the balance of 1,200 shares receiving a professional execution.

(4) The specialist receives a market order to sell 3,000 shares. The order reverts to manual, because it exceeds the specialist's automatic execution guarantee, and the entire 3,000 share order receives a professional execution.[13] The fact that the aggregate size of the best bid is for 2,000 shares does not determine or affect the execution.

Assuming the specialist has voluntarily agreed to provide an automatic execution guarantee for orders greater than 599 shares, the specialist may also determine to provide more than the minimum guarantee by guaranteeing an automatic execution at the PACE Quote to all orders within the specialist's guarantee size, regardless of the size of the PACE Quote (*i.e.* the Second Guarantee). For instance, where the specialist's automatic execution guarantee is 2,500 shares and the PACE Quote bid is composed of 1,000 shares (PSE), 500 shares (NYSE), and 500 shares (CHX), for an aggregate total size of 2,000 shares, a market order to sell 2,200 shares is received. This order is automatically executed at the PACE Quote, because it is less than the specialist's maximum size guarantee for automatic execution, despite the PACE Quote size being 1,000 shares.

In light of significant changes to the marketplace as well as the competitive environment, one purpose of this proposal is to update the PACE automatic execution guarantees. For instance, new SEC Rule 11Acl–4 requires specialists and market makers to, under normal market conditions, display within 30 seconds the price and full size of customer limit orders better than or, where the specialist's quote is the PACE Quote, that enhance the size of the specialist's quote.[14] Other changes in the marketplace include the increase in third market trading, internalization, payment for order flow practices and the use of technology, as cited by the Commission both in the Adopting Release, as well as in the Market 2000 Study.[15]

The Exchange believes that the Display Rule may have a profound impact on the national market system, and may, for one, result in small bids and offers routinely comprising the PACE Quote. Although the Exchange understands the important purposes of the Display Rule cited by the Commission in the Adopting Release, the Exchange nevertheless believes that the resulting changes in displayed quote sizes may have a corresponding impact on the Exchange's PACE System and the automatic execution guarantees offered thereunder. The Commission has recognized that the new Rule may affect automatic execution guarantees.[16] As described above, PACE execution guarantees do not currently take into account the size of the PACE Quote with respect to the execution of market and marketable limit orders. Specialists currently execute the excess size of an incoming PACE order over the PACE Quote size as principal. Thus, the purpose of this proposal is to establish a correlation between market size and PACE guarantee size.

Second, respecting the current competitive environment, the Exchange notes that other regional exchange automated order delivery and execution systems provide various types of execution guarantees. For market orders, most other regional exchange rules permit conditioning automatic execution at the PACE Quote on the displayed size of the PACE Quote. For instance, the Chicago Stock Exchange MAX System contemplates a contingency based on the size of the displayed PACE Quote.[17] Thus, the effect on the Exchange's proposal is to similarly consider the PACE Quote size for certain order sizes, consistent with other systems.

The Exchange is also proposing to amend the out-of-range guarantee. Specifically, PACE market orders are also subject to Supplementary Material .07, which provides that member organizations entering orders (up to 599 shares) after the opening may elect to have such orders executed: (i) Automatically on the PACE Quote, or (ii) if such execution price would be outside the New York market high-low range of the day, manually at or within the New York market high-low range of the day. Thus, market orders that would result in an out-of-range execution may be handled manually by the specialist, instead of receiving an execution, if so elected by the PACE entry firm. This provision is proposed to apply to all market orders, by deletion of the limitation to orders up to 599 shares. The purpose of this change is to provide member organizations the ability to elect out-of-range protection for all market orders within the parameters of the specialist's guarantee, because it is an important feature of the PACE System and important to member organization's order flow decisions. The Exchange notes that out-of-range protection is common to regional exchange systems.[18]

[12] The aggregate total size is provided for purposes of providing a complete example and does not affect the outcome, because only the size of the PACE Quote is relevant to the proposed execution guarantee. *See* Amendment No. 1, *supra* note 1.

[13] There is no guarantee up to the PACE Quote size, because the customer order size is greater than the specialist guarantee. *See* Amendment No. 2, *supra* note 2.

[14] Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (''Adopting Release''). *See also* Securities Exchange Act Release Nos. 38110 (January 2, 1997), 62 FR 1279 (January 9, 1997) (revising effective date until January 13, 1997); and 38139 (January 8, 1997) (revising effective date to January 20, 1997).

[15] *See* Adopting Release at 8 and note 12, *supra* note 14.

[16] *See* Adopting Release at note 144, *supra* note 14. *See also* Securities Exchange Act Release No. 38156 (January 10, 1997) (SR–NASD–96–43).

[17] *See* CHX, Article XX, Rule 37(b)(12), which states that notwithstanding anything contrary in Rule 37, no market or marketable limit order is automatically executed if it is greater than the size of the best bid/offer.

[18] *See e.g.*, CHX, Article XX, Rule 37(a)(6), (b)(11) and (e)(6), which provide for stopping such orders.

The Exchange is also proposing to correct its provisions respecting the execution guarantee applicable to partial round-lot (''PRL'') market orders. Currently, Supplementary Material .07(b) states that the odd-lot portion of PRLs of 601 or more shares shall be executed at the same price as the round-lot portion. In the case of a PRL order, the round-lot portion(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the last round-lot portion is executed. A similar provision appears in Supplementary Material .09 respecting PRL limit orders. These provisions are proposed to be amended, such that, in the case of a PRL order, the round-lot portion(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the first 100 shares (round-lot), not the last round-lot portion, as the provisions currently state. The Exchange believes that these provisions have erroneously remained in the Rule and require correction to reflect today's market practice.

c. Marketable Limit Orders

Limit orders are governed by separate provisions in Rule 229, namely Supplementary Material .09 and .10. Currently, round-lot limit orders up to 599 shares and the round-lot portion of PRL limit orders up to 599 shares which are entered at the PACE Quote shall be executed at the PACE Quote. This automatic execution guarantee for marketable limit orders up to 599 shares is unaffected by this proposal, other than to be reorganized into a new sub-paragraph (i) to differentiate marketable limit orders.

Specialists may voluntarily agree to automatically execute marketable limit orders greater than 599 shares. Although Supplementary Material .10(a) does not apply to such orders, Supplementary Material .10(b) currently provides that professional execution standards apply. At this time, the Exchange proposes to adopt a minimum automatic execution guarantee for marketable limit orders greater than 599 shares, which parallels the proposed provision in Supplementary Material .05 for market orders greater than 599 shares. Thus, where the specialist has agreed to automatically execute marketable limit orders greater than 599 shares, a marketable limit order within the guarantee is eligible for automatic execution at the PACE Quote up to the size of the PACE Quote. If the order size is greater than the size of the PACE Quote, the balance of the order would receive a professional execution, in accordance with Supplementary Material .10(b) below. However, a specialist may agree to automatically execute orders greater than 599 shares that are also greater than the size of the PACE Quote in full at the PACE Quote.

The provisions respecting non-marketable limit orders would be reorganized as sub-paragraph (ii), but otherwise remain unchanged. Such orders which are entered at a price different than the PACE Quote will be executed in sequence at the limit price when an accumulative volume of 1000 shares of the security named in the order prints at the limit price or better on the New York market after the time of entry of any such order into PACE. For each accumulation of 1000 shares which have been executed at the limit price on the New York market, the specialist shall execute a single limit order of a participant up to a maximum of 500 shares for each round-lot limit order up to 500 shares or the round-lot portion of a PRL limit order up to 599 shares.

The purpose of amending the PACE automatic execution guarantees applicable to marketable limit orders is similar to the reasoning described above, respecting market orders. The Display Rule and other market developments similarly impact marketable limit orders. Additionally, some regional exchanges provide guarantees dependent on the size of the PACE Quote.[19]

The Exchange is also proposing to adopt an out-of-range protection provision for limit orders not currently covered by such a provision, namely orders less than 600 shares. As discussed above, the Exchange believes that out-of-range protection is an important PACE System feature and should be properly codified into the Rule as applicable to all order types.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest. Specifically, the proposal is intended to update the automatic execution guarantees for orders greater than 599 shares, out-of-range protection and partial round-lots to facilitate execution of such orders in today's marketplace. The Exchange seeks to promote PACE System usage among its member organizations as well as its specialists. In this regard, the Exchange believes that the proposal will facilitate the acceptance of market and marketable limit PACE orders at the PACE Quote, which will promote liquidity and best execution principles with respect to such orders.

Further, the investing public will continue to benefit from the speed and efficiency of a premier regional exchange automated order routing and execution system, the PACE System. The Exchange also believes that the proposal should encourage specialists to establish automatic execution guarantees higher than 599 shares, which should similarly promote liquidity, efficiency and best execution.

The Exchange believes that the proposal is consistent with the Display Rule, in that it continues to guarantee executions at the PACE Quote, albeit limited to the PACE Quote size for orders greater than 599 shares. The execution guarantees, as amended, should nevertheless promote the market transparency and customer protection principles of the Display Rule, by continuing to offer PACE Quote and primary market protection. Guaranteeing executions based on the actual size of the PACE Quote acknowledges that enhanced customer limit order display under the new Rule should create a more transparent and accessible national market system.

In addition, the Exchange believes that the proposal is consistent with Section 11A of the Act, and paragraph (a)(1) thereunder, which encourages the use of new data processing and communication techniques that create the opportunity for more efficient and effective market operations. The Exchange notes that the specialist will be held accountable to specific, codified standards of fair execution. Thus, the use of a guarantee up to the PACE Quote size coupled with a professional execution creates consistency and certainty in the execution of PACE orders, such that investors will know how their orders are being handled. Thus, the Exchange believes that the proposal is consistent with the public interest and investor protection purposes of Section 11A, in that it should assure the practicability of executing customer orders in the best market as well as an opportunity for investors' orders being executed without the participation of a dealer.

[19] *See e.q.*, CHX Article XX, Rule 37(b)(12).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–97–11 and should be submitted by May 27, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

[20] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11527 Filed 5–2–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38554; File No. SR–Phlx–97–04]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 2 and 3 to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Establishing a 4:02 p.m. Closing Time for Equity and Narrow-Based Index Options Trading, and Modifying the Index Option Exercise Cut-off Time

April 29, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on April 4, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') Amendment No. 2 to the proposed rule change.[3] On April 23, the Exchange filed Amendment No. 3 to the proposed rule change. The proposed rule change, as amended, is described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on Amendment Nos. 2 and 3 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In the original rule filing, as amended by Amendment No. 1, the Exchange proposes to amend the rules of the Exchange to close equity options trading at 4:02 p.m. In Amendment No. 2, the Exchange proposes to amend Rule 101 to adopt a 4:02 p.m. trading close for narrow based index options[4] and amend Rule 1047 to permit two floor officials to approve a trading rotation after the normal close of trading.

In Amendment No. 3, the Exchange proposes to amend Rule 1042A and Floor Procedure Advice G–1 (''Advice G–1'') to change the index option exercise cut-off time from 4:30 p.m. (or 15 minutes after the close of trading if it occurs at a time other than the regular close of trading) to five minutes after the close of trading. Thus, the exercise cut-off time applicable to narrow-based (industry) index options proposed to close at 4:02 p.m. would be 4:07 p.m., and the cut-off time applicable to broad-based (market) index options closing at 4:15 p.m. would be 4:20 p.m. The proposal also deletes the current requirement that member organizations must accept exercise instructions until 4:15 p.m. each business day.

The text of the proposed rule change is available at the Office Of the Secretary, Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

Since 1978, equity options have traded ten minutes longer than the primary market. At that time, significant delays in the reporting of stock prices were common; therefore, the additional ten minute period was necessary to receive final stock prices. These delays have now been reduced due to technological advances. Currently, the extra time period for options trading after closing prices are reported in the underlying equities results in equity options and narrow-based index options[5] trading without the pricing benefit of continuing stock trading. The additional ten minutes also results in repeated automatic executions at outdated options prices. Further, not all market participants are able to respond

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change, including Amendment No. 1, was previously noticed in the **Federal Register.** *See* 62 FR 5662 (February 6, 1997). Amendment No. 1 is a technical amendment to the rule filing. *See* letter from Theresa McCloskey, Exchange to Janice Mitnick, Commission, dated January 29, 1997.

[4] Rule 1042A, 1047A and 1101A(c), and Floor Procedure Advice G–2 will also be amended to conform to a 4:02 p.m. close for the narrow-based index options.

[5] Like equity options, narrow-based index options are sensitive to changes in the underlying equities prices. Telephone conversation between Edith Hallahan, Exchange and Janice Mitnick, Commission on April 28, 1997. *See also* Amendment No. 2.

quickly to changes in options prices between 4 and 4:10 p.m. In summary, the Exchange, in balancing the benefits of an extended trading session with the difficulties of trading after the underlying stock has closed, has determined that the benefits do not outweigh the difficulties; therefore, a 4:02 p.m. close for equity and narrow-based index options is appropriate.

The purpose of the rule change is to reduce the amount of time equity and narrow-based index options trade after the close of the primary market for the underlying security. Under the proposal, there will be a two minute time period for equity and narrow-based index options traders and investors to respond to late reports of closing security prices and, where warranted, to bring closing equity and narrow-based index option prices in line with stock prices. The proposed changes establish a 4:02 p.m. close for equity and narrow-based index options, and expressly except broad-based index options. Broad-based index options will continue to trade until 4:15 p.m.

Phlx proposes, pursuant to Amendment No. 2, to permit two floor officials to approve a trading rotation due to unusual market conditions. Currently, Rule 1047, Commentary .03(b) provides that the Options Committee may determine to commence a trading rotation (even resulting in transactions after the normal close of trading) due to unusual market conditions. Where an underlying stock has not stopped printing transaction prices by 4:10 p.m. (or, as proposed, 4:02 p.m.), this would be considered and unusual market condition, and a rotation may be needed in order to establish closing prices.

Notice of such a trading rotation must currently be disseminated to the trading floor by the close of trading (4:10 p.m.). It may be impractical to expect floor officials to be able to approve a final rotation at the close and also have this information disseminated within the same minute. It may become even more impractical with a 4:02 p.m. close. Thus, the Exchange proposes that notice of the rotation need not be required by the close. The rule will still require that notice of the rotation be disseminated and that the rotation not commence until five minutes [6] after such dissemination. Although the comparable American Stock Exchange, Inc. (''Amex'') provision currently requires that notice of a rotation must be disseminated to the trading floor by 4:10 p.m.,[7] the Chicago Board Options Exchange, Inc. (''CBOE'') and Pacific Stock Exchange (''PCX'') merely require that rotations after 3:30 p.m. be announced to the trading floor, and rotations after the normal close of trading not commence until five minutes after notice is disseminated.[8]

Amendment No. 3 proposes to change the index option exercise cut-off time by amending Rule 1042A and Advice G–1. Currently, Rule 1042A requires that a memorandum to exercise any American style index option must be received or prepared by the Phlx member organization no later than 4:30 p.m. (or 15 minutes after the close of trading, if trading is closed at a time other than the regular close of trading).[9] Further, Rule 1042A(a)(ii) requires the submission of an Exercise Advice Form to the Exchange when exercising American style index option contracts.[10]

After proposing the 4:02 p.m. close for narrow-based index options in Amendment No. 2, Phlx re-examined the reference in Rule 1042A that provides a 4:30 p.m. cut-off time for American-style narrow-based index options. The Exchange now proposes an exercise cut-off time of five minutes after the close of trading for all narrow-based index options. The purpose of this proposal is to re-establish a cut-off time similar to that of the other options exchanges.

The Exchange is also proposing to amend Rule 1042A to delete the requirement that member organizations must accept exercise instructions until 4:15 p.m. each business day. Under the proposal, member organizations can establish earlier cut-off times. The purpose of this change is to reflect, similarly to the other options exchanges, that member organizations may determine how to best comply with the Exchange's exercise cut-off time.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest, consistent with Section 6(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

One written comment was received.[11]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission

Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Amendment Nos. 2 and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference

[6] Currently, Rule 1047, Commentary .03(b) requires that a trading rotation not commence until 10 minutes after the notice is disseminated. The rule filing proposes to shorten the 10 minutes to 5 minutes.

[7] *See* Amex Rule 1, Commentary .02(2).

[8] *See* CBOE Rule 6.2, Interpretations and Policies .02; PCX Rule 6.64, Commentary .01.

[9] Securities Exchange Act Release No. 37077 (April 5, 1996), 61 FR 16156 (April 11, 1996) (SR–Phlx–95–86).

[10] These requirements are currently not in effect on the last business day before expiration, pursuant to Rule 1042A(b). Nor are they applicable to European-style index options, which by definition cannot be exercised prior to expiration.

[11] *See* letter to John F. Wallace, Chairman, Phlx, from Jeffrey S. Yass, Susquehanna Investment Group, dated April 9, 1997.

Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–97–04, and should be submitted by May 27, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11605 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38552; File No. SR–Phlx–97–17]

Self-Regulatory Organizations: Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend By-Law Article III, Section 3–5(b) Respecting the Eligibility of Persons To Serve on the Nominating Committee

April 28, 1997.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 15, 1997, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX hereby proposes to amend its By-Law Article III, Section 3–5(b) respecting the eligibility of persons to serve on the Nominating Committee. The PHLX has requested approval of the proposed rule change on an accelerated basis.[3]

The text of the proposed rule change is as follows.

(Brackets represent deletions; italics represent additions)

By-Law Article II, Section 3–5

(a) No change

(b) The Nominating Committee shall consist of not less than [nine] *seven* persons, each of whom shall be, [either] a member of the Corporation or a general partner or officer of a member organization *or such other person who is considered to be qualified.* At least one member appointed to the Nominating Committee shall, at the time of his appointment, not be a member of the Board of Governors. In appointment of the Committee members, the Chairman of the Board shall have due regard for representation on the Committee of the various functions and activities of the Corporation and its members. The Chairman of the Board shall also designate the Chairman of the Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PHLX By-Law Article III, Section 3–5(b) sets forth the eligibility requirements for service on the Nominating Committee. The By-Law presently requires that the Committee consist of a minimum of nine persons who shall be either PHLX members or general partners or officers of members organizations. The proposed By-Law amendment reduces the minimum number of Committee members to seven and allows consideration of non-members who are qualified persons to be eligible for Board appointment to the Committee.

PHLX is currently in the process of a major review of corporate governance initiatives. In conjunction with these initiatives, PHLX proposes to change the eligibility requirements to serve on its Nominating Committee. Reducing the minimum number of members on the Committee will promote a more cohesive and collaborative Committee, thereby facilitating the deliberative process. Additionally, the amendments will be conducive to achieving greater diversity on the Committee, which may constructively influence the process in selecting nominations to the Board of Governors.

By adding the provision that ''any other person who is considered qualified may be appointed to the Committee,'' the Chairman may now recommend appointment of public governors and other non-member affiliated representatives to the Committee. Inclusion of individuals other than only PHLX members should provide greater diversity to the Nominating Committee with concomitant benefits to the Committee's deliberative process. Thus, By-Law amendment will promote the governance initiatives of the PHLX, which include the transition to a Board reflecting 50% public governor representation.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[4] of the Act in general, and in particular, with Section 6(b)(3),[5] in that it is designed to promote the opportunity to assure a fair representation of PHLX members in the selection of directors and the administration of affairs, and with Section 6(b)(5)[6] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In accordance with PHLX By-Law Article XXII, Section 22–2, the proposed amendment was noticed to the membership by Circular 97–69 on March 27, 1997. No written requests or

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Murray Ross, Vice President and Secretary, PHLX, to Ivette Lopez, Esq., Assistant Director, Office of Market Supervision, Division of Market Regulation, SEC, dated April 23, 1997.

[4] 15 U.S.C. § 78f.

[5] 15 U.S.C. § 78f(b)(3).

[6] 15 U.S.C. § 78f(b)(5).

other comments have been filed with the PHLX Secretary.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PHLX. All submissions should refer to File No. SR–Phlx–97–17 and should be submitted by May 27, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the PHLX's proposed rule change and believes, for the reasons set forth below, the proposal is consistent with Section 6 of the Act [7] and the rules ad regulations thereunder. Specifically, the Commission believes the proposal is consistent with Section 6(b)(3),[8] in that it is designed to promote the opportunity to assure a fair representation of PHLX members in the selection of directors and the administration of affairs. The PHLX's recent corporate governance initiatives include increasing the number and proportion of non-industry and public governors, and restructuring key committees. Increasing diversity on the Nominating Committee permits the PHLX to move forward with this process and to provide more balance on the Committee. The Commission also finds that the proposal is consistent with Section 6(b)(5) [9] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, as well as to protect investors and the public interest.[10] Specifically, permitting the appointment of public and non-member governors for the Nominating Committee is appropriate in light of the serious regulatory responsibilities and quasi-public nature of a self-regulatory organization. In light of these responsibilities, it is important that constituencies other than members participate in the Nominating Committee. Reducing the minimum number of members of the Nominating Committee may make it more efficient and less unwieldy. The effectiveness of a more streamlined Committee will be especially important in implementing the necessary PHLX corporate governance changes.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication thereof in the **Federal Register**. The PHLX is presently in the process of reorganizing its corporate governance structure to better reflect its self-regulatory and public responsibilities. This By-Law change is instrumental to the process. Furthermore, the PHLX has presented the proposal to its membership, the most likely commenters on the proposed rule change. The Commission understands that the PHLX did not receive any objections concerning the proposal. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Section 6 of the Act.[11]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–97–17) is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–11609 Filed 5–2–97; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. § 78f.

[8] 15 U.S.C. § 78f(b)(3).

[9] 15 U.S.C. § 78f(b)(5).

[10] In approving the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[11] 15 U.S.C. § 78f.

[12] 15 U.S.C. § 78f.

[13] 15 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0269]

Wachovia Capital Associates, Inc.; Notice of Issuance of a Small Business Investment Company License

On September 9, 1996, an application was filed by Wachovia Capital Associates, Inc., 191 Peachtree Street, N.E. 26th Floor, Atlanta, Georgia, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that , pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04/–0269 on April 8, 1997, to Wachovia Capital Associates, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 25, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–11556 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2950]

State of Arkansas; Amendment #1

In accordance with a notice from the Federal Emergency Management Agency, dated April 21, 1997, the above-numbered Declaration is hereby amended to close the incident period for this disaster, effective April 21, 1997.

All other information remains the same, i.e., the termination date for filing applications for loans for physical damage is June 13, 1997, and for economic injury the deadline is January 14, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 25, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–11554 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2949; Amendment #2]

State of Minnesota

In accordance with notices from the Federal Emergency Management Agency, dated April 18, 1997, and April 22, 1997, the above-numbered Declaration is hereby amended to include the Counties of Cass, Clearwater, Douglas, McLeod, Otter Tail, Pope, Todd, and Wadena in the State of Minnesota as a disaster area due to damage caused by severe flooding, severe winter storms, snowmelt, high winds, rain, and ice beginning March 21, 1997 and continuing.

Any counties contiguous to the above-named primary counties have already been covered.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 7, 1997 and for economic injury the termination date is January 8, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 25, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–11551 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2937; Amendment #4]

State of Tennessee

In accordance with a notice from the Federal Emergency Management Agency, dated April 21, 1997, the above-numbered Declaration is hereby amended to include the Counties of Benton, Decatur, and De Kalb as a disaster area due to damages caused by heavy rain, tornadoes, flooding, hail and high winds beginning on February 28, 1997 and continuing through March 24, 1997.

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 previously designated location: Cannon, Perry, Putnam, Smith, Warren, Wayne, and White in the State of Tennessee. Any counties contiguous to the above-named primary counties and not listed herein have been covered under a separate declaration for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 6, 1997, and for loans for economic injury the deadline is December 8, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 25, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–11553 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2946; Amendment #1]

State of Washington

In accordance with a notice from the Federal Emergency Management Agency, dated April 21, 1997, the above-numbered Declaration is hereby amended to include the Counties of Clallam, Kitsap, Lincoln, Pacific, Pend Oreille, Snohomish, Spokane, Stevens, and Thurston in the State of Washington as a disaster area due to damages caused by heavy rains, snow melt, mud/landslides, and flooding beginning March 18 and continuing through March 28, 1997.

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 previously designated location: Adams, Ferry, Grant, Island, Okanogan, San Juan, Skagit, Wahkiakum, and Whitman in the State of Washington; Benewah, Bonner, Boundary, and Kootenai in the State of Idaho; and Clatsop in the State of Oregon. Any counties contiguous to the above-named primary counties and not listed herein have already been covered.

The economic injury numbers assigned to this disaster are: 945600 for Washington, 947800 for Idaho, and 947900 for Oregon.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 2, 1997 and for economic injury the termination date is January 2, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 25, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–11552 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590: telephone (202) 366–4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject

matter index, and digests organized by order number.

In a notice issued on October 26, 1990, The FAA published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990, 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*, in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative. Subsequently, the FAA announced that for the convenience of the users of these indexes, the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The indexes of the Administrator's decisions and orders in civil penalty cases have been published as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90 ..	55 FR 45984; 10/31/90.
10/1/90–12/31/90	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
10/1/93–12/31/93	59 FR 5466; 2/4/94.
1/1/94–3/31/94	59 FR 22196; 4/29/94.
4/1/94–6/30/94	59 FR 39618; 8/3/94.
7/1/94–12/31/94 ..	60 FR 4454; 1/23/95.
1/1/95–3/31/95	60 FR 19318; 4/17/95.
4/1/95–6/30/95	60 FR 36854; 7/18/95.
7/1/95–9/30/95	60 FR 53228; 10/12/95.
10/1/95–12/31/95	61 FR 1972; 1/24/96.
1/1/96–3/31/96	61 FR 16955; 4/18/96.
4/1/96–6/30/96	61 FR 37526; 7/18/96.
7/1/96–9/30/96	61 FR 54833; 10/22/96.
10/1/96–12/31/96	62 FR 2434; 1/16/97.

The civil penalty decisions and orders have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). (Information about these commercial publications and computer databases is provided at the end of this notice.) Also, the Administrator's final decision and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

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97–5 Westair Commuter Airlines d/b/a/ United Express
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97–8 Pacific Aviation d/b/a/ Inter-Island Helicopters
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2/20/97 CP93EA0334
97–10 Alphin Aircraft, Inc.
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97–11 Hampton Air Transport Systems, Inc.
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97–12 David H. Mayer
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97–13 Westair Commuter Airlines, Inc.
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Civil Penalty Actions—Orders Issued by the Administrator Digests

(Current as of March 31, 1997)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from January 1, 1997, to March 31, 1997.

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Midtown Neon Sign Corporation

Order No., 97–1 (1/8/97)

Petition to Modify Granted. This action was broung under 49 U.S.C. 5123. As a result, the judicial review provisions of 49 U.S.C. 46110 does not apply to this case. Footnote 13 of FAA Order No. 96–26 (August 13, 1996) is omitted.

In the Matter of Sanford Air, Inc.

Order No. 97–2 (1/8/97)

Notice of Appeal Construed As An Appeal Brief. Respondent failed to perfect its timely filed notice of appeal. However, the notice of appeal is sufficiently detailed to be construed as an appeal brief. Complainant is give 35 days in which to file its reply brief

In the Matter of [Airport Operator]

Order No. 97–3 (1/8/97)

Order No. 97–3 (1/8/97)

Appeal Dismissed. Respondent filed a timely notice of appeal but failed to perfect its appeal by filing an appeal brief. Respondent's appeal is dismissed.

In the Matter of [Airport Operator]

Order No. 97–4 (1/14.97]

Appeal Withdrawn. Respondent's appeal is dismissed in light of Respondent's withdrawal of its appeal.

In the Matter of WestAir Commuter Airlines, Inc. d/b/a United Express

Order No. 97–5 (1/3/97)

Appeal Withdrawn. Respondent has withdrawn its notice of appeal. Its appeal is dismissed.

In the Matter of WRA, Inc.

Order No. 97–6 (2/7/97)

Appeal Dismissed. Respondent has failed to show, or even attempt to show, good cause for its failure to file its appeal brief in a timely manner. Respondent's appeal is dismissed.

In the Matter of Ronald Stalling

Order No,. 97–7 (2/20/97)

Late-filed Notice of Appeal. Respondent's notice of appeal was late-filed. A late-filed notice of appeal will be accepted only if good cause for the lateness is shown. Respondent stated in his notice of appeal that until the date on which he prepared the notice, he had no idea that a communication with the agency attorney, with whom he was engaged in settlement talks, was not a direct communication with the law judge. Respondent is given an opportunity to explain why he filed the notice of appeal late.

Constructive Withdrawal of Request for Hearing. The law judge had issued an order to show cause why Respondent had filed to file an Answer. The envelope was sent certified mail and was returned marked ''MLNF'' (Moved, Left No Forwarding Address.) The law judge regarded the return of the envelope as constructive withdrawal of the request for hearing, and consequently, issued an Order Assessing Civil Penalty. The Order Assessing Civil Penalty was sent to the same address as the Order to Show Cause. The Order Assessing Civil Penalty was sent both certified and regular mail. The Order Assessing Civil Penalty sent by certified mail was returned marked ''Unclaimed.'' Respondent must have received the envelope sent by regular mail because he filed a notice of appeal (discussed above.) Respondent is given an opportunity to present argument regarding whether the law judge was in error when he construed the return of the Order to Show Cause as constructive withdrawal of the request for hearing.

In the Matter of Pacific Aviation International, Inc. d/b/a Inter-Island Helicopters

Order No. 97–8 (2/20/97)

Respondent Responsible for Failure to Replace Part. Respondent argued that its mechanics and not Respondent were responsible for the violations involving the failure to replace a life-limited part. Respondent further argued that the particular mechanic who reported the problem to the FAA intentionally allowed the discrepancy to exist in order to blackmail Respondent. Assuming that Respondent's claim is true, it does not relieve Respondent of responsibility for the violations. Other employees of Respondent certified the aircraft as airworthy during the period in question. Respondent has not alleged that its mechanic ''covered up'' the failure to replace the part. Respondent, like other air carriers, has a responsibility to supervise its mechanic employees adequately, which it failed to do.

Irrelevant that Respondent cannot recover from repair station. Respondent chose to hire its own mechanics to perform its maintenance. It was Respondent's responsibility to supervise their work adequately.

Arguments that $7,000 civil penalty too high rejected. Respondent's claim that it committed fewer violations than the respondent in In the Matter of Watts Agricultural, FAA Order No. 91–8 (April 11, 1991, review denied, 977 F.2d 594 (9th Cir. 1992), is inaccurate, given that Respondent operated its aircraft in an unairworthy condition on 70 separate days. Although Respondent argues that it operated the aircraft ''only'' 400 hours beyond the mandatory replacement time, the $7,000 penalty already reflects the number of hours of operation of an unairworthy aircraft. Assuming that it is true, as Respondent asserts, that part in question has no history of failure in service on this type of aircraft, arguably that is because operators generally replace the part at the required time. Any suggestion on Respondent's part that it is a better judge of the operating limits of the part than the manufacturer must be rejected. Contrary to Respondent's claim that the ''infractions charged did not threaten anyone,'' the violations threatened the safety of the passengers, the pilots, and persons and property on the ground.

Right to due process not violated. Law judge did not err in granting Complainant's motion for decision, obviating a hearing on the merits. A hearing is not required where there is no genuine issue of material fact and where it is clear that one party is entitled to a decision as a matter of law. Nor is due process offended by Respondent's lack of counsel prior to the appeal; there is no right to assigned counsel in FAA civil penalty proceedings.

No evidence of discriminatory treatment. Although Respondent claims there was a disparity in treatment and a discriminatory attempt to put Respondent out of business, Respondent has provided no evidence to support its claim. Respondent promised the law judge several times to provide evidence to support is claim of financial hardship, but ultimately declined to do so.

In the Matter of Alphin Aircraft, Inc.

Order No. 97–9 (2/20/97)

No right to assigned counsel. Respondent asks the Administrator to order a new hearing or to dismiss the case, stating that its financial conditions at the time forced it to defend itself without counsel. There is no due process right to assigned counsel in FAA civil penalty proceedings.

Airworthiness. Although Respondent argues that airworthiness was never a problem because the work it performed was not required by an Airworthiness Directive (AD), work must still be done properly, even if it is required by an AD. Respondent's work affected the structural integrity of the aircraft, creating the possibility of an in-flight breakup.

ALJ's assessment of expert testimony. Respondent has offered no persuasive reason to disturb the law judge's assessment of the expert testimony in this case.

Double Jeopardy Clause. The Double Jeopardy Clause does not prohibit the law judge's finding of multiple violations. There was an additional required fact for each violation the law judge found.

In the Matter of Alphin Aircraft, Inc.

Order No. 97–10 (2/20/97)

Part 145 Requirements for Inspection System Apply to Holders of Repair Station Certificates as well as Applicants. Respondent argues that the law judge erred in finding violations of 14 C.F.R. 145.45 (a) and (d) because these provisions expressly apply only to ''applicants,'' and it has held a repair station certificate since 1972. The requirements in section 145.45 for an inspection system are continuing in nature. Respondent could not have reasonably believed that is obligation to have an effective inspection system ended in 1972 when it obtained its repair station certificate.

Respondent Must Comply With Inspection Procedures Manual. Respondent argues that it need not comply with its Inspection Procedures Manual because there is no regulation expressly requiring it to do so. Though the requirement is implicit rather than explicit, it is clear.

Hidden Damage Inspection Not Limited to Post-Accident Situations. Respondent contends that the requirement in its manual for a hidden damage inspection derives from section 145.45(e), which requires such an inspection only after an accident, and

no accident occurred here. Respondent's argument concerning the derivation of the requirement in its manual is speculative and unsupported. Nothing in Respondent's manual limits hidden damage inspections to post-accident situations.

No Error in Finding Discrepancy Existed When Respondent Released Aircraft. Circumstantial evidence may suffice to prove a violation. Respondent's witnesses conceded that they removed the mechanism and then reinstalled it. Testimony was that the rubbing was due to the manner in which the mechanism was installed. Respondent has offered no persuasive reason to disturb the law judge's assessment of the evidence.

Summary. Respondent's appeal is denied and the law judge's decision assessing a $1,500 penalty is affirmed.

In the Matter of Hampton Air Transport Systems, Inc.

Order No. 97–11 (2/20/97)

No Error in Finding Glide Slope Inoperative. Complainant can use circumstantial evidence to sustain its burden of proof. The following evidence supports the law judge's finding that the glide slope was inoperative. Respondent does not dispute that the glide slope was placarded inoperative; Respondent's President testified that after performing an avionics check, he marked the glide slope inoperative and that at least two pilots advised him that glide slope was inoperative; Respondent's President advised Complainant in a letter that the glide slope was inoperative; a work order from an avionics repair shop lists the glide slope as inoperative. Even if glide slope worked intermittently, it could not be considered operable because it was unreliable.

No Error in Finding That It Was Insufficient to Placard Glide Slope. The law judge did not err in rejecting Respondent's argument that under Section 91.213, it could take off with an inoperative instrument as long as it placarded it as inoperative. Section 91.213 applies only to flights conducted under Part 91, whereas the flights at issue were passenger-carrying flights for compensation or hire conducted under Part 135. Section 135.411, which provides that aircraft type-certificated for nine or fewer seats shall be maintained under Part 91, does not apply. Operating without repair, as Respondent did here, does not constitute maintenance.

ALJ Erred in Declining to Assess Penalty. Contrary to the law judge's finding, it was clear from the regulations that Hampton violated the regulations by operating an aircraft under Part 135 with an inoperative glide slope indicator but no Minimum Equipment List. Although the law judge stated that the flights did not implicate safety concerns, the margin of safety that glide slopes provide was reduced because on 56 flights, one of the glide slope indicators was inoperative. Weather can change abruptly, requiring use of instruments even where the operator intends VFR flight only. Even if it were true that neither airport had an Instrument Landing System. weather or other circumstances may require a pilot to divert to another airport. Moreover, even though the other glide slope indicator was apparently functioning, the margin of safety was still reduced. In many contexts, the regulations require redundancy to enhance safety.

Financial Hardship. Although Respondent alleged financial hardship, it failed to sustain its burden of proof. Its financial statement contains a prominent disclaimer indicating that management had elected to omit substantially all of the disclosures required by generally accepted accounting principles.

Summary. Law judge's determination that Respondent violated 14 CFR § 91.7 and 135.179 is affirmed, while his determination not to impose a penalty is reversed. Respondent is ordered to pay a $5,000 civil penalty.

In the Matter of David Mayer

Order No. 97–12 (2/20/97)

Passenger Misconduct. The law judge held that Respondent violated 14 CFR 91.11 and 121.589(e), and assessed a $1,000 civil penalty for the 14 CFR 91.11 violation but only a $150 civil penalty for the 14 CFR 121.589(e) violation. Both parties appealed to the Administrator. Respondents' appeal is denied, and Complainant's appeal is granted in part. The Administrator assessed a $1,500 civil penalty.

Assault/Interference With Performance of Flight Crewmember's Duties. Respondent shoved a sandwich down the back of a flight attendant's blouse during a flight. He argued that he had not assaulted the flight attendant and, therefore, had not violated Section 91.11 The Administrator rejected that argument. Section 91.11 prohibits assaulting a flight crewmember or interfering in the performance of the flight crewmember's duties. The Administrator has interpreted the term ''assault'' as used in Section 91.11 as including both an assault (the apprehension of an unwanted touching) and a battery (the actual unwanted touching.) In the Matter of Ignatov, FAA Order No. 96–6 (2/13/96). Moreover, Respondent interfered with the flight attendant's performance of her duties when he put the sandwich down her back and when he put his trash on the beverage cart. Also, by demanding to talk with the pilot, Respondent interfered with the performance of the pilot's duties. The Administrator held further that a $1,000 civil penalty was not excessive for the outrageous and unjustified conduct that resulted in the violation(s) of Section 91.11.

Refusal to Stow Carry-on Item. Respondent did not stow his carry-on item despite three requests to do so by the flight attendant. The flight attendant went to get another flight attendant, the ''A'' flight attendant, who had been stationed beside the open aircraft door. By the time that the ''A'' flight attendant got back to see Respondent, he had stowed his carry-on item. The law judge held that this was a mere technical violation of 14 CFR 121.598(e) and that $150 was the appropriate penalty. Complainant appealed. The Administrator held that this was more than a mere technical violation because Respondent had refused to stow his carry-on item after multiple requests, and he only stowed after the flight attendant had gone to get the ''A'' flight attendant. However, the Administrator found that a $500 civil penalty would be adequate to deter Respondent and others from such similar violations.

In the Matter of Westair Commuter Airlines

Order No. 97–13 (2/26/97)

Record Sealed. Complainant requested the removal from the record of a letter accompanying Respondent's notice of withdrawal of its appeal. One reason given by Complainant to justify removal of the letter from the record was that the letter contained sensitive security information. The Administration found that the record contained equally sensitive security information and sealed the record under 14 C.F.R. Part 191, explaining that if a member of the public requests access to the record, the sensitive portions would then be redacted in accordance with 14 C.F.R. 191.7.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing

Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1–800–221–9428.

2. *CD–ROM.* The Administrator's orders and decisions are available on CD–ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 70940, (806) 733–2483.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available on the following on-services:

- Compuserve
- FedWorld
- Westlaw (the Database ID is FTRAN–FAA)
- LEXIS [Transportation (TRANS) Library, FAA file.]

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. The publication of the digests will be discontinued as of the next quarterly publication.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters: FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018, (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725–7100.

Issued in Washington, DC on April 28, 1997.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 97–11662 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97–3]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders. On May 21, 1996, a RSPA inspector conducted a compliance inspection at American Oxygen Company, 609 East 2nd Street, Roswell, New Mexico. Numerous compressed gas cylinders were observed, and it was discovered that significant numbers were marked with an expired Retester Identification Number (RIN). Based on that RIN marking and the inspector's observations, RSPA believes that many of these cylinders may not have been retested in accordance with the Hazardous Materials Regulations (49 CFR parts 171–180) (HMR).

Failure to properly conduct a hydrostatic retest can result in cylinders which otherwise should be condemned being returned to service. The HMR require that properly tested cylinders which exceed the allowable 10 percent permanent expansion must be condemned and removed from service (49 CFR 173.34(e)(6)(I)(D)). Serious personal injury, death, and property damage could result from the rupture of a cylinder. Cylinders which have not been retested in accordance with the HMR may not be charged or filled with a hazardous material.

FOR FURTHER INFORMATION CONTACT: David Roberson, Hazardous Materials Enforcement Specialist, Western Region, telephone (909) 483–5624, Fax (909) 483–5636, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, Department of Transportation, 3200 Inland Empire Boulevard, Suite 230, Ontario, CA 91764.

SUPPLEMENTARY INFORMATION: On Thursday, May 21, 1996, a RSPA inspector conducted a compliance inspection at American Oxygen Company (AOC), in Roswell, New Mexico. The inspector observed a large number of cylinders marked with the following RIN:

C 1

X Y

0 7

Where
X=month of retest
Y=year of retest

On October 15, 1987, RSPA issued RIN C170 for a 5-year period to AOC. AOC did not renew its RIN and was no longer authorized to mark cylinders. Thus, the RIN expired on October 15, 1992, and after that date, persons are not authorized to mark any cylinders with that RIN. Any cylinder marked with RIN C170 and a test date later than ''11 92'' is not in compliance with the HMR. Under the HMR, hydrostatic retesting is required to verify a cylinder's structural integrity. Thus, persons who have a cylinder marked with this RIN and a date after October 1992 may not charge or fill the cylinder without first having

it inspected/retested by a DOT-authorized retest facility.

Filled cylinders (if filled with an atmospheric gas) described in this safety notice should be vented or otherwise properly and safely evacuated and purged, and taken to a DOT-authorized cylinder retest facility for visual reinspection and retest to determine compliance with the HMR.

Under no circumstances should a cylinder described in this safety notice be filled, refilled or used for any purpose other than scrap, absent reinspection and retest by a DOT-authorized retest facility.

It is further recommended that persons finding or possessing cylinders described in this safety notice contact Mr. Roberson, for further information and instructions.

Issued in Washington, D.C. on April 29, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97–11659 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comments concerning an information collection titled Disclosure of Financial and Other Information by National Banks—12 CFR 18.

DATES: Written comments should be submitted by July 7, 1997.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–0182, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: A request for additional information or for a copy of the collection should be directed to Jessie Gates or Dionne Walsh, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0182), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Disclosure of Financial and Other Information by National Banks—12 CFR 18.

OMB Number: 1557–0182.

Form Number: Not applicable.

Abstract: This notice covers a renewal without change of the disclosure requirements presently contained in 12 CFR Part 18, Disclosure of Financial and Other Information by National Banks. This disclosure of information is needed to facilitate informed decisionmaking by national bank existing and potential customers and investors by improving public understanding of, and confidence in, the financial condition of the individual national bank. The disclosed information is used by depositors, security holders, and the general public in evaluating the condition of, and deciding whether to do business with, a particular national bank. Disclosure and increased public knowledge complements OCC's efforts to promote the safety and soundness of national banks and the national banking system.

Type of Review: Renewal of OMB approval.

Affected Public: Businesses or other for-profit.

Number of Respondents: 2,800.

Total Annual Responses: 2,800.

Frequency of Response: Annual.

Total Annual Burden Hours: 1,400.

Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 29, 1997.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 97–11536 Filed 5–2–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–34]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

SUMMARY: Notice is hereby given that the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Parts 111.51 and 111.74 of the Customs Regulations, as amended (19 CFR 111.51 and 111.74), canceled the following Customs broker license with prejudice.

Port	Individual	License No.
San Francisco ..	David E. Mangus.	10721
San Francisco ..	Priority Customs Service.	13121

Dated: April 29, 1997.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 97–11547 Filed 5–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–32]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

SUMMARY: Notice is hereby given that the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Parts 111.51 and 111.74 of the Customs Regulations, as amended (19 CFR 111.51 and 111.74), canceled the following Customs broker license without prejudice.

Port: Detroit

Individual: Donald M. Stern

License Number: 3217.

Dated: April 25, 1997.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 97–11587 Filed 5–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–33]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

SUMMARY: Notice is hereby given that on October 28, 1996, the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Parts 111.51 and 111.74 of the Customs Regulations, as amended (19 CFR 111.51 and 111.74), canceled the following Customs broker license without prejudice.

Port	Individual	License No.
San Diego	Eric Swadell, CHB.	07995

Dated: April 29, 1997.

Philip Metzger,

Director, Trade Compliance Division.

[FR Doc. 97–11546 Filed 5–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision, Department of 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. Currently, the Office of Thrift Supervision within the Department of the Treasury is soliciting comments concerning the Holding Company Reports, OTS Form H–(b)11.

DATES: Written comments should be received on or before July 7, 1997 to be assured of consideration.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0060. These submissions may be hand delivered to 1700 G Street, NW. From 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755 or by e-mail: public.ifo@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9 a.m. until 4 p.m. on business days.

Copies of the Form with instructions are available for inspection at 1700 G Street, NW., from 9 a.m. until 4 p.m. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Pamela Schaar, Corporate Activities Division, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–7205.

SUPPLEMENTARY INFORMATION:

Title: Holding Company Reports.

OMB Number: 1550–0060.

Form Number: OTS Form H–(b)11.

Abstract: The H–(b)11 report is used to determine whether a savings and loan holding company is adhering to the statutes, regulations and conditions of approval related to its acquisition of an insured savings association and whether any of the company's activities may be injurious to the operation of any subsidiary savings association.

Current Actions: OTS is proposing to renew this information collection without revision.

Type of Review: Extension of an approved information collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 743.

Total Number of Responses per Respondent: 4 per year.

Estimated Time Per Respondent: 15.5 hours.

Estimated Total Annual Burden Hours: 46,066 hours.

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; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 29, 1997.

Catherine C.M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 97–11529 Filed 5–2–97; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

April 29, 1997.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

DATES: Written comments should be received on or before June 4, 1997 to be assured of consideration.

OMB Number: 1550–0014.

Form Number: Not Applicable.

Type of Review: Revision of a currently approved collection.

Title: Mutual to Stock Conversion Application.

Description: 12 CFR part 563b states that no mutual association shall convert to a stock association without the written consent of the Office of Supervision. This information collection describes the information required to obtain that information.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Respondent: 500 hours.

Frequency of Response: Once.

Estimated Total Reporting Burden: 25,000 hours.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Catherine C.M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 97–11528 Filed 5–2–97; 8:45 am]

BILLING CODE 6720–01–P

UNITED STATES INFORMATION AGENCY

Submission for OMB Review; Comment Request

AGENCY: United States Information Agency.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that the following information collection activity has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency (USIA) under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256. In addition, 22 Code of Federal Regulations (CFR), part 514.30, Camp Counselors; Limitation of Program Participants. USIA is requesting approval for three-year extension of an information collection entitled ''Rulemaking Number 102, Camp Counselor Exchanges'', under OMB control number 3116–0213 which expires June 30, 1997. Burden hours are estimated at approximately 5 minutes per response. Respondents will be required to respond only one time.

DATES: Comments are due on or before June 4, 1997.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that have been submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619–4408, internet address JGiovett@USIA.GOV; and OMB review: Mr. Jefferson Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 1002, NEOB, Washington, DC 20503, Telephone (202) 395–3176.

SUPPLEMENTARY 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 **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on March 5, 1997 (Vol. 60, No. 43). Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0213) is estimated to average 5 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 the burden, to the United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503

Title: ''Camp Counselor Exchanges, Rulemaking No. 102''.

Form Numbers: None.

Abstract: Approximately 10 Agency-designated for profit and non-profit entities will submit a report listing the names of aliens who have participated in camp counselor exchanges more than twice. This report will be the basis of the Agency's efforts to monitor these exchanges, to prevent inappropriate staffing with alien labor, and to ensure compliance with the articulated policy.

Proposed Frequency of Responses: No. of Respondents—10; Recordkeeping Hours—.08; Total Annual Burden—1.0.

Dated: April 29, 1997.

Rose Royal,

Federal Register Liaison.

[FR Doc. 97–11449 Filed 5–2–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Notice; Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 12259, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Enlightenment Embodied: The Art of the Japanese, Buddhist Sculptor (7th to 14th Century)'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit [1] objects at the Japan Society Gallery from on or about May 15, 1997, through July 6, 1997, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: April 19, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–11626 Filed 5–2–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Carol Epstein, Assistant General Counsel, at 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Corrections

Federal Register

Vol. 62, No. 86

Monday, May 5, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CO-001-0015a; FRL-5700-3]

Clean Air Act Approval and Promulgation of State Implementation Plan; Colorado; Prevention of Significant Deterioration; Designation of Areas for Air Quality Planning Purposes

Correction

In rule document 97–7096 beginning on page 13332 in the issue of Thursday, March 20, 1997, make the following corrections:

§ 81.306 [Corrected]

1. On page 13336, in column 3, in § 81.306, in the table, the date in entries ''AQCR 10 and AQCR 11'' should read ''11/15/90''.

2. On page 13337, in column 1, in the same table, the date in entry ''AQCR 13'' should read ''11/15/90''.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Agency for Toxic Substances and Disease Registry

[Announcement 803]

Public Health Conference Support Grant Program

Correction

In notice document 97–10967 beginning on page 23246 in the issue of Tuesday, April 29, 1997, make the following correction:

On page 23250, in the first column, under *B. Application*, the second paragraph should read as follows:

Application Due Dates:

January 12, 1998

June 8, 1998

Earliest Possible Award Date:

March 1, 1998

July 30, 1998

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 187

[Docket No. 28860; Amendment No. 187-7]

RIN 2120-AG17

Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace

Correction

In rule document 97–6980 beginning on page 13496 in the issue of Thursday, March 20, 1997 make the following corrections:

1. On page 13498, in the second column, in the 11th line, insert close quotes after the asterisks. And in the same column, in the second full paragraph, in the 14th line from the end, ''hands'' should read ''hand,''.

2. On page 13499, in the first column, second full paragraph in the first line, ''Contined'' should read ''Continued''.

Appendix B [Corrected]

3. On page 13503, in the third column, in paragraph (e)(4), in the seventh line ''GATR'' is corrected to read ''GAPR''. And in the same column in paragraph (f)(1), in the fourth line 'its'' should read ''is''.

BILLING CODE 1505-01-D

federal register

Monday
May 5, 1997

Part II

The President

Proclamation 6996—Older Americans Month, 1997

Proclamation 6997—Loyalty Day, 1997

Federal Register
Vol. 62, No. 86
Monday, May 5, 1997

Presidential Documents

Title 3—

The President

Proclamation 6996 of May 1, 1997

Older Americans Month, 1997

By the President of the United States of America

A Proclamation

Each year we set aside the month of May as a special time to pay tribute to older Americans and to acknowledge their many contributions to our national life. For the better part of this century, through tough times and good times, these Americans have raised families, strengthened our economy, defended our Nation, and reaffirmed our deepest values. All of us who are heirs to their service and sacrifice owe them a profound debt of gratitude.

The theme of this year's observance, ''Caregiving: Compassion in Action,'' reminds us of one of the most important ways in which we can repay that debt. Each day across America, some 22 million caregivers and volunteers dedicate themselves to improving the quality of life for older family members, friends, and neighbors. By providing personal care, housekeeping, transportation, and innumerable other services and assistance, these caregivers enable many older Americans to remain in their own homes and communities, maintaining a precious measure of dignity and independence.

As America's population of older Americans continues to grow in number, we will have an even greater need to call on the skills and compassion of caregivers. In keeping with the spirit of service that is sweeping across our Nation today, I ask that all Americans—every day, but especially during Older Americans Month—reach out to an older person in need, sharing time, talents, and attention with someone who has already shared so much with us. By putting our compassion in action to serve our older citizens, we can build a more promising future for all our people.

Older Americans deserve our respect and support for they have worked diligently in so many ways to enrich and preserve the way of life we all enjoy. Our senior citizens have woven the fabric of our Nation to exemplify the values and beliefs that have made our country great.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 1997 as Older Americans Month. I call upon Government officials, businesses, communities, volunteers, educators, and all the people of the United States to honor our older Americans and acknowledge the important contributions made by their caregivers, this month and throughout the year.

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

William J. Clinton

[FR Doc. 97–11819
Filed 5–2–97; 10:56 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6997 of May 1, 1997

Loyalty Day, 1997

By the President of the United States of America

A Proclamation

Each year, Americans dedicate the first day of May to formally acknowledge our love for this great land and our loyalty to the principles of freedom and equality on which our Nation was founded. This love and loyalty cannot be mandated or legislated; rather, these traits spring freely from our hearts and minds.

Looking back across the centuries, we recognize that each generation of Americans has been called upon to express its love and loyalty in a unique way. Our founders, defying the forces of tyranny, solemnly pledged their lives and futures to defend the new Nation they had created, a Nation born of reverence for human rights and the principle of self- determination. Less than a century later, another generation of Americans spilled its blood to preserve the unity of our Nation and to ensure that America lived up to its ideals of freedom, justice, and equality.

The challenges of our own century have called for an extraordinary measure of devotion from millions of our citizens. Through two devastating world wars and the decades of the Cold War, Americans laid down their lives for love of country and to defend democracy, advance human rights, and oppose the specter of oppression.

Today we are blessed to be living in a time of unprecedented peace and possibility, when the ideals of democracy and human dignity so eloquently articulated by our founders have been widely embraced by nations in our own hemisphere and around the world. But we have fresh opportunities to prove our love and loyalty to America. The challenge for our generation is to realize the promise of our Nation: to be a strong and steady influence for peace and freedom across the globe; to be a powerful voice for human rights wherever they are silenced; to live up to America's promise of justice, equality, and opportunity by ensuring that all of our people have the tools and encouragement they need to meet their God-given potential.

The Congress, by Public Law 85–529, has designated May 1 of each year as ''Loyalty Day.'' Let us, on this day, remember the contributions of the many courageous Americans who have gone before us, and let us keep faith with them by reaffirming our love for and loyalty to this Nation they sustained with their service and sacrifice.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1, 1997, as Loyalty Day. I urge all Americans to recall, on this day, the valor and selflessness of all those who made this Nation so worthy of our love and loyalty. I call upon Government officials to display the flag of the United States and to participate in patriotic activities in support of this national observance.

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

William J. Clinton

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●1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
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1–299	(869–028–00074–6)	36.00	Apr. 1, 1996
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
500–699	(869–028–00080–1)	14.00	May 1, 1996
700–899	(869–028–00081–9)	13.00	May 1, 1996
900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
25	(869–028–00084–3)	32.00	May 1, 1996
26 Parts:			
§§ 1.0-1–1.60	(869–028–00085–1)	21.00	Apr. 1, 1996
§§ 1.61–1.169	(869–028–00086–0)	34.00	Apr. 1, 1996
§§ 1.170–1.300	(869–028–00087–8)	24.00	Apr. 1, 1996
§§ 1.301–1.400	(869–028–00088–6)	17.00	Apr. 1, 1996
§§ 1.401–1.440	(869–028–00089–4)	31.00	Apr. 1, 1996
§§ 1.441-1.500	(869-028-00090-8)	22.00	Apr. 1, 1996
§§ 1.501–1.640	(869–028–00091–6)	21.00	Apr. 1, 1996
§§ 1.641–1.850	(869–028–00092–4)	25.00	Apr. 1, 1996
§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996
2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996

Title	Stock Number	Price	Revision Date
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996
500–599	(869–028–00102–5)	6.00	[4] Apr. 1, 1990
600–End	(869–028–00103–3)	8.00	Apr. 1, 1996
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
43-end	(869-028-00107-6)	30.00	July 1, 1996
29 Parts:			
0–99	(869–028–00108–4)	26.00	July 1, 1996
100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–028–00110–6)	48.00	July 1, 1996
900–1899	(869–028–00111–4)	20.00	July 1, 1996
1900–1910 (§§ 1900 to 1910.999)	(869–028–00112–2)	43.00	July 1, 1996
1910 (§§ 1910.1000 to end)	(869–028–00113–1)	27.00	July 1, 1996
1911–1925	(869–028–00114–9)	19.00	July 1, 1996
1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–028–00116–5)	38.00	July 1, 1996
30 Parts:			
1–199	(869–028–00117–3)	33.00	July 1, 1996
200–699	(869–028–00118–1)	26.00	July 1, 1996
700–End	(869–028–00119–0)	38.00	July 1, 1996
31 Parts:			
0–199	(869–028–00120–3)	20.00	July 1, 1996
200–End	(869–028–00121–1)	33.00	July 1, 1996
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
400–629	(869–028–00124–6)	34.00	July 1, 1996
630–699	(869–028–00125–4)	14.00	[5] July 1, 1991
700–799	(869–028–00126–2)	28.00	July 1, 1996
800–End	(869–028–00127–1)	28.00	July 1, 1996
33 Parts:			
1–124	(869–028–00128–9)	26.00	July 1, 1996
125–199	(869–028–00129–7)	35.00	July 1, 1996
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
300–399	(869–028–00132–7)	27.00	July 1, 1996
400–End	(869–028–00133–5)	46.00	July 1, 1996
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–028–00137–8)	24.00	July 1, 1996
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
18–End	(869–028–00139–4)	38.00	July 1, 1996
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869-028-00144-1)	47.00	July 1, 1996
●61–71	(869–028–00145–9)	47.00	July 1, 1996
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–028–00148–3)	46.00	July 1, 1996
●87-135	(869–028–00149–1)	35.00	July 1, 1996
●136–149	(869–028–00150–5)	35.00	July 1, 1996
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–028–00155–6)	33.00	July 1, 1996
●425–699	(869–028–00156–4)	38.00	July 1, 1996
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996

Title	Stock Number	Price	Revision Date
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996
CFR Index and Findings Aids	(869–028–00051–7)	35.00	Jan. 1, 1996
Complete 1997 CFR set		951.00	1997
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1997
Individual copies		1.00	1997
Complete set (one-time mailing)		264.00	1996
Complete set (one-time mailing)		264.00	1995

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.