6–17–97
Vol. 62 No. 116
Pages 32683–32988

federal register

Tuesday
June 17, 1997

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

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

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

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

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

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

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

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

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

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

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register

Vol. 62, No. 116

Tuesday, June 17, 1997

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
7010.....32983
Executive Orders:
13050.....32987

5 CFR
Ch. XXXV 32859

14 CFR
71 (2 documents) 32683
Proposed Rules:
39 (2 documents) 32699, 32701
71 (2 documents) 32703, 32704

17 CFR
1.....32859
Proposed Rules:
230.....32705

29 CFR
1650.....32685

30 CFR
920.....32687
935.....32687
943.....32687

40 CFR
52 (4 documents) 32687, 32688, 32691, 32694
261.....32974
268.....32974
271.....32974
302.....32974
Proposed Rules:
52 (3 documents) 32713, 32714

42 CFR
Proposed Rules:
410.....32715
424.....32715

47 CFR
36.....32862
54.....32862
63.....32964
69.....32862
Proposed Rules:
63 (2 documents) 32964, 32971

50 CFR
285.....32697
Proposed Rules:
17.....32733
600.....32734
679.....32734

Rules and Regulations

Federal Register
Vol. 62, No. 116
Tuesday, June 17, 1997

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–5]

Amendment of Class D Airspace; Idaho Falls, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Idaho Falls, Idaho, Class D airspace. This action is necessary to facilitate Lifeflight helicopter operations at the Regional Medical Center. The area will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC, July 10, 1997.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–520.4, Federal Aviation Administration, Docket No. 97–ANM–5, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2537.

SUPPLEMENTARY INFORMATION:

History

On April 9, 1997, the FAA proposed to amend part 71 of Federal Aviation Regulations (14 CFR part 71) by amending the Class D airspace area at Idaho Falls, Idaho, (68 FR 17134) to facilitate Lifeflight helicopter operations at the Regional Medical Center. Presently, aircraft operating in the vicinity of the medical center are experiencing difficulty establishing communications with Idaho Falls air traffic control tower, when operational, or Salt Lake City Center during other hours. This amendment corrects that situation by establishing a procedure that will negate the communications problem. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace areas extending upward from the surface of the earth are published in Paragraph 5000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations amends Class D airspace at Idaho Falls, Idaho. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, 14 CFR part 71 is amended as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 5000 General.

* * * * *

ANM ID D Idaho Falls, ID [Revised]

Idaho Falls, Fanning Field, ID
(lat. 43°30′52″ N, long. 112°04′13″ W)

That airspace extending upward from the surface to and including 7,200 feet MSL within a 5.4-mile radius of Fanning Field excluding that airspace below 5,300 feet MSL within a 1-mile radius of lat. 43°28′16″ N, long. 111°59′27″ W; and excluding that airspace 1 mile either side of the 127° bearing from lat. 43°28′16″ N, long. 111°59′27″ W to the 5.4-mile radius of Fanning Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on June 2, 1997.

Helen Fabian Parke,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–15863 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–6]

Establishment of Class E Airspace; Driggs, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a Class E airspace area at Driggs, Idaho (U59) to provide adequate controlled airspace for a new (GP–A approach procedure to Teton Peaks/Driggs Municipal Airport, Driggs, Idaho. This action also amends the Idaho Falls, Idaho, 1200-foot Class E airspace area to provide controlled airspace for the new GPS–A approach procedure to Teton Peaks/Driggs Municipal Airport. The airport

underlies the Idaho Falls 1200–foot Class E airspace area.

DATES: Effective 0901 UTC, November 1, 1997.

Comment Date: Comments must be receive on or before August 15, 1997.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ANM–520, Federal Aviation Administration, Docket Number 97–ANM–6, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–520.4, Federal Aviation Administration, Docket No. 97–ANM–6, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2537.

SUPPLEMENTARY INFORMATION: A new Standard Instrument Approach Procedure to Tenton Peaks/Driggs Municipal Airport, the GPS–A approach, requires the establishment of Class E airspace in the vicinity of Driggs, Idaho, and amendment of 1200-foot Class E airspace at Idaho Falls, Idaho. This action provides adequate controlled airspace for those aircraft using the new GPS–A instrument approach. Class E airspace areas extending upward from 700 feet above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket Number and be submitted in triplicate to the address specified under the captain **ADDRESS**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions are extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ANM–6.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

ANM ID E5 Driggs, ID [New]

Teton Peaks/Driggs Municipal Airport, ID
(lat. 43°44′30″ N, long. 111°05′54″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Teton Peaks/Driggs Municipal Airport.

* * * * *

ANM ID E5 Idaho Falls, ID [Revised]

Idaho Falls. Fanning Filed, ID
(lat. 43°30′52″ N, long. 112°04′13″ W)
Pocatello VORTAC
(lat. 42°52′13″ N, long. 112°39′08″ W)
Burley VORTAC
(lat. 42°34′49″ N, long. 113°51′57″ W)
Idaho Falls VOR/DME
(lat. 43°31′08″ N, long. 112°03′50″ W)

That airspace extending upward from 700 feet above the surface within 10.2 miles northwest and 4.3 miles southeast of the Idaho Falls VOR/DME 036° and 216° radials extending from 27.2 miles northeast to 16.1 miles southwest of the VOR/DME, and within 7.9 miles southeast and 5.3 miles northwest of the 029° radial of the Pocatello VORTAC extending from 20.1 to 40.9 miles northeast of the VORTAC; that airspace extending from 1200 feet above the surface bounded by a line beginning at the intersection of long. 112°30′03″ W, and the south edge of V–298, extending east along V–298 to the intersection of the south edge of V–298 and long. 112°02′00″ W, north along long. 112°02′00″ W to lat. 44°20′00″ N, east along lat. 44°20′00″ N to long. 110°37′00″ W, south along long. 110°37′00″ W to the intersection of long. 110°37′00″ W and the northwest edge of V–465, southwest on V–465 to the intersection of V–465 and long. 112°00′00″ W, south along long. 112°00′00″ W, to the north edge of V–4, west on V–4 to the 24.4 mile radius of the burley VORTAC, thence counterclockwise via the 24.4-mile radius to the south edge of V–269, thence east along the south edge of V–269 to the 25.3-mile radius of the Pocatello VORTAC, thence clockwise via the 25.3-mile radius to lat. 43°05′46″ N, long. 113°08′15″ W; to lat. 43°20′30″ N, long. 112°45′33″ W; to lat. 43°32′00″ N, long. 112°35′03″ W; to lat. 43°50′20″ N, long. 112°30′03″ W, thence direct to the point of beginning; excluding that airspace within federal airways, the Jackson Hole Airport, WY, the Rexburg/Madison County Airport, ID, and the West Yellowstone Airport, MT, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on June 9, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–15858 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1650

RIN 3046–AA45

Procedures for the Collection of Debts by Administrative Offset

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim rule.

SUMMARY: The Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, requires Federal agencies prior to collecting a claim owed to the Government by administrative offset to either adopt Department of Justice, the General Accounting Office or the Department of Treasury administrative offset regulations without change or to prescribe their own regulations for collecting claims by administrative offset which are consistent with Department of Justice, the General Accounting Office or Department of Treasury regulations. This interim rule establishes Commission regulations for the collection of debts by administrative offset.

DATES: This rule will become effective on June 17, 1997. Written comments on the interim rule must be received on or before August 18, 1997.

ADDRESSES: Comments should be submitted to the Office of the Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington D.C. 20507. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, N.W., Washington, D.C. between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kassie A. Billingsley, Director Financial and Resource Management Services, Equal Employment Opportunity Commission, 1801 L Street, N.W., Room 2001, Washington, D.C. 20507, (202) 663–4200 or 202 (663)–4074 (TDD). A copy of the interim rule may be obtained by contacting Ms. Billingsley. This interim rule is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this interim rule in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: The Commission is publishing Subpart C (§§ 1650.301 through 1650.309) as an interim rule to provide for the continued collection of debts by administrative offset. The Commission will consider all comments received on Subpart C and, if necessary, will publish a revised final rule.

Promulgation of these regulations pursuant to the Debt Collection Improvement Act of 1996 (31 U.S.C. 3716) ensures that the public is informed of the Federal Government's debt collection policies, reaffirms the Government's commitment to collect debts due it, and reiterates the public's obligation to repay amounts owed to the Federal Government. The regulations provide a debtor the appropriate due process rights such as the ability to verify, challenge and compromise claims and access to an administrative appeal procedure which is reasonable, while at the same time protecting the Government's interests.

Executive Order 12866

In promulgating the interim rules implementing the administrative offset provisions of the Debt Collection Improvement Act of 1996, the Commission has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. In addition, it has been determined that this regulation is not a significant regulatory action within the meaning of section 3(f).

Regulatory Flexibility Act

As Chairman of the Equal Employment Opportunity Commission, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this interim rule will have no economic impact on small entities because it establishes Commission procedures for the collection of debts owed to the Government by its current and former employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this interim rule because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 29 CFR Part 1650

Administrative practice and procedure, Claims, Government employees, Income taxes.

Dated: May 16, 1997.
For the Commission.

Gilbert F. Casellas,

Chairman.

For the reasons set forth in the preamble, title 29, chapter XIV of the Code of Federal Regulations is amended as follows:

PART 1650—DEBT COLLECTION

1. The authority citation for Part 1650 is revised to read as follows:

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716, 3720A; 5 CFR 550.1101.

2. Subpart C, consisting of §§ 1650.301 through 1650.309, is added to Part 1650 to read as follows:

Subpart C—Procedures for Collection of Debts by Administrative Offset

Sec.

Subpart C—Procedures for Collection of Debts by Administrative Offset

§ 1650.301 Purpose.

This subpart sets forth the procedures to be followed in the collection by administrative offset of debts owed to the United States.

§ 1650.302 Scope.

(a) *Applicability.* (1) The procedures in this subpart apply to the collection by administrative offset of debts owed to the Commission or other Federal agencies by former or current Commission employees under the authority of 31 U.S.C. 3716, common law, or any other applicable statutory authority, e.g., training expenses under 5 U.S.C. 4108, debts of employees removed for cause under 5 U.S.C. 5511, amounts owed by accountable officers under 5 U.S.C. 5512, advances of pay under 5 U.S.C. 5522, temporary duty travel advances under 5 U.S.C. 5705, and relocation advances under 5 U.S.C. 5724.

(2) The procedures in this subpart also apply to offset of debts owed to the Commission or other Federal agencies by the Commission's contractors and grant recipients.

(b) *Non-applicability.* (1) The procedures in this subpart do not apply where collection by administrative offset of the debt involved is explicitly provided for or prohibited by another statute.

(2) The procedures in this subpart also do not apply to debts owed to the Commission by other Federal agencies or debts owed to the Commission or other Federal agencies by a State or local government.

(c) *Waiver requests and claims to the GAO.* The procedures in this subpart do not preclude a debtor from requesting waiver of an erroneous payment of pay, travel, transportation, or relocation expenses under 5 U.S.C. 5584 or any other provision of law or from questioning the amount or validity of a debt by submitting a subsequent claim to the U.S. Government Accounting Office.

(d) *Compromise, suspension, or termination under the Federal Claims Collection Standards.* Nothing in this subpart precludes the compromise, suspension, or termination of administrative offset collection actions, where appropriate, in accordance with the Federal Claims Collection Standards in 4 CFR chapter II.

§ 1650.303 Definitions.

For purposes of this subpart, the term *administrative offset* means the withholding of money payable by the Commission to, or held by the Commission for, a person to satisfy a debt the person owes to the Government. The term *person* means a natural person or persons, profit or non-profit corporation, partnership, association, trust, estate, consortium, or other entity which is capable of owing a debt to the United States Government except that the term does not include an agency of the United States Government or any State or a unit of a general local government. The terms *agency, creditor agency, debt, employee, FCCS, FRMS* and *waiver* shall have the meanings set forth in subpart A of this part.

§ 1650.304 Notice of administrative offset.

(a) *Advance notice.* At least 30 days in advance of collecting any debt by administrative offset, notice of the Commission's intent to offset shall be given to the debtor by certified mail, return receipt requested, at the most current address that is available to the Commission. The notice shall provide:

(1) A description of the nature and amount of the debt and the Commission's intention to collect the debt through administrative offset;

(2) An opportunity to inspect and copy the records of the Commission with respect to the debt;

(3) An opportunity to request review of the Commission's determinations with respect to the debt; and

(4) An opportunity to enter into a written agreement for the repayment of the amount of the debt.

(b) *Exception to the advance notice requirement.* When the procedural requirements in this subpart have been previously provided to a debtor in connection with the same debt under another statutory or regulatory authority, such as for salary offset or pursuant to a notice of audit disallowance, the Commission is not required to duplicate those procedures before initiating collection of the debt by administrative offset.

§ 1650.305 Agency review.

(a) A debtor may dispute the existence of the debt, the amount of the debt, or the terms of repayment. The request to review the disputed debt must be received by the Director of the Financial Management Division within 30 calendar days of the debtor's receipt of the pre-offset notice.

(b) If the debtor requests an opportunity to inspect or copy the Commission's records concerning the debt, then the debtor will have 10 business days from the date of inspection or from receipt of the mailed documents for review.

(c) Pending review of the disputed debt, transactions in any of the debtor's account(s) maintained in the Commission may be temporarily suspended to the extent of the debt that is owed. Depending on the type of transaction, the suspension could preclude payment, withdrawal, or transfer, as well as prevent the payment of interest or discount due thereon. Should the dispute be resolved in the debtor's favor, the suspension will be lifted immediately.

(d) During the review period, interest, penalties, and administrative costs authorized under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711), will continue to accrue.

§ 1650.306 Written repayment agreement.

A debtor may request an opportunity to negotiate a written agreement for the repayment of the debt. If the financial position of the debtor does not support the ability to pay in one lump-sum, reasonable installments may be considered. No installment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of the Commission's request for the statement. At the Commission's option, a confess-judgment note or bond of indemnity with surety may be required for the installment agreement. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR part 103 and 31 U.S.C. 3711.

§ 1650.307 Administrative offset.

(a) If the debtor does not timely exercise his right to review or, as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with these regulations without further notice.

(b) The Director of the Financial Management Division of Financial and Resource Management Services or designee, after attempting to collect a debt from a person under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711), may collect the debt by administrative offset subject to the following:

(1) The debt is certain in amount; and

(2) It is in the best interest of the United States to collect the debt by administrative offset because it is less

costly and speeds repayment of the debt.

(c) If the 6-year period for bringing action on a debt provided in 28 U.S.C. 2415 has expired, then administrative offset may be used to collect the debt only if the costs of bringing such action are likely to be less than the amount of the debt.

(d) No collection by administrative offset shall be made on any debt that has been outstanding for more than 10 years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting such debt.

(e) *Request for administrative offset by the Commission to another Federal agency.* The Director of the Financial Management Division, or designee, may request that funds due and payable to a debtor by a Federal agency be administratively offset in order to collect a debt owed to the Commission by that debtor. In requesting administrative offset the Commission, as creditor, will certify in writing to the Federal agency holding funds of the debtor:

(1) That the debtor owes the debt;

(2) The amount and basis of the debt; and

(3) That the Commission has complied with the requirements of its own administrative offset regulations in this subpart, and the applicable provisions of 4 CFR part 102, including providing any required hearing or review.

(f) *Request for administrative offset from another Federal agency.* Any Federal creditor agency may request the Commission make an administrative offset from any Commission funds due and payable to a creditor agency's debtor. The Commission shall initiate the requested administrative offset only upon:

(1) Receipt of written certification from the creditor agency:

(i) That the debtor owes the debt;

(ii) The amount and basis of the debt;

(iii) That the agency has prescribed regulations for the exercise of administrative offset; and

(iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of 4 CFR part 102, including providing any required hearing or review; and

(2) A determination by the Commission that collection by administrative offset against funds payable to the debtor by the Commission would not otherwise be contrary to law.

§ 1650.308 Accelerated procedures.

The Commission may make an administrative offset against a payment to be made to the debtor prior to the completion of the procedures required by this subpart, if failure to take the offset would substantially jeopardize the Commission's ability to collect the debt, and the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset shall be promptly followed by the completion of the procedures required by this subpart. Amounts recovered by offset but later found not to be owed to the Commission shall be promptly refunded.

§ 1650.309 Additional administrative procedures.

Nothing contained in this subpart is intended to preclude the use of any other administrative remedy which may be available.

[FR Doc. 97–14805 Filed 6–16–97; 8:45 am]

BILLING CODE 6570–06–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 920, 935, and 943

[MD–040–FOR, OH–236–FOR, TX–017–FOR]

State Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; correction.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is correcting the effective date of three final rules that appeared in the **Federal Register** on March 26, 1997. These documents approved amendments to the Maryland regulatory program (62 FR 14306), the Ohio abandoned mine land reclamation plan (62 FR 14308) and the Texas regulatory program (62 FR 14311) all effective on the date of publication, March 26, 1997. OSM had prepared a separate rulemaking on March 5, 1997 (62 FR 9932), which became effective April 4, 1997. Due to the differences in effective dates, the March 5, 1997, rule would result in a nullification of the three state program amendments previously listed. Therefore, this document corrects the effective date of the three state program amendments to April 7, 1997.

EFFECTIVE DATE: The amendments to 30 CFR Parts 920 (62 FR 14306), 935 (62 FR 14308) and 943 (62 FR 14311) are effective April 7, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Trelease, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Room 210 SIB, Washington, DC 20240; Telephone (202) 208–2783.

In FR Docs. 97–7535, 97–7536 and 97–7533, appearing on pages 14306, 14308 and 14311, respectively, in the **Federal Register** of Wednesday, March 26, 1997, the following corrections are made:

On pages 14307, 14308 and 14311, the Maryland (MD–040–FOR), Ohio (OH–236–FOR) and Texas (TX–017–FOR) state program amendments' **EFFECTIVE DATE** for each final rule is corrected to read April 7, 1997.

Dated: June 10, 1997.

Kathrine L. Henry,

Acting Director.

[FR Doc. 97–15762 Filed 6–16–97; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 179–0042; FRL–5842–8]

Withdrawal of Direct Final Rule for Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule for the approval of revisions to the California State Implementation Plan. EPA published the direct final rule on Thursday, April 17, 1997 (62 FR 18710), approving revisions to rules from the Bay Area Air Quality Management District (BAAQMD). As stated in that **Federal Register** document, if adverse or critical comments were received by May 19, 1997, the effective date would be delayed and notice would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action in the near future. EPA will not institute a second comment period on this document.

DATES: Withdrawal of this direct final rule becomes effective on June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Julie Rose, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne

Street, San Francisco, CA 94105, Telephone: (415) 744–1184.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the April 17, 1997 **Federal Register**, and in the short document located in the proposed rule section of the April 17, 1997 **Federal Register**.

List of Subjects in 40 CFR Part 52

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

Dated: June 4, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by removing paragraph (c)(239)(i)(D).

[FR Doc. 97–15855 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–128–6763a; TN–166–9634a; TN–180–9712a; TN–182–9713a; FRL–5841–4]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP Regarding New Source Review, Volatile Organic Compounds and Emergency Episodes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is acting on revisions to the Nashville/Davidson County (Nashville) portion of the Tennessee State Implementation Plan (SIP) which were submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), on December 17, 1993, April 2, 1996, September 20, 1996, and November 14, 1996. The EPA is approving these revisions to the Nashville regulations regarding new source review (NSR), volatile organic compounds (VOC) and emergency episodes with the exception of revisions to 7–17(c)(4)(ii) and 7–17(c)(4)(iii) which are being disapproved. The revisions to sections 7–17(c)(4)(ii) and 7–17(c)(4)(iii) are being disapproved because the revisions contain emission limits which would relax the currently approved emission limits for certain operations in the manufacture of pneumatic rubber tires.

DATES: This final rule is effective August 18, 1997 unless adverse or critical comments are received by July 17, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference files TN128–01–6763, TN166–01–9634, TN180–01–9712, and TN182–01–9713. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, William Denman, 404/562–9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

FOR FURTHER INFORMATION CONTACT: William Denman 404/562–9030.

SUPPLEMENTARY INFORMATION:

Amendments to Nashville Regulation Number 3 "New Source Review"

On April 2, 1996, (reference file TN166), September 18, 1996, (reference file TN180), and November 14, 1996, (reference file TN182), Tennessee submitted revisions to regulation number 3 ''New Source Review'' of the Nashville/Davidson County portion of the Tennessee SIP (Nashville SIP). These revisions amended regulation number 3 as follows.

Section 3–1 ''Definitions''

The definition of ''municipal solid waste (MSW) landfill emissions'' was added and the definition of ''significant'' was revised to contain an MSW landfill emissions level of 50 tons per year (tpy). In addition, the definition of ''volatile organic compound'' was revised to incorporate by reference the definition contained in 40 CFR part 51, subpart F.

Section 3–3 ''Prevention of Significant Deterioration (PSD) Review''

Section 3–3(f) was revised by deleting references to supplements to Appendix W of 40 CFR part 51 which contain the ''Guideline on Air Quality Models.'' This revision was prompted by the addition of a third supplement to this appendix. The intention of the Nashville agency is to utilize the entire guideline including all present and future supplements.

Amendments to Nashville Regulation Number 7 "Regulation for the Control of Volatile Organic Compounds"

On October 30, 1996, EPA approved the State of Tennessee's request to redesignate the five county Nashville ozone nonattainment area to attainment. One of the requirements for this approval was for the State to have a fully approved SIP for ozone control in the five county area. By approving the ozone redesignation request EPA determined that the State of Tennessee had a SIP in place which was applicable in the entire five county area, including Davidson County, and met all EPA ozone requirements. The revisions which follow revise only Nashville/Davidson County's portion of the Tennessee SIP, not the State's SIP. In any areas where the Nashville/Davidson County SIP is less stringent or has been disapproved, the State SIP applies.

On December 17, 1993, (reference file TN128), April 2, 1996, (reference file TN166), September 18, 1996, (reference file TN180), and November 14, 1996, (reference file TN182), Tennessee submitted revisions to regulation number 7 ''Regulation for the Control of Volatile Organic Compounds'' of the Nashville/Davidson County portion of the Tennessee SIP (Nashville SIP). Some of the proposed revisions were submitted to meet the 1990 Clean Air Act (CAA) requirements for VOC reasonably available control technology (RACT) commonly referred to as the ''VOC RACT Catch-Ups.'' The four submittals revised Nashville's regulation number 7 as follows.

Section 7–1 ''Definitions''

The definition of ''volatile organic compound'' was revised to incorporate by reference the definition contained in 40 CFR part 51, subpart F.

Section 7–2 ''General Provisions and Applicability''

In the first submittal (reference file TN128), the section which was previously titled ''Prohibited Act'' was deleted in its entirety and replaced with the revised section 7–2 ''General Provisions and Applicability.'' In a later submittal, paragraph (b) of this section was deleted in its entirety and replaced with a new paragraph (b) which more clearly provided the process for determining more restrictive emission limits upon mutual agreement of the Director and the source. In addition, the emission statement contained in paragraph (g) of this section was amended to require that an ''official'' of the company certify emission statement reports and to require reporting of both nitrogen oxide (NO_X) and VOC emissions.

Section 7–4 ''Compliance, Certification, Recordkeeping and Reporting Requirements''

The revision to this section deleted the previous section 7–4 ''Circumvention'' and replaced it with section 7–4 ''Compliance, Certification, Recordkeeping and Reporting Requirements'' which provided requirements for sources to gather data demonstrating compliance and maintain records for a minimum of three years.

Section 7–5 ''Emission Standards for Coil Coating''; Section 7–6 ''Emission Standards for Paper Coating''; Section 7–7 ''Emission Standards for Fabric and Vinyl Coating''; Section 7–8 ''Emission Standards for Metal Furniture Coating''; and Section 7–9 ''Emission Standards for Surface Coating of Large Appliances''

The proposed revisions to these sections add definitions for coil, coil coating line, coil coating operation, metal furniture, metal furniture coating line, and large appliance coating line. In addition, each of the above sections are revised to provide an emission limit which states that the regulation does not apply to sources with actual VOC emissions less than 15 pounds per day or potential VOC emissions less than 10 tons per year for each of the source categories. These revisions are consistent with EPA guidance and are therefore being approved.

Section 7–10 ''Petroleum Liquid Storage''

This section was revised by changing all references of ''petroleum liquid storage'' to ''volatile organic liquid storage.'' In addition, definitions for ''storage vessel,'' ''true vapor pressure,'' and ''volatile organic liquid'' were added and requirements for petroleum liquid storage were revised to be consistent with EPA guidance on volatile organic liquid storage.

Section 7–16 ''Emission Standard for Surface Coating of Miscellaneous Metal Parts and Products''

The revisions to section 7–16 were to section 7–16(a), 7–16(c), and 7–16(d). The revisions are consistent with EPA guidance and are therefore being approved. The revisions are discussed as follows.

Section 7–16(a)

This section was revised to add definitions for drum, high performance architectural coating, miscellaneous parts and products, pail, and refinishing.

Section 7–16(c)

Nashville deleted the current paragraph 7–16(c) and replaced it with a new 7–16(c) adding an emission limit which states that the regulation does not apply to sources with actual VOC emissions less than 15 pounds per day or potential VOC emissions less than 10 tons per year and ten categories which may be exempt from this requirement.

Section 7–16(d)

This section was revised to specify emission limits for high performance architectural coating, clear coating, steel pail and drum interior, air-dried coating, extreme performance coating, and all other coatings.

Section 7–17 ''Manufacture of Pneumatic Rubber Tires''

Paragraph (9) of section (a) was added to provide a definition for ''sidewall cementing operation.'' Paragraphs (3) and (6) of section (c) were deleted and all paragraphs were renumbered accordingly. EPA is approving the above mentioned revisions because they are consistent with EPA guidance. In addition, it was proposed that paragraph (5) (renumbered as paragraph (4)) be deleted and replaced with a revised paragraph. However, because the limits specified in the revised paragraph were greater than the previous limits and therefore less stringent than the existing SIP and because Nashville has not provided a demonstration that this relaxation of the SIP would not adversely affect their attainment and maintenance of the ozone standard, EPA is disapproving the revisions to the currently SIP approved limits specified in 7–17(c)(4)(ii) and 7–17(c)(4)(iii). EPA provided comments to Nashville concerning this deficiency in letters dated November 10, 1994, May 3, 1995, and August 29, 1995. However, to date EPA has not received an official submittal addressing this deficiency, and therefore, the emission limits as contained in the Nashville/Davidson County regulations are deficient and the current federally approved emission limits as contained in the SIP remain 4.6 grams per tire for tread-end cementing and 2.1 grams per tire for bead dipping.

Section 7–19 ''Perchloroethylene Dry Cleaning''

This section was deleted in its entirety after perchloroethylene was exempted from regulation as a VOC due to the determination by EPA (see 61 FR 4588—February 7, 1996) that perchloroethylene has negligible photochemical reactivity and does not significantly contribute to the formation of ozone. However, perchloroethylene continues to be regulated as a hazardous air pollutant and is subject to Maximum Available Control Technology (MACT) requirements under title III of the CAA.

Section 7–20 ''Petroleum Solvent Dry Cleaners''

This new chapter was added to regulate petroleum solvent dry cleaners. EPA is approving the addition of this new section because the provisions of this rule are consistent with EPA requirements for petroleum solvent dry cleaners. This rule applies to all petroleum solvent dry cleaners in Davidson County. However, any petroleum solvent dry cleaner that consumes less than 32,500 gallons of petroleum solvent per year is only subject to the recordkeeping requirements.

Section 7–21 ''Petroleum Liquid Storage in External Floating Roof Tanks''

This section was revised by changing all references of ''petroleum liquid storage'' to ''volatile organic liquid storage.'' In addition, a definition for ''volatile organic liquid'' was added and requirements for petroleum liquid storage in external floating roof tanks were revised to be consistent with EPA guidance on volatile organic liquid storage in external floating roof tanks.

Section 7–22 ''Leaks from Synthetic Organic Chemical, Polymer, and Resin Manufacturing Equipment''

EPA is approving the addition of this new section. This section regulates leaks from synthetic organic chemical, polymer, and resin manufacturing equipment. The chapter is consistent with EPA guidance for this source category and applies to all equipment in VOC service in any process unit at a synthetic organic chemical, polymer, and resin manufacturing facility.

Section 7–23 ''Air Oxidation Processes in the Synthetic Organic Chemical Manufacturer's Industry''

EPA is approving the renumbering of the previously numbered section 7–23 titled ''Special Provisions of New Volatile Organic Compound Sources and Modifications'' to section 7–26. EPA is also approving the addition of this new section 7–23. The new section 7–23 entitled, ''Air Oxidation Processes in the Synthetic Organic Chemical Manufacturer's Industry'' has been determined to be consistent with EPA guidance for this source category. This section applies to the following oxidation facilities: each air oxidation reactor not discharging its vent stream into a recovery system; each combination of an air oxidation reactor and the recovery stream into which its vent stream is discharged; and each combination of two or more air oxidation reactors and the common recovery system into which their vent streams are discharged.

Section 7–24 ''Test Methods and Procedures''

EPA is approving revisions to this section submitted on December 17, 1993, (reference file TN128) and September 18, 1996, (reference file TN180). These revisions contain internal and external quality assurance (QA) program requirements, on-site sampling test report requirements, additional procedures for determining VOC content, provisions for determination of alternative compliance methods for surface coating operations, and leak detection methods for VOCs and add provisions for determining capture efficiency consistent with the EPA guidance issued on January 9, 1995.

Section 7–25 ''Record Keeping and Reporting Requirements''

EPA is approving the deletion of this section. All requirements previously contained in this section are now contained in section 7–4 ''Compliance Certification, Recordkeeping and Reporting Requirements.''

Section 7–27 ''Handling, Storage, Use, and Disposal of Volatile Organic Compounds (VOC)''

EPA is approving the addition of this new section which contains provisions that minimize the emission of VOCs from handling, storage, use and disposal of VOCs. This section applies to facilities which contain any source subject to any other section of the VOC regulation with the exception of any VOC material containing VOC emitted in compliance with any other section of the VOC regulation and waste paint handling systems, water treatment systems, and other similar operations at coating and printing facilities using complying coatings and/or inks.

Section 7–28 ''Surface Coating of Plastic Parts''

EPA is approving the addition of this new section which contains emission limits, control requirements, and compliance, certification, recordkeeping, and reporting requirements for operations which perform the surface coating of plastic parts. The requirements of this section are consistent with the EPA Alternative Control Techniques Document for this source category. This section applies to any plastic parts coating line whose potential to emit VOCs from all plastic parts coating lines within the facility is greater than 25 tons of VOC per year and coats plastic components for automotive equipment, business machines, medical equipment housings, entertainment equipment housings, and miscellaneous plastic parts.

Addition of New Regulation Number 11 ''Emergency Episode Regulation''

EPA is approving the addition of this new regulation which was submitted to EPA on November 14, 1996, (reference file TN182) because it is consistent with the requirements of 40 CFR part 51, subpart H ''Prevention of Air Pollution Emergency Episodes.'' Regulation number 11 establishes criteria to prevent undesirable levels of air contaminants during adverse meteorological conditions. It provides the levels to determine air pollution alerts, air pollution warnings, and air pollution emergencies and requires emission reductions to achieve during these episodes.

Final Action

The EPA is approving the aforementioned revisions because they are consistent with federal requirements with the exception of the revisions to 7–17(c)(4)(ii) and 7–17(c)(4)(iii) which are being disapproved for the reasons stated in the Supplementary Section of this notice. This rulemaking is being published without a prior proposal for approval because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 18, 1997 unless, by July 17, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 18, 1997 unless, within 30 days of its publication, adverse or critical comments are received.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

I. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit

enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

EPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements and impose any new Federal requirements.

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements

Dated: May 14, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *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 RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(153) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(153) Revisions to Nashville/Davidson County portion of the Tennessee state implementation plan submitted to EPA by the State of Tennessee on December 17, 1993, April 2, 1996, September 18, 1996, and November 14, 1996, concerning new source review (NSR), control of volatile organic compounds (VOC), and emergency episodes with the exception of the revisions to 7–17(c)(4)(ii) and 7–17(c)(4)(iii) which were disapproved.

(i) Incorporation by reference.

(A) Nashville/Davidson County Air Pollution Control Regulation number 3 ''New Source Review'' sections 3–1(y), 3–1(hh), 3–1(jj), and 3–2(f), effective November 13, 1996.

(B) Nashville/Davidson County Air Pollution Control Regulation number 7 ''Regulation for the Control of Volatile Organic Compounds'' sections 7–1(mm), 7–2, 7–4, 7–5, 7–6, 7–7, 7–8, 7–9, 7–10, 7–16(a), 7–16(c) {except section 7–16(c)(11)}, 7–16(d), 7–17(a)(9), 7–17(c) {except 7–17(c)(4)(ii), and 7–17(c)(4)(iii)}, 7–20, 7–21, 7–22, 7–23, 7–24, 7–26, 7–27, and 7–28, effective November 13, 1996.

(C) Nashville/Davidson County Air Pollution Control Regulation number 11 ''Emergency Episode Regulation'' effective November 13, 1996.

(ii) Other material. None.

[FR Doc. 97–15851 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA105–0037a; FRL–5842–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Diego County Air Pollution Control District; Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following Districts: San Diego County Air Pollution Control District (SDCAPCD), and Yolo-Solano Air Quality Management District (YSAQMD). These revisions concern the control of oxides of nitrogen (NO_X) from stationary gas turbine engines, industrial, institutional, and commercial boilers, steam generators, and process heaters. This approval action will

incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on August 18, 1997 unless adverse or critical comments are received by July 17, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be submitted to Amy Beckberger at the Region IV office listed below. Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

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

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

San Diego County Air Pollution Control District 9150 Chesapeake Drive, San Diego, CA 92123–1096.

Yolo-Solano Air Quality Management District 1947 Galileo Court, Suite 103 Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Amy Beckberger, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: SDCAPCD's Rule 69.3, Stationary Gas Turbine Engines; and YSAQMD's Rule 2.27, Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 19, 1994 (Rule 69.3), and October 18, 1996 (Rule 2.27).

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a proposed rulemaking entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement) which describes the requirements of section 182(f). The November 25, 1992, NO_X Supplement should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X (''major'' as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. The San Diego Area is classified as a serious nonattainment area for ozone, and the Sacramento Metro Area, in which the YSAQMD is located, is classified as a serious nonattainment area for ozone. [1] Therefore, these areas are subject to the RACT requirements of section 182(b)(2), cited below, and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control techniques guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions, are expected to require final installation of the actual NO_X controls as expeditiously as practicable, but no later than May 31, 1995.

On October 19, 1994, the State of California submitted to EPA SDCAPCD's Rule 69.3, Stationary Gas Turbine Engines, which was adopted by SDCAPCD on September 27, 1994. On October 18, 1996, the State of California submitted to EPA YSAQMD's Rule 2.27, Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters, which was revised by YSAQMD on August 14, 1996. On October 21, 1994 (Rule 69.3), and December 19, 1996 (Rule 2.27) these submitted rules were found to be complete pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V. [2] In today's document, EPA is taking direct final action to approve these submittals. This final action will incorporate these rules into the Federally approved SIP.

NO_X emissions contribute to the production of ground level ozone and smog. The two rules control emissions of NO_X from various industrial, institutional, and commercial sources. The rules were adopted as part of SDCAPCD's and YSAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents. [3] Among these provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting State and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble, cited above (57 FR 55620). In the NO_X Supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by

[1] The San Diego Area and the Sacramento Metro Area retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991). The San Diego Area was reclassified from severe to serious on February 21, 1995. See 60 FR 3771 (January 19, 1995).

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

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

EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

There is currently no version of SDCAPCD's Rule 69.3, Stationary Gas Turbine Engines, in the SIP. Rule 69.3 applies to any existing or new stationary gas turbine with a power rating greater than or equal to 1.0 megawatt (MW) or 0.3 MW, respectively. CARB has published a RACT/BARCT guidance document for gas turbines entitled, ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines'' (May 18, 1992). The guidance document defines RACT as an emission limit of 42 ppmv at 15% O_2 for gas-fired units and an emission limit of 65 ppmv at 15% O_2 for oil-fired units. The SDCAPCD's Rule 69.3 incorporates the RACT limits for gas turbines and is consistent with all of the guideline's other requirements. The rule contains adequate recordkeeping requirements, and the appropriate test methods for compliance determinations are referenced. The exemptions provided in the rule are consistent with EPA guidelines. The rule required final compliance by May 31, 1995. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 69.3, dated April 3, 1997.

There is currently no version of YSAQMD's Rule 2.27, Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters, in the SIP. Rule 2.27 regulates NO_X emissions from boilers, steam generators, and process heaters with rated heat inputs greater than or equal to 5 million BTU per hour. CARB has developed a RACT/BARCT guidance document entitled, ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.'' (July 18, 1991). The RACT limits specified in CARB's guidance document are 70 ppm or 0.084 lb/MMBtu of heat input and 115 ppm or 0.150 lb/MMBtu of heat input for units fired with gaseous and nongaseous fuels. Rule 2.27's emission limits of 30 ppm for gas-fired and 40 ppm for nongaseous-fired units are representative of CARB's BARCT limits, thereby meeting the CAA requirements for RACT. The May 31, 1995 implementation requirements are fulfilled by requiring that BARCT be implemented by June 1, 1998, and that interim measures, including submission of compliance plans and application for authority to construct, be met to ensure final compliance with the rule. The rule meets EPA's RACT requirements, and the exemptions provided in the rule are consistent with EPA guidelines. The rule contains adequate recordkeeping requirements, and references the appropriate test methods for determining compliance. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 2.27, dated April 3, 1997.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, SDCAPCD's Rule 69.3, Stationary Gas Turbine Engines; and YSAQMD's Rule 2.27, Industrial, institutional, and Commercial Boilers, Steam Generators, and Process Heaters are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 18, 1997, unless, by July 17, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 18, 1997.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its

actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 18, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: June 4, 1997.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(202)(i)(C)(*6*) and (241)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(202) * * *

(i) * * *

(C) * * *

(*6*) Rule 69.3, adopted on September 27, 1994.

* * * * *

(241) * * *

(i) * * *

(B) Yolo-Solano Air Quality Management District.

(*1*) Rule 2.27, revised on August 14, 1996.

[FR Doc. 97–15846 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL127–1a; FRL–5841–1]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On May 5, 1995, and May 26, 1995, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (EPA) for reactor processes and distillation operation processes in the Synthetic Organic Chemical Manufacturing Industry (SOCMI) as part of the State's control measures for Volatile Organic Material (VOM) emissions for the Chicago and Metro-East (East St. Louis) areas. VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds'' (VOC), as defined by EPA. VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This plan was submitted to meet the Clean Air Act (Act) requirement for States to adopt Reasonably Available Control Technology (RACT) rules for sources that are covered by Control Techniques Guideline (CTG) documents. The control measures specified in this SOCMI SIP revision are not expected by Illinois to further reduce VOC (VOM) emissions in the Chicago area, or in the Metro-East area, because Illinois has identified only two sources which meet the applicability criteria, and Illinois states that the sources are already in compliance with the State's SOCMI rules. This rulemaking action only addresses compliance with the RACT requirement for one source, Stepan Company's Millsdale facility. The EPA is approving the State Implementation Plan (SIP) revision request submitted by the State of Illinois as it applies to Stepan Company's Millsdale Facility. Action on the revision request as it applies to other subject facilities, and on the overall revision request, will be taken at a future time.

EFFECTIVE DATE: The ''direct final'' approval shall be effective on August 18, 1997, unless EPA receives adverse or critical comments by July 17, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request and EPA's analysis are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental

Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman at (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(2) of the Act requires all moderate and above ozone nonattainment areas to adopt RACT rules for sources that are located in moderate and above ozone nonattainment areas and covered by CTG documents, such as SOCMI reactor processes and distillation operations processes. In Illinois, the Chicago area is classified as ''severe'' nonattainment for ozone, while the Metro-East area is classified as ''moderate'' nonattainment. See 40 CFR 81.314.

The Illinois Environmental Protection Agency (IEPA) held public hearings on the proposed SOCMI rules on November 4, 1994, December 2, 1994, and December 16, 1994. The rules, which require compliance by March 15, 1996, were published in the Illinois Register on May 19, 1995. The rules became effective at the State level on May 5, 1995. The IEPA formally submitted the SOCMI rules to EPA on May 5, 1995, and May 26, 1995, as a revision to the Illinois SIP for ozone. The submittal amends 35 Ill. Adm. Code Parts 211, 218 and 219, to include control measures for SOCMI reactor processes and distillation operations.

The submittal includes the following new or revised rules:

Part 211: Definitions and General Provisions

Subpart B: Definitions

211.980 Chemical Manufacturing Process Unit

211.1780 Distillation Unit

211.2365 Flexible Operation Unit

211.5065 Primary Product

Part 218: Organic Material Emission Standards and Limitations for the Chicago Area

Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant

218.431 Applicability

218.432 Control Requirements

218.433 Performance and Testing Requirements

218.434 Monitoring Requirements

218.435 Recordkeeping and Reporting Requirements

218.436 Compliance Date

Appendix G: TRE Index Measurement for SOCMI Reactors and Distillation Units

Part 219: Organic Material Emission Standards and Limitations for the Metro East Area

Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant

219.431 Applicability

219.432 Control Requirements

219.433 Performance and Testing Requirements

219.434 Monitoring Requirements

219.435 Recordkeeping and Reporting Requirements

219.436 Compliance Date

Appendix G: TRE Index Measurement for SOCMI Reactors and Distillation Units

The SOCMI rules contained in Part 218 are identical to those in Part 219 except for the areas of applicability. Part 218 applies to the Chicago Area, while Part 219 applies to the Metro East area. Illinois' SOCMI rules are based largely on EPA's final CTG for control of VOCs from SOCMI reactor processes and distillation operations processes, which was issued on November 15, 1993 (58 FR 60197). This document contains the recommended presumptive norm for RACT for these sources.

The applicability measure for RACT is dependent upon the facilities' calculated Total Resource Effectiveness (TRE) index. The TRE index is a measure of the cost per unit of VOC emission reduction and is normalized so that the decision point has a defined value of 1.0. It considers variables such as the emission stream characteristics (i.e., heat value, flow rate, VOC emission rate) and a maximum cost effectiveness. A TRE index value of less than or equal to 1.0, calculated by using the specific stream characteristics, ensures that the stream could be effectively controlled further by a combustion device without an unreasonable cost burden. The use of the TRE index applicability measure provides an incentive for pollution prevention by letting a facility consider alternatives to installing add-on control devices. Facilities can choose to improve product recovery so that the calculated TRE index falls above the cutoff value of 1.0.

The technology underlaying RACT for SOCMI reactor processes and distillation operations processes is combustion via either thermal incineration or flaring. These control techniques generally achieve the highest emission reduction among demonstrated VOC technologies. The EPA believes that a thermal incinerator that is well operated and maintained according to manufacturer's specifications can achieve at least 98 percent control efficiency, by weight. Likewise, flares that conform with the design and operating specifications set forth in 40 CFR 60.18, can achieve at least 98 percent control, by weight, of VOC emissions.

II. Analysis of State Submittal

The Illinois SOCMI rules affect vent streams associated with continuous reactor and distillation operation processes that manufacture a SOCMI chemical, as listed in Appendix A of Illinois' Rules and Regulations for Air Pollution Control (35 IAC 218 and 219), if the chemical is a ''primary product.'' The rules exclude any reactor or distillation unit that (1) is part of a polymer manufacturing operation, (2) is included in a batch operation, (3) has a total design capacity of less than 1,100 tons per year for the ''primary product'', (4) has a primary product not listed in Appendix A, (5) has a vent stream VOC concentration of less than 500 parts per million by volume or a flow rate of less than 0.0085 standard cubic meter per minute, or (6) is included in the hazardous air pollutants early reduction program, as specified in 40 CFR Part 63 and published at 50 FR 60970 on October 22, 1993. Any other process vent stream from a reactor process or distillation operations process in SOCMI that does not satisfy the above exclusion criteria must perform a TRE determination. If the TRE index value, calculated at a point immediately after the associated recovery device, is less than or equal to 1.0, then VOC emissions (less methane and ethane) must be reduced by 98 percent by weight or to 20 parts per million by volume, on a dry basis, corrected to 3 percent oxygen. The compliance date in the Illinois rule is March 15, 1996.

While Illinois' SOCMI reactor and distillation rules generally require RACT level control efficiencies, the rules' applicability provision is significantly less stringent than RACT for two reasons. The first is the concept of ''primary product'' as defined in the State rules, and the second is the list of SOCMI chemicals provided in the State rules.

''Primary product,'' as defined in at 35 IAC 211.5065, means the ''product with the greatest annual design capacity on a mass basis''; or in the case of a flexible operation unit, the product which is produced for the greatest annual operating time. Section 218/219.431(a)(1) of the Illinois rules states that sources are only subject if one of the listed chemicals is produced *as the*

primary product. RACT, as specified in the CTG, requires sources to comply if they produce one or more SOCMI chemicals *as intermediates or final products.* Illinois' rule is less stringent than RACT because the production of SOCMI chemicals as intermediates does not contribute to applicability. Stepan Company's Millsdale facility is an exception to this provision. Section 218.431(a)(2) states that all continuous distillation and reactor process emission units at Stepan Company's Millsdale facility are subject, unless they are already subject to the State's Air Oxidation Processes rules.

The place where the ''primary product'' concept makes the applicability of the Illinois rules less stringent than that of RACT is in Section 218/219.431(b)(4) of the Illinois rules. This section exempts units that have a design capacity of less than 1100 tons per year of the primary product, and exempts units, no matter how large, if the primary product is not a SOCMI chemical. The CTG calls for this exemption to apply to units with a design capacity of less than 1100 tons per year of all chemicals produced within the unit. Because of this language, the State rules could exempt sources that would be covered under RACT, as specified in the CTG. For example, if a source were producing 1500 tons per year of chemicals, but only 1000 tons of the primary product, the source would be exempt under the State rule but would not be exempt under RACT level rules. Also, if a source produced 4,000 tons of a SOCMI chemical, it could still be exempted from the Illinois rules if it also produced 5,000 tons of a non-SOCMI primary product.

The concept of ''primary product'' can also be found other places in the State rule. The definition of ''Chemical Manufacturing Process Unit'' (Section 211.980) states that ''a chemical manufacturing process unit is identified by its primary product.'' This definition further clarifies the rule's intent that units producing SOCMI chemicals, but not as the primary product, be exempt from control requirements.

The second problem with the State rules is the list of SOCMI chemicals contained in 35 IAC 218, Appendix A. The list of chemicals in this appendix is referenced in the State SOCMI reactor and distillation rules for applicability purposes. In other words, for a unit to be covered under the State rules, its primary product must be a chemical listed in Appendix A. The problem is that the list in Appendix A does not match the list in the CTG. The result is that a large percentage of the chemicals which would be covered under RACT are not covered by the Illinois rules. (Note that 35 IAC 218, Appendix A, is not part of this rulemaking action. It was previously approved by the EPA on September 9, 1994, at 59 FR 46562.)

It is not totally clear how these deviations from RACT will affect the general applicability of the Illinois rule, as compared to a RACT-level rule. However, documentation submitted by the IEPA and by Stepan Company show that, for Stepan Company's Millsdale Facility, the Illinois SOCMI reactor and distillation rule is as stringent as RACT. All units at this facility which would be covered by a RACT-level rule are covered by the Illinois rule.

III. Final Rulemaking Action

The EPA approves, solely as it relates to Stepan Company's Millsdale facility, the plan revision submitted to EPA by the State of Illinois on May 5, 1995, and May 26, 1995, for reactor processes and distillation operations processes in SOCMI. While the limits contained in the rule are generally of RACT stringency, the rule's applicability is extremely limited and may not apply to all sources which should be covered by RACT rules. Illinois has shown, however, that the rule applies to all sources at Stepan Company's Millsdale facility which would be covered by a RACT rule, and is thus approvable. The EPA will take action on other aspects of the submittal at a later date.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on August 18, 1997 unless, by July 17, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 18, 1997.

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 the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with 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. This Federal action approves pre-existing requirements under state or

local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. 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 August 18, 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, Incorporation by reference.

Dated: May 9, 1997.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(134) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(134) On May 5, 1995, and May 26, 1995, the State of Illinois submitted a State Implementation Plan revision request to the United States Environmental Protection Agency for reactor processes and distillation operation processes in the Synthetic Organic Chemical Manufacturing Industry as part of the State's control measures for Volatile Organic Material (VOM) emissions for the Chicago and Metro-East (East St. Louis) areas. VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds'' (VOC), as defined by EPA. This plan was submitted to meet the Clean Air Act requirement for States to adopt Reasonably Available Control Technology rules for sources that are covered by Control Techniques Guideline documents. The EPA approves the State Implementation Plan revision request as it applies to Stepan Company's Millsdale Facility.

(i) *Incorporation by reference.* Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 211: Definitions and General Provisions, Subpart B; Definitions, 211.980 Chemical Manufacturing Process Unit, 211.1780 Distillation Unit, 211.2365 Flexible Operation Unit, 211.5065 Primary Product.

(B) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant, Sections 218.431 Applicability, 218.432 Control Requirements, 218.433 Performance and Testing Requirements, 218.434 Monitoring Requirements, 218.435 Recordkeeping and Reporting Requirements, 218.436 Compliance Date, 218 Appendix G, TRE Index Measurement for SOCMI Reactors and Distillation Units, amended at 19 Ill. Reg. 6848, effective May 9, 1995.

[FR Doc. 97–15848 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 060397D]

Atlantic Tuna Fisheries; Recreational Fishery Adjustments

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

ACTION: Fishery reopening.

SUMMARY: NMFS reopens the Angling category fishery for school, large school, and small medium Atlantic bluefin tuna (ABT) for all areas. The Angling category fishery for school, large school, and small medium ABT will open beginning June 13, 1997. The Angling category fishery for large school and small medium ABT will close on June 27, 1997 at 11:30 p.m. local time in the southern area (Delaware and states south) only. The northern Angling category fishery for large school and small medium ABT, and the Angling category fishery for school ABT in all areas, will remain open until further notice. The daily catch limit for the reopening remains at one ABT per vessel. This action is being taken to extend scientific data collection on ABT and to further domestic management objectives for the Atlantic tuna fisheries, while preventing overharvest of the regional Angling category subquotas.

DATES: The Angling category fishery for school, large school, and small medium ABT will open beginning June 13, 1997. The Angling category fishery for large school and small medium ABT will close in the southern area only (Delaware and states south) on June 27, 1997, at 11:30 p.m. local time. The northern Angling category fishery for large school and small medium ABT, and the Angling category fishery for school ABT in all areas, will remain open until the effective date of a closure, which will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347, or Mark Murray-Brown, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

On February 21, 1997, NMFS amended the regulations governing the Atlantic bluefin tuna (ABT) fisheries to provide authority for NMFS to close and/or reopen all or part of the Angling category in order to provide for further distribution of fishing opportunities throughout the species range (62 FR 8634, February 26, 1997). The regulatory amendments were necessary to increase the geographic and temporal scope of data collection from the scientific monitoring quota established for the United States. Additionally, the authority for interim closures facilitates a more equitable geographic and temporal distribution of fishing opportunities for all fishermen in the Angling category, thus furthering

domestic management objectives for the Atlantic tuna fisheries.

On March 2, 1997, based on catch estimates obtained through angler interviews, NMFS closed the Angling category for school, large school, and small medium ABT in all areas (62 FR 9376, March 3, 1997). NMFS announced the possibility of reopening the Angling category fishery upon the determination that the bluefin had migrated further north, and that the effective date of reopening would be published in the **Federal Register**.

Angling Category Reopening

NMFS has determined, based on catch reports from anglers fishing for other large pelagic species such as yellowfin tuna and anglers fishing for bluefin tuna under the catch and release program, that bluefin tuna have begun to migrate northward.

NMFS is limiting to 2 weeks the opening period for large school and small medium ABT in the southern area (waters off Delaware and states south (south of 38°47' N. lat.)) based on preliminary estimates of catches in North Carolina, the available quota, and expected catch rates of large school and small medium ABT. Fishing for, catching, possessing, or landing any large school or small medium ABT in the southern area must cease by 11:30 p.m. local time on June 27, 1997. After the closure, anglers aboard a vessel holding an Atlantic tunas permit may continue to fish for ABT 47 inches (119 cm) or greater under the NMFS tag and release program (50 CFR 285.27). The northern Angling category fishery for large school and small medium ABT, and the Angling category fishery for school ABT in all areas, will remain open until further notice.

Catch Limit

NMFS previously adjusted the daily catch limit for the Angling category fishery for ABT to one fish per vessel (61 FR 66618, December 18, 1996), which may be from the school, large school, or small medium size class (measuring 27–73''); due to increased participation in the fishery and anticipated catch rates, this daily catch limit remains in effect. Additionally, the catch limit for trophy size class ABT (large medium and giant ABT, measuring 73'' and greater) remains at one per vessel per year.

This action is being taken to facilitate a geographic and temporal distribution of fishing opportunities for all fishermen in the Angling category, thus furthering domestic management objectives for the Atlantic tuna fisheries. This action also facilitates data collection from the scientific monitoring quota established for the United States over the greatest geographic and temporal range.

Classification

This action is taken under 50 CFR 285.20(b)(1) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: June 12, 1997.

Gary C. Matlock,

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

[FR Doc. 97–15953 Filed 6–13–97; 12:29 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 116
Tuesday, June 17, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–119–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that currently requires repetitive tightening of the screws and quick-release fasteners on the wing/body fairing panels. This proposed action would continue to require the repetitive tightening of these parts on certain airplanes. The proposed AD also would require the installation of new fastener systems for those panels on certain airplanes and the application of new torque values. Accomplishment of these actions would terminate the requirement for repetitive tightening of the screws and fasteners of those airplanes. In addition, the proposed AD would limit the applicability of the existing AD by removing certain airplanes. This proposal is prompted by the manufacturer's development of new fastener systems that will not vibrate and loosen. The actions specified by the proposed AD are intended to prevent separation of loosened wing/body fairing panels from the airplane, which, if not corrected, could lead to structural damage to the horizontal or vertical stabilizer, and potential injury to persons on the ground.

DATES: Comments must be received by July 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–119–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2796; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–119–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–119–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 3, 1994, the FAA issued AD 94–21–02, amendment 39–9043 (59 FR 51361, October 11, 1994), applicable to all Dornier Model 328–100 series airplanes, to require repetitive tightening of the screws and quick-release (camlock) fasteners on the wing/body fairing panels. That action was prompted by reports of loosened wing/body fairing panels. The requirements of that AD are intended to prevent structural damage to the horizontal or vertical stabilizer and potential injury to persons on the ground due to loosened wing/body fairing panels that may separate from the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, which the FAA considered to be interim action, the manufacturer has developed new fastener systems to keep these panels from separating from the airplane. The relative movement between the wing spar box and adjacent fairing parts, as well as settling of the panels in the area where the attachment screws are located, causes the old fasteners to become loose. The newly developed fastener systems are designed to eliminate vibration and loosening of the fasteners.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–53–144, Revision 2, dated September 18, 1996, which describes procedures for the installation of new fastener systems for the wing/body fairing panels on certain airplanes, and application of new torque values to these fasteners. These new systems are composed of such parts as anchor nuts with longer threads, larger screws and anchor nuts for areas where fairing panels are connected to the flange of the wing spar, flange washers and rubber rings to prevent direct contact between the fairing panels and the flange of the wing spar, and intermediate slide strips between the fairing panels and the airplane structure. Installation of these

new systems, with an increase in the torque values of those fasteners, would eliminate the need to repetitively tighten those fasteners.

The service bulletin also limits its effectivity to airplanes having serial number 3005 through 3047 inclusive. Airplanes having serial number 3048 and subsequent had the new fastener systems installed during manufacture.

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, classified Revision 1 of this service bulletin as mandatory and issued German airworthiness directive 94–009/4, dated February 1, 1996, in order to assure the continued airworthiness of these airplanes in Germany. (Revision 1, dated January 18, 1996, only differs from Revision 2 in its notes and the dimensions of certain figures.)

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 94–21–02 to continue to require repetitive tightening of the screws and quick-release fasteners on the wing/body fairing panels. The proposed action also would require the installation of new fastener systems for these panels, and the application of new torque values to these fasteners. Accomplishment of this installation would terminate the current requirement for repetitive tightening of the fasteners for these panels on certain airplanes. Furthermore, the proposed AD would not apply to airplanes on which the installation of these fastener systems had been accomplished during production.

The installation of the new fastener systems would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 8 Dornier Model 328–100 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 94–21–02 take approximately 3 work hours per airplane to accomplish, at an average rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $1,440, or $180 per airplane.

The new actions that are proposed in this AD action would take approximately 120 work hours per airplane to accomplish, at an average rate of $60 per work hour. Required parts would provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $57,600, or $7,200 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9043 (59 FR 51361, October 11, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Dornier: Docket 96–NM–119–AD. Supersedes AD 94–21–02, Amendment 39–9043.

Applicability: All Model 328–100 series airplanes having serial number 3005 through 3047 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent structural damage to the horizontal or vertical stabilizer, and potential injury to persons on the ground due to loosened wing/body fairing panels that may separate from the airplane, accomplish the following:

Restatement of the Requirements of AD 94–21–02, Amendment 39–9043

(a) Within 25 hours time-in-service after October 26, 1994 (the effective date of AD 94–21–02, amendment 39–9043), tighten the screws and quick-release fasteners on the wing/body fairing panels, in accordance with Dornier Alert Service Bulletin ASB–328–53–004, dated August 2, 1994. Repeat these procedures thereafter at intervals not to exceed 100 hours time-in-service.

Note 2: The proper torque values are specified in the alert service bulletin.

Requirements of the Proposed AD

(b) Within 12 months after the effective date of this AD, modify the left and right top fairing attachments by installing new fastener systems and increasing the torque values applied to these fasteners, in accordance with

Dornier Service Bulletin SB–328–53–144, Revision 2, dated September 18, 1996. Accomplishment of this modification constitutes terminating action for the repetitive tightening actions required by paragraph (a) of this AD.

Note 3: Installation of the new fastener systems and the application of new torque values accomplished prior to the effective date of this AD in accordance with Dornier Service Bulletin SB–328–53–144, dated December 14, 1995, or Revision 1, dated January 18, 1996, is considered acceptable for compliance with the requirements of paragraph (b) of this AD.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on June 10, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–15768 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–02–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. This proposal would require repetitive detailed visual inspections of the top wing skins for stress corrosion cracks, damage, or missing surface protective finish of the metallic surfaces; and repair, if necessary. This proposal is prompted by reports of stress corrosion cracks found on the top wing skin during routine inspection on three airplanes. The actions specified by the proposed AD are intended to detect and correct such cracking, which could result in reduced structural integrity of the wing.

DATES: Comments must be received by July 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft Limited, Avro International Aerospace Division, Customer Support, Woodford Aerodrome, Woodford, Cheshire SK7 1QR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–02–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. The CAA advises that airplanes with wing skins made from 7150–T651 aluminum are subject to stress corrosion cracking. During routine inspections, stress corrosion cracks on the top wing skin were found on three of the affected airplanes. Analysis has revealed that this stress corrosion cracking is only a problem on Model BAe 146 and Model Avro 146–RJ series airplanes with wing skins made from 7150–T651 aluminum. This condition, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing.

Explanation of Relevant Service Information

British Aerospace has issued Service Bulletin SB.57–49, dated June 4, 1996, which describes procedures for visually inspecting the top wing skin for stress corrosion cracks, damage, or missing surface protective finish of the metallic surfaces. The service bulletin also provides procedures for application of a protective finish of the metallic surfaces, if necessary. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 005–06–96, dated June 4, 1996, in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the

applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive detailed visual inspections of the top wing skins for stress corrosion cracking, damage, or missing surface protective finish of the metallic surfaces, and repair, if necessary. The proposed inspections and a certain repair would be required to be accomplished in accordance with the service bulletin described previously. Repair of any corrosion cracking would be required to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 12 British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the initial inspection proposed by this AD on U.S. operators is estimated to be $2,880, or $240 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, plc; British Aerospace Commercial Aircraft Limited): Docket 97–NM–02–AD.

Applicability: Model BAe 146 and Model Avro 146–RJ series airplanes, certificated in any category, having wing skins made from 7150–T651 aluminum, and having the following serial numbers:

Model	Serial numbers
BAe 146–100 and 100A	All beginning with E1144.
BAe 146–200 and 200A	All beginning with E2148 (including E2227).
BAe 146–300 and 300A	All beginning with E3141 (including E3222).
Avro 146–RJ70 and 70A	All beginning with E1223.
Avro 146–RJ85 and 85A	E2208, and all beginning with E2226, excluding E2227.
Avro 146–RJ100 and 100A	All beginning with E3221, excluding E3222.

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 detect and correct stress corrosion cracking in the wing skin, which could result in reduced structural integrity of the wing, accomplish the following:

(a) Within 4 months after the effective date of this AD; and thereafter at intervals not to exceed 4,000 landings or 2 years, whichever occurs first: Perform a detailed visual inspection of the top wing skins to detect stress corrosion cracking, and any damaged or missing surface protective finish that exposes the metallic surfaces, in accordance with British Aerospace Service Bulletin SB.57–49, dated June 4, 1996.

(1) If any damaged or missing surface protective finish is detected, and no cracking or corrosion is detected, prior to further flight, reapply the protective finish in accordance with the service bulletin. Repeat the detailed visual inspection, thereafter, at intervals not to exceed 4,000 landings or 2 years, whichever occurs first.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note 2: During the detailed visual inspections of the top wing skins, pay particular attention to the edge of cutouts, skin edges, and attachment bolt holes.

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

send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on June 10, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–15767 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–07]

Proposed Establishment of Class E Airspace; Lewiston, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would establish the Lewiston, Idaho, Class E airspace. The recent commissioning of the Lewiston-Nez Perce Automated Surface Observing System (ASOS) qualifies the Lewiston-Nez Perce County Airport for a Class E surface area. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 20, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 97–ANM–07, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–520.4, Federal Aviation Administration, Docket No. 97–ANM–07, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (425) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ANM–07.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at the Lewiston-Nez Perce County Airport. The recent commissioning of the Lewiston-Nez Perce ASOS qualifies the airport for a Class E surface area. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

ANM ID E2 Lewiston, ID [New]

Lewiston-Nez Perce County Airport, ID (Lat. 46°22′29″N, long. 117°00′56″W)

Within a 4.1-mile radius of the Lewiston-Nez Perce County Airport. This Class E airspace area is effective during the specific

dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on June 2, 1997.

Helen Fabian Parke,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–15861 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–08]

Proposed Establishment of Class E Airspace; Twin Falls, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would establish the Twin Falls, Idaho, Class E airspace. The recent commissioning of the Twin Falls Automated Surface Observing System (ASOS) qualifies the Twin Falls-Sun Valley Regional, Joslin Field for a Class E surface area. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 20, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 97–ANM–08, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–520.4, Federal Aviation Administration, Docket No. 97–ANM–08, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (425) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ANM–08.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Twin Falls-Sun Valley Regional, Joslin Field. The recent commissioning of the Twin Falls ASOS qualifies the airport for a Class E surface area. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * *

ANM ID E2 Twin Falls, ID [New]

Twin Falls-Sun Valley Regional, Joslin Field, ID

(Lat. 42°28′55″N, long. 114°29′13″W)

Within a 4.3-mile radius of the Twin Falls-Sun Valley Regional, Joslin Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on June 2, 1997.

Helen Fabian Parke,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 97–15862 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

Release Nos. 33–7422, 34–38728, File No. S7–17–97

RIN 3235–AH18

Covered Securities Pursuant to Section 18 of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes for comment Rule 146(b) under section 18 of the Securities Act of 1933, as amended. The Rule would designate securities listed on certain national securities exchanges, or tiers or segments thereof, as covered securities. Covered securities under section 18 of the Securities Act are exempt from state law registration requirements.

DATES: Comments should be submitted by July 17, 1997.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, NW., Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comments should refer to File No. S7–17–97; this file number should be included in the subject line if E-mail is used. Comment letters will be available for public inspection and copying at the Commission's Public Reference Room at the same address. Electronically submitted comment letters will be posted on the Commission's web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Sharon M. Lawson, Senior Special Counsel, James T. McHale, Special Counsel, or David S. Sieradzki, Esq., at 202/942–0181, 202/942–0190, or 202/942–0135; Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 5–1), 450 Fifth Street, NW, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 11, 1996, The National Securities Markets Improvement Act of 1996 (''NSMIA'')[1] was signed into law. Among other changes made to the federal securities laws, NSMIA amends section 18 of the Securities Act of 1933, as amended (''Securities Act'')[2] to provide for exclusive federal registration of securities listed, or authorized for listing, on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or listed on the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), or any other national securities exchange designated by the Commission to have substantially similar listing standards to those markets. More specifically, section 18(a) provides that ''no law, rule, regulation, or order, or other administrative action of any State * * * requiring, or with respect to, registration or qualification of securities * * * shall directly or indirectly apply to a security that—(A) is a covered security.'' Covered securities are defined in section 18(b)(1) to include those securities listed, or authorized for listing, on the NYSE, Amex, or listed on Nasdaq/NMS, or those securities listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule are ''substantially similar'' to those of the NYSE, Amex, or Nasdaq/NMS.

The Pacific Exchange, Incorporated (''PCX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the Chicago Stock Exchange, Incorporated (''CHX''), and the Philadelphia Stock Exchange, Incorporated (''Phlx'') (collectively the ''Petitioners'') have petitioned the Commission to adopt a rule which finds their listing standards to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS and, therefore, entitling securities listed pursuant thereto to be deemed covered securities under section 18 of the Securities Act.[3] After careful comparison, the Commission preliminarily believes that currently the listing standards of Tier I of the PCX and the listing standards of the CBOE are substantially similar to the listing standards of the NYSE, Amex, or Nasdaq/NMS. With regard to the CHX and Phlx, the Commission preliminarily believes that while most of their Tier I listing standards are substantially similar to those of the NYSE, Amex, or Nasdaq/NMS, they differ in several important areas. Accordingly, the Commission today is soliciting comments on proposed Rule 146(b), and on whether securities listed on Tier I of the CHX and Phlx should be included in the Rule.[4] The proposed rule finds that the listing standards of Tier I of the PCX and the listing standards of the CBOE are substantially similar to those of the NYSE, Amex, or Nasdaq/NMS, and securities listed thereon should be deemed covered securities under section 18(b)(1) of the Securities Act. If adopted, the rule would provide those covered securities with an exemption from state blue sky provisions as set forth under section 18(a) of the Securities Act.

II. Background

The development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is an activity of critical importance to financial markets and the investing public. Listing standards serve as a means for a self-regulatory organization (''SRO'') to screen issuers and to provide listed status only to bona fide companies with sufficient float, investor base and trading interest to maintain fair and orderly markets. Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity.

Indeed, many States have recognized the importance of listing standards by excepting from state registration requirements securities traded on the NYSE, the Amex, or Nasdaq/NMS.[5] In enacting section 18, Congress intended to codify in the Securities Act an exemption from state registration requirements similar to these state law

[1] Pub. L. No. 104–290, 110 Stat. 3416 (1996).

[2] 15 U.S.C. 77r.

[3] *See* Letter from David P. Semak, Vice President, Regulation, Pacific Stock Exchange, Incorporated (n/k/a Pacific Exchange, Inc.), to Arthur Levitt, Jr., Chairman, Commission, dated November 15, 1996 (''PCX Petition''); letter from Alger B. Chapman, Chairman, CBOE, to Jonathan G. Katz, Secretary, Commission, dated November 18, 1996 (''CBOE Petition''); letter from J. Craig Long, Esq., Foley and Lardner, to Jonathan G. Katz, Secretary, Commission, dated February 4, 1997 (''CHX Petition''); and letter from Michele R. Weisbaum, Vice President and Associate General Counsel, Phlx, to Jonathan G. Katz, Secretary, Commission, dated March 31, 1997 (''Phlx Petition'') (collectively the ''Petitions'').

[4] As discussed herein, if the CHX and Phlx decide to revise their Tier I listing standards in several areas to more closely conform to those of the NYSE, Amex, or Nasdaq/NMS, the Commission likely will include securities listed on these markets in the Rule. *See* Section III, C, *infra.*

[5] *See, e.g.*, Del. Code Ann. tit. 6 § 7309(a)(8) (1996).

provisions.[6] Finally, in order to avoid competitive disparities, Congress provided the Commission with the discretionary authority to extend similar preemption treatment to other national securities exchanges (or tiers or segments thereof) that have substantially similar listing standards.[7]

III. Discussion

As noted above, the PCX, CBOE, CHX, and Phlx all have petitioned the Commission to adopt a rule as contemplated by section 18.[8] The Petitioners assert that their Tier I listing standards[9] are substantially similar to those of the NYSE, the Amex, or Nasdaq/NMS, and that until the Commission acts to provide them with the benefits of the section 18 exemption, they will be at a competitive disadvantage to these markets. The Commission recognizes the competitive concerns raised by the Petitioners, but notes that the statute requires the Commission to make an independent finding that the petitioners' listing standards are substantially similar to those of the NYSE, the Amex or Nasdaq/NMS.

In addition, Congress intended that the Commission monitor the listing requirements of the regional exchanges, consistent with its supervisory authority under the Securities Exchange Act of 1934 (''Exchange Act''), to ensure the continued integrity of these markets and the protection of investors.[10] For example, if a regional exchange proposed to lower its listing standards for common stock, the Commission likely would consider this to be a substantive revision which may change the finding that the regional exchange's listing standards are substantially similar to those of the NYSE, Amex, or Nasdaq/NMS.[11] Accordingly, in reviewing future proposed changes to SRO listing standards, the Commission will consider whether the proposed change(s) will require an amendment to Rule 146(b). In the event that the Commission determines that a proposed change in listing standards would require an amendment to Rule 146(b), and where the proposed rule change is subject to full notice and comment under section 19(b) of the Exchange Act, the Commission may conclude that it is unnecessary to provide notice and comment for the corresponding amendment to this Rule.[12] Finally, the Commission notes that enforcement of an SRO's listing standards is subject to periodic inspections by Commission staff, as is enforcement of all SRO rules, and should the Commission find that an exchange designated in Rule 146(b) is not adequately enforcing its requirements for initial and continued listing, the Commission will take appropriate action to ''revoke'' that exchange's exemption.

With regard to applying the ''substantially similar'' standard, the Commission notes that under section 18(b)(1)(B) of the Securities Act the Commission has the authority to compare the listing standards of a petitioner with those of either the NYSE, Amex, or Nasdaq/NMS. The Commission initially has attempted to compare a petitioner's listing standards for all securities with only one of these markets.[13] If a petitioner's listing standards in a particular category did not meet the standards of that market, the Commission compared the petitioner's standards to the other two markets. Additionally, the Commission has interpreted the substantially similar standard to require listing standards at least as comprehensive as those of the markets named in section 18(b)(1)(A). If a petitioner's standards were higher than such markets, then the Commission still determined that the petitioner's standards were substantially similar to these markets. Finally, the Commission has reviewed the listing standards for each type of security in making the substantially similar determination. Differences in language or approach of the listing standards for a particular security did not necessarily lead to a determination that the listing standards of a petitioner are not substantially similar to those of the named exchange.

The Commission has reviewed the current Tier I listing standards of the PCX, and the current listing standards of the CBOE and, for the reasons discussed below, preliminarily believes that these listing standards are substantially similar to those of the NYSE, the Amex or Nasdaq/NMS. As noted above, the Commission preliminarily believes that while most of the Tier I listing standards of the CHX and Phlx meet the substantially similar requirement, they differ from those of the NYSE, Amex, or Nasdaq/NMS in several important respects. Accordingly, the proposed Rule will designate securities listed on Tier I of the PCX and securities listed on the CBOE as covered securities under section 18 of the Securities Act.

A. Tier I of the Pacific Exchange, Inc.

1. Common Stock[14]

With limited exceptions, the PCX's quantitative[15] initial listing requirements for common stock listing on Tier I of the Exchange are identical to, or slightly higher than, those of the Amex.[16] Amex and PCX have virtually identical requirements relating to net worth and pre-tax income of listed companies, public distribution of shares[17] and market value of shares publicly held. There are only two material differences between the initial listing standards of the PCX and Amex which render the PCX's standards slightly more restrictive than those of the Amex. First, the PCX requires that issuers applying for listed status have a net income of $400,000 in the last fiscal year, or two of the last three fiscal years, while the Amex does not have a net

---

[6] H.R. Rep. No. 622, 104th Cong., 2d Sess., pt. 1, at 30 (1996) (''Legislative History''). As a result of this federal preemption of the state registration process, SRO listing standards have become all the more critical to preserving the integrity of U.S financial markets and protecting investors.

[7] *See* Legislative History *supra* note 6.

[8] *See* Petitions, *supra* note 3.

[9] The Commission notes that presently the CBOE only has one tier, or segment, for listing purposes.

[10] *See* Legislative History, *supra* note 6.

[11] If, however, either the NYSE, Amex, or Nasdaq/NMS raised its listing standards with respect to a particular security, a conforming change by the exchanges designated in Rule 146(b) may not necessarily be required for two reasons. First, section 18(b)(1)(B) requires that the regional exchanges' listing standards be substantially similar to only one of the primary markets in order to qualify for the exemption. Second, a listing standard change made by the primary market should not force the regional exchanges to conform their listing standards. Otherwise, a single primary market would be, in effect, setting the listing standards for all the regional exchanges. If, however, all three primary markets were to raise their listing standards, and the Commission believed that the change was significant enough so that failure to adopt the new standard rendered the exchanges designated in Rule 146(b) to have substantially inferior standards, then the Commission may require the latter exchanges to raise their standards in order to maintain their exemption under the Rule.

[12] Although the Administrative Procedure Act states that an agency must provide general notice of the proposed rulemaking and an opportunity for comment, these requirements do not apply if the agency for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B).

[13] For purposes of comparing the listing standards of the CBOE and Tier I of the PCX, the Commission used the listing standards applicable to securities listed on the Amex.

[14] *See generally,* PCX Rules 3.2(c), 3.3, and 3.5(b) and Amex Sections 102, 120, 121, 122, 123 and 1003.

[15] As used herein, the term ''quantitative'' refers to listing standards bearing on the financial status of the issuer as well as the depth and liquidity of the issue.

[16] The Commission notes that it has used the listing standards applicable to securities listed on the Amex for the purposes of this comparison. *See supra,* note 13 and accompanying text. In addition, in the PCX Petition, the Exchange noted that the PCX's Tier I listing standards in most respects were ''substantially identical'' to those of the Amex.

[17] The term ''public distribution of shares'' refers to the issuer's ''float,'' or number of shares that are outstanding and available for public trading.

income requirement. Second, the Amex has a minimum market price requirement of $3 per share [18] for a reasonable period of time prior to the filing of a listing application. In contrast, the PCX requires a closing bid price of $5 at the time of filing of the listing application and for a majority of business days during the six month period prior to the filing of the application.

PCX's qualitative [19] initial listing standards for common stock listed on Tier I of the exchange are either identical or substantially similar to those of the Amex. Amex and PCX have virtually identical requirements relating to the number of independent directors required, conflicts of interest, composition of the audit committee (both exchanges require the audit committee to be comprised of a majority of independent directors), and annual meetings. Moreover, the rules of both the PCX and the Amex have minimum voting rights standards that are substantially similar to each other and protect the voting rights of common shareholders.

Although the PCX requirements relating to quorum, corporate action requiring shareholder approval, publication and content of annual reports, and publication of interim reports differ slightly from those of the Amex, the Commission preliminarily believes that, taken as a whole, they are substantially similar to those of the Amex. Both exchanges have provisions regarding shareholder approval for certain corporate activities. Although Amex rules differ slightly from PCX's by specifically requiring a majority of shareholder votes cast (either in person or by proxy) to approve certain corporate action, whereas PCX rules do not provide for a minimum required number of votes,[20] both exchanges have substantially similar requirements regarding which particular corporate actions require a shareholder vote.[21]

The Commission preliminarily believes that the maintenance requirements for common stock listed on Tier I of the PCX, while not identical, are substantially similar to those of the Amex. With respect to public distribution of shares, both the PCX and Amex require the same number of shares publicly held, but the PCX requires 400 (or 300 round lot) public stockholders, while the Amex requires 300 public stockholders. Both the Amex and PCX have delisting criteria which are triggered by poor financial conditions and/or operating results of the issuer.[22] In addition, the Amex may delist an equity issue (i) if the issuer has sustained losses from continuing operations or net losses for its five most recent fiscal years; or (ii) has sustained losses that are so severe that the ability of the issuer to continue operations or meet its obligations as they come due is questionable.[23] The PCX has no provisions like (i) and (ii) above, although the PCX requires a minimum bid price for continued listing of $3 per share. The minimum bid price requirement, while not a complete substitute for the Amex criteria, can help to remove issuers in continuing financial distress or near bankruptcy. Based on the above, the Commission preliminarily believes that the differences in the maintenance criteria for common stock listed on the Amex and on Tier I of the PCX are not critical and that, taken as a whole, the criteria are substantially similar.

2. Preferred Stock [24]

With one exception, the PCX's quantitative initial listing requirements for preferred stock on Tier I of the Exchange are identical to those of the Amex. Amex and PCX have identical requirements relating to net worth and pre-tax income of listed companies, share price, public distribution of shares, and market value of shares publicly held. As noted above in the discussion of listing requirements for common stock, the PCX has an issuer net income requirement of $400,000 in the last fiscal year, or two of the last three fiscal years, while the Amex has no corresponding requirement.

The PCX and Amex have substantially similar provisions for voting rights for holders of preferred shares and redemption of preferred stock. With respect to conversion rights, if the preferred shares are convertible into common shares, the common shares must meet the PCX's Tier I listing requirements. In addition, the PCX will not list a convertible issue where the issuer can change the conversion price other than as allowed in the issuer's articles of incorporation. The Amex will not list a convertible issue where the issuer has discretion to reduce the conversion price unless the issuer establishes a minimum 10 day period within which such price reduction will be in effect.[25]

The Commission preliminarily believes that the maintenance standards for preferred stock listed on PCX's Tier I, while not identical, are substantially similar to those of the Amex. In addition, where the maintenance standards of the PCX and Amex differ, the PCX's standards are, for the most part, more demanding than those of the Amex. The PCX requires a preferred issue to maintain a public float of at least 100,000 shares with a minimum of 150 public holders and a minimum market value of $1,000,000. The Amex requires a preferred issue to maintain a public float of at least 50,000 shares with a market value of at least $1,000,000. The Amex does not require a minimum number of public shareholders. Both Amex and PCX have identical maintenance requirements relating to the net worth of the issuer.

3. Bonds and Debentures [26]

While the PCX and the Amex take a different approach to regulating the listing of debt securities, the Commission believes that the rules of both exchanges are designed to ensure that issuers of debt securities can meet their debt obligations as they come due, thereby protecting investors. Accordingly, the Commission preliminarily believes that the PCX's rules relating to the initial and continued listing of debt securities on Tier I of the Exchange are substantially similar to those of the Amex.

Under Amex rules, the Exchange may list a debt security if any of the following conditions are met: (a) The issuer of the debt security also has equity securities listed on the Amex or the NYSE; (b) an issuer of equity securities listed on the Exchange (or the NYSE) directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security; (c) an issuer of equity

[18] Section 102(b) of the Amex rules permits the Exchange to consider listing an issue selling for less than $3 per share in certain instances.

[19] The term ''qualitative'' as used here refers to listing standards that do not bear on the financial status of the issuer, and includes corporate governance standards.

[20] We note that although PCX rules do not specifically dictate the number of votes required, this would presumably be governed by the laws of the state of incorporation.

[21] *See, e.g.*, PCX Rule 3.3(d) and Amex section 711 regarding applications to list additional shares reserved for options granted to officers, directors, or key employees of the company.

[22] *See generally*, PCX Rule 3.5(b)(3)(i),(ii) and Amex Section 1003(a)(i),(ii).

[23] The Amex applies these delisting standards generally to all securities listed on the Exchange, and provides additional separate maintenance standards for certain specific securities.

[24] *See generally*, PCX Rules 3.2(d), 3.3(h) and 3.5(c) and Amex Sections 103, 124 and 1003.

[25] It is important to emphasize that such transactions constitute tender offers subject to Rule 13e–4 of the Exchange Act. *See, e.g.*, letter regarding Heritage Entertainment, Inc. (Apr. 10, 1987). Accordingly, such an offer must remain open for a minimum of 20 business days. *See* Exchange Act Rules 13e–4(f)(1)(i) and 14e–1(a). 17 CFR 240.13e–4(f)(1)(i) and 17 CFR 240.14e–1(a).

[26] *See generally*, PCX Rules 3.2(e) and 3.5(d) and Amex Sections 104 and 1003.

securities listed on the Amex or NYSE has guaranteed the debt security; (d) a nationally recognized securities [sic] rating organization (''NRSRO'')[27] has assigned a current rating to the debt security that is no lower than an S&P Corporation ''B'' rating or equivalent rating by another NRSRO; or (e) if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned: (i) An investment grade rating to an immediately senior issue; or (ii) a rating that is no lower than an S&P Corporation ''B'' rating, or an equivalent rating by another NRSRO, to a *pari passu* or junior issue. In addition, a debt issue listed on the Amex must have an aggregate market value or principal amount of $5,000,000. These requirements are designed to ensure that the issuer (or guarantor) of a debt security listed on the Amex is in reasonably sound financial condition, while also providing the Amex with considerable flexibility in determining which debt issues qualify for listing on the Exchange.

While the PCX rules do not provide the Exchange with quite as much flexibility in determining which debt issues qualify for listing, the PCX's rules also focus on the financial condition of the issuer. PCX rules require an issuer of a debt security to have net worth, pre-tax income, and net income equal to those of issuers of common stock listed on Tier I, as well as to appear to have the ability to meet interest and principal payments as they come due. In addition, where the common stock of the issuer of a debt security is listed on the PCX, Amex or NYSE, PCX rules require the debt issue to have an aggregate market value and principal amount of at least $5,000,000, and at least 100 public beneficial holders. Where the common stock of the issuer of the debt security is not listed on the PCX, Amex or NYSE, PCX rules require the debt issue to have an aggregate market value and principal amount of at least $20,000,000, and at least 100 public holders.

PCX rules relating to redemption for debt securities are virtually identical to those of the Amex. With respect to conversion rights, if the debt security is convertible into common shares, the common shares must meet the PCX's Tier I listing requirements.[28]

The Commission preliminarily believes that the maintenance requirements for debt securities listed on PCX Tier I, while not identical, are substantially similar to those of the Amex. The PCX and Amex have identical requirements relating to the continuing net worth of the issuer.[29] Further, with regard to earnings, both exchanges may delist a debt issue if the issuer has sustained losses from continuing operations or net losses for its five most recent fiscal years. The Amex also may delist a debt security if the issuer has sustained losses that are so severe that the ability of the issuer to continue operations or meet its obligations as they come due is questionable. Finally, the PCX requires that debt securities maintain an aggregate market value and principal amount of at least $1,000,000 each and have 100 public beneficial holders. The Amex requires the aggregate market value or the principal amount of the bonds publicly held to be $400,000, but has no minimum number of public holders.

4. Options[30]

With respect to standardized options, the Commission preliminarily believes that the listing standards of the PCX are substantially similar to those of the Amex. The Commission notes that no exchange has standards establishing qualifications for issuers of exchange-traded options since all such options are issued by the Options Clearing Corporation (''OCC'').[31] All of the exchanges that trade standardized options have minimum standards for the selection of underlying stocks and other underlying interest, and these standards are essentially the same on all exchanges that trade a particular type of option.[32]

With respect to initial selection criteria for underlying securities, both the Amex and the PCX have virtually identical quantitative requirements relating to number of shares publicly held, number of public shareholders, market price of the underlying security and trading volume. Both exchanges require that an underlying security be listed on a national securities exchange or designated a National Market System (''NMS'')[33] security. Under PCX rules, where a security has been listed on a national securities exchange or designated as a NMS security for less than one year preceding application for approval as an underlying security the Exchange may consider, in calculating the trading volume of the security, over-the-counter volume as reflected in the Nasdaq system. The Amex has no corresponding provision.

The Commission preliminarily believes that the maintenance requirements for underlying securities for options listed on PCX Tier I, while not identical, are substantially similar to those of the Amex. Amex and PCX have virtually identical requirements for the underlying security relating to number of shares publicly held, number of public shareholders, trading volume and market price per share.

With regard to broad-based index options, the Commission notes that the listing of a class of index options on a new underlying index must be filed with the Commission as a proposed rule change under section 19(b) of the Exchange Act. Both the PCX and the Amex, however, have substantially similar requirements for all stock index options listed on each respective exchange. More specifically, the PCX's position and exercise limits, requirements regarding dissemination of index values, margin requirements, and settlement terms are substantially similar to those of the Amex.

Both the PCX and the Amex trade narrow-based index options which have separate initial listing and maintenance requirements. Both exchanges have rules allowing certain narrow-based index options to be listed using an expedited procedure which involves submitting to the Commission a proposed rule change to list the option under section 19(b)(3)(A) of the Exchange Act. The Commission preliminarily believes that, while the requirements for the expedited listing of narrow-based index options differ slightly, they are substantially similar. The PCX and the Amex have virtually identical eligibility criteria for index components relating to market value, trading volume, calculation of the index, reporting the underlying index value and inclusion of non-U.S. component securities. Finally, the Commission preliminarily believes that the maintenance requirements for underlying securities comprising narrow-based index options listed on PCX Tier I, while not identical, are substantially similar to those of the Amex.

---

[27] The acronym ''NRSRO'' generally refers to Nationally Recognized Statistical Rating Organization. *See, e.g.* Regulation S–B. 17 CFR 228.10(e).

[28] Changes in conversion prices under PCX and Amex listing standards are handled the same as noted for preferred securities. *See* Section III, A(2), *supra.*

[29] *See generally,* PCX Rule 3.5(c)(3)(i),(ii) and Amex Section 1003(a)(i), (ii).

[30] *See generally,* PCX Rules 3.6, 3.7 and 7.3 and Amex Sections 915, 916 and 901(C).

[31] All options issued by the OCC have the equal protection of OCC's backup system of clearing member obligations, margin deposits and clearing funds. See PCX, CBOE and Phlx Petitions, *supra* note 3.

[32] *See* PCX and Phlx Petitions, *supra* note 3.

[33] *See* Exchange Act Rule 11Aa2–1. 17 CFR 240.11Aa2–1.

5. Warrants [34]

The Commission preliminarily believes that the PCX's Tier I listing requirements for warrants, while not identical, are substantially similar to those of the Amex. First, both exchanges require that the security underlying the warrant be listed on the respective exchange (or the NYSE under Amex rules). Second, while the public distribution requirements are different,[35] the Commission preliminarily believes that both exchanges' rules are sufficient to ensure the depth and liquidity of the issue. There are other notable differences between the listing standards of the PCX and the Amex. First, where the stock underlying a warrant has split 3 for 2 or greater, the Amex requires a corresponding split in the warrant. Second, the PCX and Amex have different rules relating to warrant exercise price provisions. In particular, the PCX will not list a warrant where the issuer may change the exercise price other than in accordance with the issuer's warrant agreement. The Amex will not list a warrant where the issuer has discretion to reduce the exercise price, unless the company establishes a minimum period of 10 days within which such price reduction will be in effect.[36] Taken as a whole, however, the Commission preliminarily believes that the differences between the two exchanges are not significant for purposes of the substantially similar finding.

With regard to maintenance standards, the Amex does not have a separate requirement for warrants, but will apply its general suspension and delisting policies in sections 1001 through 1006 of the Amex Company Guide. The PCX requires that the underlying security subject to the warrant continue to meet maintenance standards for that security. Taken as a whole, however, the Commission preliminarily believes that the listing standards for warrants on Tier I of the PCX are substantially similar to those of the Amex.

6. Currency and Index Warrants [37]

The PCX and the Amex have nearly identical initial listing requirements regarding currency and index warrants. More specifically, standards relating to issuer net worth and net income, public distribution, term of the warrants, settlement value, automatic exercise provisions, inclusion of foreign country securities, and changes in the number of warrants outstanding are identical. Neither the PCX nor the Amex have separate maintenance requirements relating to currency and index warrants.[38]

7. Other Securities [39]

The Commission preliminarily believes that the listing standards for other securities on the PCX are substantially similar to those of the Amex.[40] Both exchanges have provisions whereby they will consider listing any security not otherwise covered by the exchange's listing standards, provided the issue is otherwise suited for auction market trading. The Amex and the PCX have virtually identical requirements relating to the issuer's total assets, net worth,[41] the number of trading units initially sold to the public and number of public holders of the security. The PCX requires that the security have a principal amount or aggregate market value of $20,000,000 while the Amex requirement is $4,000,000. The Commission preliminarily believes that, taken as a whole, the PCX's listing standards for other securities are substantially similar to those of the Amex.

8. Contingent Value Rights (''CVRs'') [42]

The Amex does not have separate listing standards for CVRs, therefore, the Commission has compared the PCX's listing standards for CVRs with the NYSE's CVR listing standards. Both the PCX and the NYSE require that the issuer of the CVR meet the net worth and earnings requirements for common stock listed on the exchange, [43] and have $100,000,000 in assets. The PCX requires a public distribution of 600,000 units to 1,200 holders while the NYSE requires a public distribution of 1,000,000 units to 400 holders. Additionally, the PCX requires that CVRs have a minimum aggregate market value of $18,000,000, while the NYSE requirement is $4,000,000. Finally, both exchanges require that CVR's have a minimum maturity of one year. The Commission preliminarily believes that, while different in some respects, the CVR listing standards of both exchanges will serve to ensure adequate depth and liquidity of the issue, and that the exchange's requirements are substantially similar.

The maintenance requirements for CVRs of both the PCX and NYSE are substantially similar, requiring the CVR to maintain an aggregate market value of at least $1,000,000. In addition, under the rules of both exchanges a CVR may be delisted if the related equity security to which the cash payment at maturity is tied is delisted.

9. Equity Linked Notes (''ELNs'') [44]

The PCX and the Amex have virtually identical listing standards for ELNs. Both Exchanges have requirements relating to the term of the ELNs, net worth of the issuer, total original issue price, public distribution, market value of the ELNs, and the market capitalization and trading volume of the underlying ''linked'' security. While the exchanges' rules differ slightly with regard to requirements for non-U.S. issuers, the Commission preliminarily believes that, as a whole, the PCX's listing standards for ELN's are substantially similar to those of the Amex.

10. Unit Investment Trusts (''UITs'') [45]

The PCX and the Amex have virtually identical listing requirements relating to UITs. Specifically, the net worth, number of interests distributed, number of holders, minimum term, and voting requirements of the two exchanges are nearly identical. Further, PCX rules requiring that the trustee of a UIT be a trust company or banking institution with substantial capital and surplus, as well as conflict of interest provisions, while not identical, are substantially similar to the requirements of the Amex. Finally, the PCX and Amex have substantially similar criterion for

[34] *See generally,* PCX Rules 3.2(f) and 3.5(e), and Amex Sections 105 and 1001—1006.

[35] PCX rules require a public distribution of 500,000 warrants to no less than 250 public holders, while the Amex requires either 500,000 warrants held by at least 800 public holders or 1,000,000 warrants held by at least 400 public holders.

[36] *See supra* note 25.

[37] *See generally,* PCX Rule 8.3(a), and Amex section 106.

[38] Unlike the PCX, Amex rules allow for the listing and trading of warrants on narrow-based, or industry group, indexes. Pursuant to Section 106(i) of the Amex Company Guide, narrow-based index warrants listed on the Amex must continuously be comprised of nine or more stocks. The PCX currently does not have such a maintenance requirement because the PCX is not currently approved for narrow-based index warrant trading. See Securities Exchange Act Release No. 37007 (March 21, 1996) at note 8.

[39] *See generally,* PCX Rule 3.2(j) and Amex Section 107.

[40] The Commission notes that the both the PCX's and Amex's rules provide for the trading of limited partnership interests, and that these listing standards are substantively identical.

[41] *See* Securities Exchange Act Release No. 30087 (Dec. 17, 1991) (Order approving PCX's listing standards for other securities).

[42] *See generally,* PCX Rule 3.2(g) and 3.5(f) and NYSE Listed Company Manual Paragraph 703.18.

[43] In the case of PCX, the issuer must meet the Tier I Listing Requirements for common stock.

[44] *See generally,* PCX Rule 3.2(j)(3) and Amex section 107(B).

[45] *See generally,* PCX Rule 3.2(h) and 3.5(g) and Amex Section 118(B), 1002 and 1006.

determining whether or not to delist a UIT.[46]

B. Chicago Board Options Exchange[47]

1. Common Stock[48]

With limited exceptions, the CBOE's quantitative initial listing requirements applicable to common stock listed on the Exchange are identical to those of the Amex.[49] Amex and CBOE have virtually identical requirements relating to net worth[50] and pre-tax income of listed companies, public distribution of shares[51] and market value of shares publicly held. There are only two notable differences between the initial listing standards of the CBOE and Amex, but these render the CBOE's standards slightly more restrictive than those of the Amex. First, the CBOE requires that issuers applying for listed status have a net income of $400,000, while the Amex does not have a net income requirement. Second, the Amex has a minimum market price requirement of $3 per share[52] for a reasonable period of time prior to the filing of a listing application. In contrast, the CBOE requires a stock price of $5 per share at the time of filing.

CBOE's qualitative initial listing standards for common stock listed on the exchange, where they are not identical, are substantially similar to those of the Amex. Amex and CBOE have virtually identical requirements relating to the number of independent directors required, conflicts of interest, composition of the audit committee,[53] corporate action requiring shareholder approval,[54] publication and content of annual reports and annual meetings. Moreover, the rules of both the CBOE and the Amex have minimum voting rights standards that are substantially similar to each other and protect the voting rights of common shareholders. Although the CBOE requirements relating to quorum, and publication of interim reports differ slightly from those of the Amex, the Commission preliminarily believes that, taken as a whole, the qualitative initial listing standards of the CBOE are substantially similar to those of the Amex.

The Commission preliminarily believes that the maintenance requirements for common stock listed on the CBOE are virtually identical to those of the Amex. The Amex and CBOE have virtually identical requirements relating to the required number of shares outstanding, number of public shareholders and aggregate market value of shares publicly held. Moreover, the Amex and CBOE have virtually identical requirements relating to the financial condition of the issuer. Finally, while the CBOE has a minimum bid price of $3 per share and the Amex does not have a minimum bid price for continued listing, the Amex will consider delisting an issue that is selling for ''a substantial period of time'' at a low price per share.

2. Preferred Stock[55]

With one exception, the CBOE's quantitative initial listing requirements for preferred stock on the Exchange are identical to those of the Amex. Amex and CBOE have identical requirements relating to net worth and pre-tax income of listed companies, share price, public distribution of shares, and market value of shares publicly held. As noted above in the discussion of listing requirements for common stock, the CBOE has an issuer net income requirement of $400,000, while the Amex has no corresponding requirement.

The CBOE and Amex have substantially similar provisions for voting rights for holders of preferred shares.[56] Both Exchanges require a majority vote for the creation of a class of preferred stock equal in preference to the issue to be listed. The CBOE does not have any rule relating to conversion or redemption rights. The Amex will not list a convertible issue where the issuer has discretion to reduce the conversion price unless the issuer establishes a minimum 10 day period within which such price reduction will be in effect.[57] The Commission preliminarily does not find these differences critical, and believes that the CBOE's listing standards for preferred securities are substantially similar to those of the Amex.

The Commission preliminarily believes that the maintenance standards for preferred stock listed on the CBOE are virtually identical to those of the Amex. CBOE and the Amex have virtually identical requirements relating to public float and minimum market value.

3. Bonds and Debentures[58]

The CBOE and the Amex have virtually identical listing requirements for bonds and debentures. Both Exchanges require the issue to have a market value or principal amount of at least $5,000,000 and have virtually identical requirements relating to conversion and redemption provisions. In addition, both Exchanges review the financial status of the issuer or bond rating of the issue to be listed.

The Commission preliminarily believes that the maintenance requirements for debt securities listed on CBOE, are virtually identical to those of the Amex. The CBOE and Amex have identical requirements relating to the continuing net worth of the issuer.

4. Options[59]

With respect to standardized options, the Commission preliminarily believes that the listing standards of the CBOE are substantially similar to those of the Amex. The Commission notes that no exchange has standards establishing qualifications for issuers of exchange-

---

[46] The Commission notes that the PCX maintenance requirements for UITs are more demanding because the PCX requires UITs to maintain an aggregate market value of $1,000,000, while the Amex has no corresponding provision. Additionally, the UIT will be delisted on the PCX if the security to which the cash payment of the UIT at term is tied is delisted. *See* PCX Rule 3.5(g).

[47] Although the CBOE's business has been almost exclusively devoted to options, their rules give them the authority to list and trade non-option securities as well. *See* Chapter XXXI of CBOE Rules.

[48] *See generally*, CBOE Rules 31.5(A), 31.9, 31.10, 31.11, 31.12 and 31.94(C)(a),(b)(i) and Amex Sections 102, 120, 121, 122, 123 and 1003(a),(b)(i).

[49] The Commission notes that it has used the listing standards applicable to securities listed on the Amex for the purposes of this comparison. *See supra*, note 13 and accompanying text. In addition, in the CBOE Petition the Exchange states that the Commission, in approving the CBOE's listing standards for non-option securities, noted that the new listing standards were, with slight variations, the same as the existing listing standards on the American Stock Exchange. *See* Securities Exchange Act Release No. 28556 (Oct. 19, 1990), 55 FR 43233 (Oct. 26, 1990).

[50] CBOE defines net worth as total assets less total liabilities, while the Amex uses stockholder's equity to measure the financial size of a company applying for listed status.

[51] The term ''public distribution of shares'' refers to the issuer's ''float,'' or number of shares that are outstanding and available for public trading.

[52] Section 102(b) of the Amex rules permit the Exchange to consider listing an issue selling for less than $3 per share in certain instances. The $3,000,000 aggregate market value requirement may not be waived by the Exchange.

[53] Amex rules require that the audit committee be comprised of a majority of independent directors, while CBOE rules require that the audit committee be composed entirely of independent directors. *See* Securities Exchange Act Release No. 28556 (Oct. 19, 1990), 55 FR 43233 (Oct. 26, 1990).

[54] *See, e.g.*, CBOE Rules 31.79, 31.80 and 31.81 and Amex Section 711 regarding applications to list additional shares reserved for options granted to officers, directors, or key employees of the company.

[55] *See generally*, CBOE Rules 31.5(B), 31.13 and 31.94(C)(b)(ii) and Amex sections 103, 124 and 1003(b)(ii).

[56] The only substantive difference is that where the Amex requires a two-thirds vote of the preferred shareholders to create a class of preferred stock more senior to the issue to be listed, the CBOE requires a majority vote.

[57] *See supra* note 25.

[58] *See generally*, CBOE Rules 31.5(C), 31.14 and 31.94(C)(B)(iii) and Amex sections 104, 125 and 1003(b)(iii).

[59] *See generally*, CBOE Rules 5.3, 5.4 and 24.2 and Amex sections 915, 916 and 901(C).

traded options since all such options are issued by the Options Clearing Corporation (''OCC'').[60] All of the exchanges that trade standardized options have minimum standards for the selection of underlying stocks and other underlying interest, and these standards are essentially the same on all exchanges that trade a particular type of option.[61]

With respect to initial selection criteria for underlying securities, both the Amex and the CBOE have virtually identical quantitative requirements relating to number of shares publicly held, number of public shareholders, market price of the underlying security and trading volume. Both Exchanges require that an underlying security be listed on a national securities exchange or designated as an NMS security.

The Commission preliminarily believes that the maintenance requirements for underlying securities for options listed on CBOE, while not identical to the Amex standards, are substantially similar to those of the Amex. Amex and CBOE have virtually identical requirements for the underlying security relating to number of shares publicly held, number of public shareholders, trading volume and market price per share. In addition, Amex and CBOE have virtually identical rules relating to delisting options.

With regard to broad-based index options, the Commission notes that the listing of a class of index options on a new underlying index must be filed with the Commission as a proposed rule change under section 19(b) of the Exchange Act. Both the CBOE and the Amex, however, have substantially similar requirements for all stock index options listed on each respective exchange. More specifically, the CBOE's position and exercise limits, requirements regarding dissemination of index values, margin requirements, and settlement terms are substantially similar to those of the Amex.

Both the CBOE and the Amex trade narrow-based index options which have separate initial listing and maintenance requirements. Both exchanges have rules allowing certain narrow-based index options to be listed using an expedited procedure which involves submitting to the Commission a proposed rule change to list the option under section 19(b)(3)(A) of the Exchange Act. The Commission preliminary believes that, while the requirements for the expedited listing of narrow-based index options differ slightly, they are substantially similar. The Amex and the CBOE have virtually identical eligibility criteria for index components relating to market value, trading volume, calculation of the index, reporting the underlying index value and inclusion of non-U.S. component securities. Finally, the Commission preliminarily believes that the maintenance requirements for underlying securities comprising narrow-based index options listed on CBOE, while not identical, are substantially similar to those of the Amex.

5. Warrants[62]

The Commission preliminarily believes that the CBOE's listing requirements for warrants, while not identical, are substantially similar to those of the Amex. Both exchanges require that the security underlying the warrant be listed on the respective exchange.[63] In addition, both CBOE and Amex have public distribution requirements identical to those for common stock. There are some differences, however, in each Exchange's listing standards for warrants. First, the Amex will not list a warrant where the issuer has discretion to reduce the exercise price unless the company establishes a minimum period of 10 days within which such price reduction will be in effect.[64] Second, under Amex rules, redeemable issues must be redeemable pro rata or by lot. Third, the Amex requires at least 20 days notice if the issuer is going to extend the expiration date of the warrants. Finally, where the stock underlying a warrant has split 3 for 2 or greater, the Amex requires a corresponding split in the warrant. While the CBOE has no corresponding rules relating to exercise price, redemption, extension of expiration date or stock splits, the Commission preliminarily believes that, taken as a whole, the CBOE's listing standards for warrants are substantially similar to those of the Amex.

6. Currency and Index Warrants[65]

The CBOE and the Amex have nearly identical initial listing requirements regarding currency and index warrants. More specifically, standards relating to issuer tangible net worth and net income, public distribution, term of the warrants, settlement value, automatic exercise provisions, inclusion of foreign country securities, position and exercise limits and changes in the number of warrants outstanding are identical.

Both the Amex and the CBOE provide a maintenance standard for stock index warrants in that they require the index to be comprised of at least nine stocks at all times. In addition, Amex rules allow for the listing of warrants on stock index industry groups pursuant to section 19(b)(3)(A) of the Exchange Act, if the Exchange follows the procedures and criteria set forth in Commentary .02 to Amex Rule 901C (''Designation of Stock Index Options'').

7. Other Securities[66]

The Commission preliminarily believes that the listing standards for other securities on the CBOE are substantially similar to those of the Amex.[67] Both exchanges have provisions whereby they will consider listing any security not otherwise covered by the exchange's listing standards, provided the issue is otherwise suited for auction market trading. The Amex and the CBOE have virtually identical requirements relating to the issuer's total assets, stockholder's equity, the number of trading units initially sold and principal amount or aggregate market value of the issue. With respect to public distribution, both CBOE and Amex require a minimum of 400 public shareholders.[68]

8. Contingent Value Rights (''CVRs'')[69]

As noted above, the Amex does not have separate listing standards for CVRs, therefore, the Commission has compared the CBOE's listing standards for CVRs with the NYSE's CVR listing standards. Both the CBOE and the NYSE require that the issuer of the CVR meet the net worth and earnings requirements for common stock listed on the exchange, and have $100,000,000 in assets. Moreover, both the CBOE and the

[60] All options issued by the OCC have the equal protection of OCC's backup system of clearing member obligations, margin deposits and clearing funds. *See* PCX, CBOE and Phlx Petitions, *supra* note 3.

[61] *See* PCX and Phlx Petitions, *supra* note 3.

[62] *See generally*, CBOE Rule 31.5(D) and Amex section 105.

[63] CBOE rules require that the security underlying the warrant be listed on the CBOE, Amex or NYSE, while Amex rules require the security underlying the warrant to be listed on the Amex or the NYSE.

[64] *See supra* note 25.

[65] *See generally*, CBOE Rule 31.5(e), and Amex Section 106.

[66] *See generally*, CBOE Rule 31.5(F), and Amex Section 107.

[67] The Commission notes that the rules of both the CBOE and Amex allow for the trading of other miscellaneous securities. Both exchanges have substantially similar listing standards for the trading of limited partnership interests, paired securities, subscription rights, and foreign issuer securities.

[68] Where the security is traded in $1,000 increments, the CBOE requires a minimum of 100 shareholders while the Amex does not require a minimum number of shareholders.

[69] See generally, CBOE Rule 31.5(H), and NYSE Listed Company Manual Paragraph 703.18.

NYSE require a public distribution of 1,000,000 units to 400 holders, and a minimum aggregate market value of $4,000,000. Finally, both exchanges require that CVR's have a minimum maturity of one year. Accordingly, other than the greater size and earnings criteria applicable to all issuers listing on the NYSE, the CVR listing standards of the CBOE and NYSE are substantively identical.

While the CBOE has no separate maintenance requirements for CVRs, the CBOE will apply its general suspension and delisting policies set forth in CBOE Rule 31.94 to CVRs.[70] The NYSE will consider delisting a CVR if the market value of the publicly-held CVRs is less than $1,000,000 or when the related equity security to which the cash payment at maturity is tied is delisted.

9. Equity Linked Notes (''ELNs'')[71]

The CBOE and the Amex have virtually identical listing standards for ELNs. Both Exchanges have requirements relating to the term of the ELNs, net worth of the issuer, total original issue price, public distribution, market value of the ELNs, and the market capitalization and trading volume of the underlying ''linked'' security. Moreover, both exchanges have substantially similar requirements for ELNs linked to non-U.S. stocks. Accordingly, the Commission preliminarily believes that the CBOE's listing standards for ELN's are substantially similar to those of the Amex.

10. Unit Investment Trusts (UITs)[72]

The CBOE and the Amex have virtually identical listing requirements relating to UITs. Specifically, the net worth, number of interests distributed, number of holders, minimum term, and voting requirements of the two exchanges are nearly identical. Further, CBOE rules requiring that the trustee of a UIT be a trust company or banking institution with substantial capital and surplus, as well as CBOE's conflict of interest provisions, while not identical, are substantially similar to the requirements of the Amex. Finally, the CBOE and Amex have virtually identical maintenance standards for UITs.

[70] More specifically, CBOE Rule 31.94(C)(a) requires issuers of all securities listed on the Exchange, including CVRs, to meet certain minimum net worth and earnings standards.

[71] *See generally,* CBOE Rules 31.5(I), and Amex Section 107(B).

[72] *See generally* CBOE Rules 31.5(G) and 31.94(E), and Amex Sections 118(B), 1002 and 1006.

C. Philadelphia Stock Exchange and Chicago Stock Exchange

The Commission also has reviewed the Tier I listing standards of the Phlx[73] and CHX,[74] and preliminarily believes that, while most of their Tier I listing standards are substantially similar to those of the NYSE, Amex, or Nasdaq/NMS, they differ in several important respects. Unlike the NYSE, Amex, or Nasdaq/NMS, the Phlx does not have a maintenance standard for bonds and debentures listed on Tier I of the Exchange. Moreover, with respect to currency and index warrants, the Phlx has no public distribution, aggregate market value, nor term to maturity requirements. Additionally, issuers of ''other securities'' listed on Tier I of the Phlx are required to have pre-tax income of only $100,000 in three of the four last fiscal years, versus the Amex requirement[75] that issuers have $750,000 in pre-tax income in their last fiscal year, or in two of their last three fiscal years.[76] With respect to the CHX, common stock listed on Tier I of the Exchange is not subject to any minimum share price requirement for continued listing.

The Commission preliminarily believes that these deficiencies are material and prevent the Commission from making a determination that the Tier I listing standards of the CHX and Phlx are substantially similar to those of the NYSE, Amex, or Nasdaq/NMS. Should the Phlx and CHX decide to revise their Tier I listing standards to conform them to the NYSE, Amex, or Nasdaq/NMS prior to adoption of the proposed Rule, however, the Commission likely would include securities listed on these markets in Rule 146(b). Alternatively, should the Phlx and CHX revise their Tier I structure to include within Tier I only those securities with listing standards substantially similar to those of the NYSE, Amex, or Nasdaq/NMS, the Commission would consider including securities listed on the revised Tier I of Phlx and CHX in the Rule.

D. Conclusion

For the reasons discussed above, the Commission preliminarily believes that the listing standards applicable to PCX's Tier I securities, and the listing standards of the CBOE are substantially similar to those of the Amex. Accordingly, securities listed on these Exchanges should be deemed covered securities and entitled to an exemption from state blue sky provisions as set forth in section 18(a) of the Securities Act. With respect to the Tier I listing standards of the CHX and Phlx, the Commission preliminarily believes that while most of these standards are substantially similar to the listing standards of the NYSE, Amex, or Nasdaq/NMS, they differ in several important areas.[77] Should the CHX and Phlx decide to revise their listing standards in these areas to more closely conform to those of the NYSE, Amex, or Nasdaq/NMS before adoption of the proposed rule, the Commission will likely include securities listed on these markets within the Rule.

The Commission preliminarily believes that the proposed rule offers potential benefits for investors. If adopted, the proposed rule will facilitate listings on qualifying exchanges, or tiers or segments thereof, which should increase competition and enhance the overall liquidity of the U.S. securities markets. The Commission does not anticipate that the proposed rule would result in any costs for U.S. investors or others. The Commission preliminarily believes that the proposed rule would serve to reduce the cost of raising capital because it would streamline the registration process for issuers listing on the PCX Tier I or the CBOE. At the same time, the proposed rule does not undercut the state securities review of offerings because the listing standards of the PCX Tier I and the CBOE that would qualify for an exemption from state securities registration are substantially similar to other markets that are already exempt from state registration. Thus, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation and preliminarily believes that it would promote these three objectives.[78] Finally, the proposed rule would impose no recordkeeping or compliance burdens, and merely would provide a limited purpose exemption under the federal securities laws.

IV. Request for Comments

The Commission seeks comments on the desirability of adopting Rule 146(b). Comments should address whether the listing standards of the CBOE and the listing standards applicable to PCX's

[73] *See generally,* Phlx Rules 803, 804, 810, 812, 837, 839, 842, 843, 846, 847–851.

[74] *See generally,* CHX Article XXVIII, Rule 8–17, 19, 20.

[75] Amex has the lowest requirement of the NYSE, Amex or Nasdaq/NMS with regard to pre-tax income for issuers of other securities.

[76] Section 107 of the Amex Company Guide generally requires issuers of other securities to meet the earnings requirements for issuers of common stock.

[77] *See* Section III, C, *supra.*

[78] 15 U.S.C. 77b(b).

Tier I are substantially similar to those of the Amex, and whether the Tier I listing standards of the CHX and Phlx are substantially similar to those of the NYSE, Amex, or Nasdaq/NMS. Additionally, comments should address whether the Commission should consider a different approach in designating securities listed on certain national securities exchanges as ''covered securities.'' Commentators also may wish to discuss whether there are any legal or policy reasons for distinguishing between the NYSE, Amex, and Nasdaq/NMS and the regional exchanges for purposes of the Rule. The Commission also solicits comments on the costs and benefits of the proposed rule. Specifically, the Commission requests commentators to address whether the proposed amendment would generate the anticipated benefits, or impose any costs on U.S. investors or others. For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. Commentators should provide empirical data to support their views. Finally, commentators should consider the proposed rule's effect on competition, efficiency and capital formation.

V. Administrative Requirements

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. section 605(b), the Chairman of the Commission has certified that the proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release as Appendix A. The Paperwork Reduction Act does not apply because the proposed amendments do not impose recordkeeping or information collection requirements, or other collections of information which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et. seq.*

VI. Statutory Basis

The adoption of Rule 146(b) is being proposed pursuant to 15 U.S.C. 77r *et seq.*, particularly section 18 of the Securities Act unless otherwise noted.

Text of the Proposed Rule

List of Subjects in 17 CFR Part 230

Securities.

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 78t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.146 is amended by revising the section heading, redesignating the introductory text as paragraph (a), redesignating paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2) and adding paragraph (b) to read as follows:

§ 230.146 Rules under Section 18 of the Act.

* * * * *

(b) *Covered securities for purposes of section 18.* (1) For purposes of Section 18(b) of the Act (15 U.S.C. 77r), the Commission finds that the following national securities exchanges, or segments or tiers thereof, have listing standards that are substantially similar to those of the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), and that securities listed on such exchanges shall be deemed covered securities:

(i) Tier I of the Pacific Exchange, Incorporated; and

(ii) The Chicago Board Options Exchange, Incorporated.

(2) The designation of securities in paragraphs (b)(1)(i) and (ii) of this section as covered securities is conditioned on such exchanges' listing standards (or segments or tiers thereof) continuing to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS.

Dated: June 10, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the Preamble will not appear in the Code of Federal Regulations.

Appendix A—Regulatory Flexibility Act Certification

I, Arthur Levitt, Jr., Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that proposed Rule 146(b) (''Rule'') under the Securities Act of 1933 (''Securities Act''), which will designate securities listed on certain national securities exchanges, or tiers or segments thereof, as covered securities under Section 18 of the Securities Act, and therefore provide them with an exemption from state registration requirements, will not have a significant economic impact on a substantial number of small entities for the following reasons. Under the Securities Act, a small entity is defined as ''an issuer whose total assets on the last day of its most recent fiscal year were $5,000,000 or less.'' Issuers of this size generally will not qualify for listing on the national securities exchanges, or tiers or segments thereof, designated in proposed Rule 146(b). More specifically, both the Chicago Board Options Exchange, Incorporated and Tier I of the Pacific Exchange, Incorporated require issuers of common stock to have net worth of at least $4,000,000. I do not believe that there are a substantial number of small entities which have total assets less than $5,000,000, yet a net worth of at least $4,000,000. For example, none of the issuers of common stock listed exclusively on Tier I of the Pacific Exchange have total assets of $5,000,000 or less. In addition, the proposed rule imposes no record-keeping or compliance burden, but merely exempts certain qualifying securities from state law registration requirements.

Dated: June 9, 1997

Arthur Levitt, Jr.,

Chairman.

[FR Doc. 97–15769 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–128–6763b; TN–166–9634b; TN–180–9712b; TN–182–9713b; FRL–5841–3]

Approval and Promulgation of Implementation Plans, Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP Regarding New Source Review, Volatile Organic Compounds and Emergency Episodes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve State implementation plan (SIP) revisions submitted by the State of Tennessee for the purpose of revising the Nashville regulations for new source review (NSR) and volatile organic compounds (VOC) and for the purpose of adding a new regulation for emergency episodes. The EPA proposes to disapprove the submitted revisions to sections 7–17(c)(4)(ii) and 7–17(c)(4)(iii) of the Nashville regulation for the

control of volatile organic compounds because the submitted revisions would relax currently approved emission limits for certain operations in the manufacture of pneumatic rubber tires. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by July 17, 1997.

ADDRESSES: Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference files TN128–01–6763, TN166–01–9634, TN180–01–9712, and TN182–01-9713. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, William Denman, 404/562–9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

FOR FURTHER INFORMATION CONTACT: William Denman 404/562–9030.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: June 14, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–15850 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA105–0037b; FRL–5842–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District, Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of oxides of nitrogen (NO_X) from stationary gas turbine engines, industrial, institutional, and commercial boilers, steam generators, and process heaters.

The intended effect of proposing approval of these rules is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 17, 1997.

ADDRESSES: Written comments on this action should be addressed to: Amy Beckberger, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Divison, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616

FOR FURTHER INFORMATION CONTACT: Amy Beckberger, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION: This document concerns San Diego County Air Pollution Control District's Rule 69.3, Stationary Gas Turbine Engines, and Yolo-Solano Air Quality Management District's Rule 2.27, Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 19, 1994 (Rule 69.3), and October 18, 1996 (Rule 2.27). For further information, please see the information provided in the Direct Final Action that is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 4, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–15847 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL127–1b; FRL–5841–2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve, as it applies to Stepan Company's Millsdale Facility, the May 5, 1995, and May 26, 1995, State Implementation

Plan (SIP) revision request submitted by the State of Illinois for reactor processes and distillation operation processes in the Synthetic Organic Chemical Manufacturing Industry (SOCMI) as part of the State's control measures for Volatile Organic Material (VOM) emissions for the Chicago and Metro-East (East St. Louis) areas. VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds'' (VOC), as defined by EPA. VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This plan was submitted to meet the Clean Air Act (Act) requirement for States to adopt Reasonably Available Control Technology (RACT) rules for sources that are covered by Control Techniques Guideline (CTG) documents. In the final rules section of this **Federal Register**, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before July 17, 1997.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 9, 1997.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 97–15849 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 410 and 424

[BPD–813–P]

RIN 0938–AH13

Medicare Program; Ambulance Services

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would update and revise HCFA's policy on coverage of ambulance services. It would base Medicare coverage and payment for ambulance services on the level of medical services needed to treat the beneficiary's condition. It also clarifies Medicare policy on coverage of non-emergency ambulance services for Medicare beneficiaries.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 18, 1997.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–813–P, P.O. Box 26676, Baltimore, MD 21207–0476.

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

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

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

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–813–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Margot Blige, (410) 786–4642.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Coverage of Ambulance Services

Under section 1861(s)(7) of the Social Security Act (the Act), Medicare Part B (Supplementary Medical Insurance) covers and pays for ambulance services, to the extent prescribed in regulations, when the use of other methods of transportation would be contraindicated. The House Ways and Means Committee and Senate Finance Committee Reports that accompanied the 1965 Social Security Amendments suggest that the Congress intended that (1) the ambulance benefit cover transportation services only if other means of transportation are contraindicated by the beneficiary's medical condition, and (2) only ambulance service to local facilities be covered unless necessary services are not available locally, in which case, transportation to the nearest facility furnishing those services is covered (H.R. Rep. No. 213, 89th Cong., 1st Sess. 37, and S. Rep. No. 404, 89th Cong., 1st Sess., Pt I, at 43 (1965)). The reports indicate that transportation may also be made from one hospital to another, to the beneficiary's home, or to an extended care facility.

B. Current Medicare Regulations for Ambulance Services

Our regulations relating to ambulance services are located at 42 CFR part 410, subpart B. Section 410.10(i) lists ambulance services as one of the covered medical and health services under Medicare Part B. Ambulance services are subject to basic conditions and limitations set forth at §410.12 and to specific conditions and limitations included at §410.40.

Section 410.40(a) defines an ''ambulance'' as a vehicle that is specially designed for transporting the sick or injured, containing a stretcher, linens, first aid supplies, oxygen equipment, and other lifesaving equipment required by State or local laws, and staffed with personnel trained to provide first aid treatment.

Section 410.40(b) permits Part B coverage of ambulance services when the use of other means of transportation

would be contraindicated and Part A coverage is not available. For hospital or rural primary care hospital (RPCH) inpatients, it states that the transportation must be furnished by, or under arrangements made by, the hospital or RPCH, or that the transportation be furnished by an ambulance supplier with which the hospital does not have an arrangement and the hospital has a waiver under which Medicare Part B payment may be made to the ambulance supplier.

Section 410.40(c) limits origins and destinations. Medicare payment is made for transportation to a hospital, RPCH, or skilled nursing facility (SNF), from any point of origin; to the home of a beneficiary from a hospital, RPCH, or SNF; or round trip from a hospital, RPCH, or SNF to a supplier outside of those facilities to obtain medically necessary diagnostic or therapeutic treatment not available where the beneficiary is an inpatient.

Section 410.40(d) limits Part B coverage of ambulance services furnished outside of the United States. Medicare payment is made for transportation to a foreign hospital only in conjunction with a beneficiary's admission for medically necessary inpatient services.

Section 410.40(e) limits Medicare payment for ambulance services. Medicare payment is made for the following services:

- Transportation to a facility that is in the same locality as the beneficiary's home or to the nearest facility if the one closest to the beneficiary's home is unable to provide the necessary service to the beneficiary.
- Transportation to the beneficiary's home from the facility where the beneficiary was treated.
- Round trip transportation to the nearest outside supplier capable of furnishing necessary diagnostic and therapeutic services not available at the facility where the beneficiary is an inpatient.

C. Current Medicare Policy and Manual Instructions for Ambulance Services

We issue instructions to our contractors for processing Medicare claims in the Medicare Carriers Manual (MCM) and the Medicare Intermediary Manual (MIM). The current instructions for Medicare coverage and payment of ambulance services appear in sections 2120 and 5116 of the MCM and sections 3660 and 3618 in the MIM. For the most part, the manual instructions repeat the provisions of the regulations in part 410 pertaining to ambulance services.

The manual instructions expand on the regulations by—

- Requiring carriers to take appropriate action, including conducting on-site inspections, to verify that an existing ambulance supplier meets all applicable requirements when there are no State or local laws defining an ambulance, when suppliers fail to comply with the documentation requirements, or whenever there is a question about a supplier's compliance.
- Recognizing some technological advances in ambulance equipment and training of personnel that enable suppliers to make available medical treatment beyond the basic lifesaving techniques.
- Addressing the issue of determining the base rate allowance for the advanced life support (ALS) level of ambulance services, as contrasted with basic life support (BLS) level. The manual states that the ALS reasonable charge may be used as a basis for payment when an ALS level of ambulance services is used. However, there may be instances when the supplier exhibits a pattern of uneconomical care such as repeated use of ALS level ambulances in situations in which it should have known that the less expensive BLS ambulance was available and that its use would have been medically appropriate. While we allow higher payment for the ALS level of ambulance services, the carrier is responsible for evaluating the appropriate level of services for each claim.
- Covering transportation of ESRD beneficiaries to renal dialysis facilities under certain circumstances, assuming that transportation in vehicles other than ambulances would be contraindicated. Transportation to a hospital is covered. Also, under the following circumstances, a nonhospital-based or independent renal dialysis facility may meet the destination requirements for purposes of coverage of ambulance services for an ESRD beneficiary:
- The facility is located ''on or adjacent to'' the premises of the hospital.
- The facility furnishes services to patients of the hospital, for example on an outpatient or emergency basis, even though the facility is primarily in business to furnish dialysis services to its own patients.
- There is an ongoing professional relationship between the two facilities. For example, the hospital and the facility have an agreement that provides for physician staff of the facility to abide by the bylaws and regulations of the hospital's medical staff.

Ambulance services from a beneficiary's home to any dialysis facility are not covered unless these conditions are met. However, the carriers have the authority to interpret the meaning of the phrase ''on or adjacent to'' the premises of a hospital for purposes of coverage of ambulance services for ESRD beneficiaries to facilities to receive renal dialysis therapy. Medicare carriers have not been consistent in their interpretation of manual instructions on ambulance services for ESRD beneficiaries to and from hospital-based and nonhospital-based dialysis facilities.

D. Studies and Reports on Ambulance Services

In a 3-year period, four government reports were issued addressing Medicare payments for ambulance services.

Under the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) (Pub. L. 101–239), the Congress mandated a study of payment practices for ambulance services under Medicare. This study, ''A Study of Payments for Ambulance Services Under Medicare'', was conducted by Project Hope and was issued in 1994. The study focused on the rapid growth of Medicare Part B payments for ambulance services. In 1987 (the year selected for this report's analysis), Medicare's allowed charges for ambulance services amounted to almost $602 million. By 1991, allowed charges increased to $1.23 billion, double the amount of 1987. The report showed that Medicare's allowed charges for ambulance services have risen at an average annual rate of 20 percent since 1974.

The rapid increase of Medicare Part B payments for ambulance services was also highlighted in an October 1992 audit report conducted by the Department's Office of Inspector General (OIG) entitled, ''Review of Medical Necessity for Ambulance Services, (A–01–91–00513)''. In its report, the OIG notes that, in the 3-year period between 1986 and 1989, there was a significant increase in the use of and payment for the ALS level of ambulance services when compared to the BLS level of ambulance services.

The report further indicates that some carriers pay Medicare claims at the ALS level when that level of services is required by State or local laws. The study noted that the significant increase in the use of the ALS level of services and in Medicare payments could be attributed to our coverage and payment policies under which payment is based on the type of ambulance in which a beneficiary is transported and not on the medical necessity for the level of services furnished by the ambulance.

The OIG recommended that we take the following actions: (1) Modify the MCM to require carriers to pay for non-emergency ambulance services at the BLS level of service if they are medically necessary, (2) establish controls for the carriers to ensure that Medicare payment for the ALS level of service is based solely on the medical need of the beneficiary, and (3) closely monitor carrier compliance.

After we published the ambulance regulations, major legislative changes provided broad coverage for dialysis services to end-stage renal disease (ESRD) beneficiaries. Between 1978 and 1990, there was a significant increase in the number of ESRD beneficiaries. Ambulance services furnished to this population also increased significantly. The OIG issued two reports concerning ambulance services furnished to ESRD beneficiaries.

The first ESRD report, ''Ambulance Services For Medicare End-Stage Renal Disease Beneficiaries: Payment Practices, (OEI–03–90–02131)'', issued in March 1994, found that about two percent of ESRD beneficiaries are associated with an extremely high frequency of using ambulance services; that is, these ESRD beneficiaries are using ambulance services three times a week for transportation to routine maintenance dialysis. The report notes that we do not differentiate between predictable routine, scheduled transportation, and emergency acute care transportation. It concludes that we do not take advantage of lower costs associated with high-volume scheduled transportation. The report also notes that some carriers do not use the HCFA Common Procedural Coding System (HCPCS) codes uniformly. The report recommends that we require uniform use of the HCPCS codes and establish a code for scheduled, non-emergency transportation.

(We recently implemented coding changes through an update to the MCM that addresses the latter recommendation. These coding changes differentiate between transportation to a hospital-based dialysis facility (or hospital-related) and a nonhospital dialysis facility.)

The second ESRD report, ''Ambulance Services for Medicare End-Stage Renal Disease Beneficiaries: Medical Necessity, (OEI–03–90–02130)'', issued in August 1994, retrospectively examines the medical necessity of ambulance claims for ESRD beneficiaries. This report concludes that 70 percent of the dialysis-related ambulance services did not meet Medicare coverage guidelines. However, claims were not being denied as medically unnecessary. The report offers several alternative strategies for making improvements to the program. Some of the recommendations suggest significant policy changes that we believe represent potential improvements to administering the ambulance services benefits.

II. Reasons for Considering Changing Medicare Policy and Regulations

A. Public Concerns about Ambulance Services

For many years, we have had discussions with representatives from the ambulance industry covering a variety of issues including: The definition of an ambulance, the appropriate billing for the ALS level of services, and clarification of our coverage and payment guidelines regarding ALS and BLS levels of services. A frequent question is whether the coverage of an ambulance service is affected by the individual beneficiary's need for specific services or by the type of vehicle and staff that are used to transport the beneficiary.

In December 1994, the Subcommittee on Labor, HHS, Education, and Related Agencies under the Senate Appropriations Committee held a hearing, ''Ambulance Costs under Medicare'', to review Medicare coverage and payment of ambulance services. Many of the issues identified in the government reports described earlier were raised by this subcommittee. At the hearing, we assured the members of the subcommittee that we would act aggressively to revise our regulations to address the problems identified with the increasing expenditures for ambulance services and the suppliers furnishing the services.

In January 1995, we held a 2-day conference on ambulance services with representatives from the ambulance industry. We met with several entities, including the American Ambulance Association, the National Association of State Emergency Medical Services Directors, the International Association of Firefighters, the American College of Emergency Physicians, and the American Hospital Association. The meeting allowed us to consult with experts in ambulance services and discuss issues of particular concern to us and ambulance suppliers before we developed regulations and instructions that change our ambulance services policy. The meeting provided us with an opportunity to establish positive working relationships and access to valuable information resources.

The industry representatives provided us with a considerable amount of information about the industry and made recommendations on various Medicare policy issues related to ambulance services. Two frequent problems they brought to our attention follow:

- Some local ordinances mandate that all 911 emergency calls be answered by an ALS-level ambulance rather than a BLS-level ambulance. This causes a problem when a carrier determines that payment should be made at the BLS level.
- There is a need for national policy requiring physician certification for scheduled ambulance transportation.

In addition to issues raised by the industry, the OIG identified as problematic the notable increases in the use of ALS-level ambulances to transport Medicare ESRD beneficiaries to scheduled, routine dialysis treatments. The OIG believes scheduled services can usually be furnished by a BLS-level ambulance.

The industry representatives (and others) urged us to comprehensively revise the regulations covering ambulance services to address these problems.

B. Vehicles Used To Furnish Services

Section 410.40(a) does not explicitly state that ambulance services must be furnished in a vehicle designed and equipped to respond to medical emergencies. In most States, an ambulance is defined by State or local laws as a vehicle that is intended for emergency transportation of patients. In some States or localities, there are no laws defining an ambulance; in others, the laws do not require that the vehicles used as ambulances be designed or equipped as emergency vehicles.

In addition, there are suppliers operating in some States who believe their vehicles, despite not meeting State or local requirements, meet the Federal definition of an ambulance contained in §410.40(a). These suppliers bill Medicare for transportation in vehicles that are not equipped to respond to emergencies even though they are required by State or local law to be so equipped. As a result, we have made Medicare payments to some suppliers of transportation services for furnishing transportation in a vehicle that is not an ambulance or does not meet State or local requirements for emergency vehicles. Typically these suppliers furnish services to persons who have scheduled medical or other appointments and use vehicles such as ambulettes, ambu-vans, medi-transports, invalid coaches, and other similar vehicles. Transportation in these vehicles is furnished to persons who

may need assistance in being transported to caregivers, for example, because of difficulty ambulating, but who do not require emergency transportation for purposes of obtaining acute care. More specifically, the condition of the beneficiary is such that transportation by means other than in a vehicle designed and equipped to respond to a medical emergency would not be contraindicated. Transportation in these vehicles is *not* covered by Medicare Part B. In other instances, ambulance suppliers fail to submit adequate documentation to carriers showing that they comply with State or local laws.

C. Staff Furnishing Services

Section 410.40(a) states that a vehicle used as an ambulance must be staffed with personnel trained to provide first aid treatment. In the absence of applicable State or local requirements, the staff must meet standards established by the Federal Department of Transportation.

A vehicle used for emergency transportation generally contains highly sophisticated medical and communications equipment. Hence, the major differences between BLS and ALS levels of services usually is the training level of the staff on board the vehicle. The industry standard is that the BLS-level ambulance is staffed with two people, each of whom is trained to provide basic first aid and certified as an emergency medical technician-basic (EMT-B). The ALS-level ambulance is staffed with two people trained to provide basic first aid, one of whom is also trained and certified at the advanced first aid level and certified either as a paramedic or as an emergency medical technician-advanced (EMT-A). The EMT-A has received additional training and certification to perform one or more ALS services. Paramedics and emergency medical technicians must be certified by the State or local authority in the area in which the services are furnished and be legally authorized to operate all life-saving and life-sustaining equipment that is on board. Section 410.40(a) does not describe the level of training necessary to provide either the basic or advanced level of care.

D. Origins and Destinations

Section 410.40(c) sets forth our longstanding policy that coverage is not authorized for ambulance services to destinations other than those that were specified in the committee reports accompanying the 1965 Social Security Amendments (H.R. Rep. No. 213, 89th Cong., 1st Sess. 37, and S. Rep. No. 404, 89th Cong., 1st Sess., Pt. I, at 43 (1965)). Thus, under §410.40(c), Medicare Part B covers ambulance services for a beneficiary only if other methods of transportation would be contraindicated and the transportation is to one of the following destinations:

- To a hospital, which includes a RPCH, or SNF from any point of origin.
- To the beneficiary's home from a hospital, RPCH, or SNF.
- To an outside supplier to obtain medically necessary diagnostic or therapeutic services not available in the hospital, RPCH, or SNF where the beneficiary is an inpatient from a hospital, RPCH, or SNF (including the return trip).

Transporting hospital or RPCH inpatients to and from an outside supplier to obtain medically necessary diagnostic or therapeutic services is a Medicare Part A service and the cost is paid in the appropriate ancillary cost center of the hospital or RPCH where the beneficiary is an inpatient.

Section 410.40(e) limits Medicare payment to the destinations described in §410.40(c).

Sections 410.40(c) and (e) do not permit routine coverage of, or payment for, transportation to nonhospital-based or independent diagnostic and treatment facilities. Currently, we pay for transportation to these types of facilities only if the beneficiary is an inpatient at a hospital, RPCH, or SNF and the treatment needed is not available at that inpatient facility. We do not cover round trip transportation to nonhospital-based facilities from the beneficiary's home.

E. Basic Life Support and Advanced Life Support Services

When section 1861(s)(7) of the Act was passed, only one level of ambulance service was being furnished; that is, BLS. The vehicle was equipped with basic first aid equipment such as a stretcher, linens, and emergency lights and sirens. The staff was trained to provide basic first aid treatment, for example, to stop bleeding, splint fractures, or administer cardio-pulmonary resuscitation to restore breathing or heartbeat. Since ambulance services were first covered under Medicare, the advancement of first aid techniques assisted in the creation of the ALS level of ambulance services. These techniques included the ability to treat severe trauma and to administer drugs and biologicals, as well as to perform other more advanced lifesaving and/or lifesustaining treatments.

Since 1982, we have recognized different payment levels for ambulance services depending on whether the services furnished are described as a BLS or ALS level of service. However, our regulations have not kept up with the changing use of technology, and so we have no way of ensuring that we are paying properly for the services that are furnished.

F. Location and Availability of Ambulance Suppliers

Ambulance services are furnished by for-profit companies and non-profit companies. The for-profit ambulance companies charge an amount sufficient to cover costs and a return on investment. The non-profit companies, once the predominant suppliers of these services, are largely volunteer organizations. Many of these volunteer organizations are located in areas that were considered rural. Although increases in population have changed some rural areas into urban areas, many of the suppliers continue to be volunteer organizations. Still other areas remain largely underpopulated; however, the services furnished have increased because of the level of training and technology available.

Other non-profit ambulance suppliers are local governments, either cities or other incorporated entities. Until recently, within the last 10 to 15 years, the non-profit volunteer companies and the municipal organizations did not charge Medicare for their services. Because the cost of furnishing services has become increasingly more expensive and the level of training and certification more sophisticated, many of these organizations have begun to charge for part or all of the services that they furnish.

III. Proposed Changes to Medicare Policy and Regulations

There is a need to make policy changes so that the Medicare coverage criteria are consistent and clear and reflect the advances that have occurred in the health care and ambulance industries. Our current regulations inadequately address technological advances. We believe it is appropriate at this time to establish criteria under which Medicare carriers can determine when the ALS level of service is necessary and covered and when the condition of the beneficiary requires only the BLS level of service.

We propose to amend our regulations to clarify that the basis for covering ambulance services is the medical condition of the beneficiary for transportation furnished by an ambulance. To accomplish this clarification of determining the level of medically necessary services for

coverage and payment purposes, we propose that the suppliers use diagnostic codes designated by HCFA that would describe the nature of the beneficiary's medical condition. We propose to designate the International Classification of Diseases, 9th revision, Clinical Modification (ICD–9–CM) diagnostic codes that would describe the nature of the beneficiary's medical condition. The use of these codes would also assist the ambulance suppliers in billing the medically necessary BLS or ALS level of ambulance service.

A. Medicare Coverage of Ambulance Services

As a means of distinguishing ambulance services covered under Part B from other modes of patient-related transportation, we propose revising existing §410.40. In §410.40(a), we would provide for Part B coverage of ambulance services only if the supplier meets the applicable vehicle, staff, and billing and reporting requirements in §410.41, and the medical necessity and origin and destination requirements in §410.40. Also, even when all other coverage requirements are met, Medicare Part B would cover the services as ambulance services only if they are not services that can be paid for directly or indirectly under Part A. The cost of the transportation paid for under Part A is ordinarily considered part of the cost related to the hospital's care of the beneficiary as a patient. If the hospital is paid under the prospective payment system (PPS), payment is made under the appropriate diagnosis-related group (DRG). If the hospital is not paid under PPS, payment is made on a reasonable cost basis per hospital stay, subject to the Tax Equity and Fiscal Responsibility Act (TEFRA). If the beneficiary's stay is covered under Medicare Part A, payment for the stay will reflect the transportation and that transportation cannot be covered under the Part B ambulance services benefit.

B. Levels of Services

We propose in § 410.40(b) to cover ambulance services in the United States at either the BLS or ALS level of services. We would determine the level of payment based on the level of services medically necessary to treat a beneficiary's condition as described by the ICD–9–CM diagnostic codes used to bill for ambulance services. We would make an exception to the BLS/ALS distinction for certain non-Metropolitan Statistical Areas (non-MSA) and cover ALS services if certain criteria in § 410.40(e) are met.

C. Medical Necessity

We propose in § 410.40(c)(1) that ambulance services are covered by Medicare based on the beneficiary's medical condition. A listing of medical conditions and the proposed corresponding ICD–9–CM diagnostic codes is included in Addendum 1 of this proposed rule.

The codes would indicate the need for medically necessary BLS or ALS level of ambulance services. More specifically, the ICD–9–CM diagnostic codes would be used as indicators of medical necessity by describing the nature of the symptoms or injury; that is, they describe the beneficiary's medical condition that makes the ambulance transportation necessary. If more specific information about the beneficiary's condition is available, that information would also be coded using ICD–9–CM diagnostic codes. More specific information might be available, for instance, when a beneficiary is transferred from one facility to another and the physician provides the ambulance personnel with pertinent information about the beneficiary's condition. While this list is not exhaustive, it does represent what we have identified, through discussions with the industry and carrier representatives, as a range of the types of medical conditions to which ambulance suppliers currently respond.

The ICD–9–CM diagnostic list includes the code v49.8, Other Specified Problems Influencing Health Status. For example, this code would be applicable when a beneficiary with end-stage renal disease needs regular dialysis treatment and cannot use regular transportation because he or she is bed-confined. To assist in determining medical necessity as it relates to this code, we are proposing that for purposes of Medicare Part B, the term bed-confined is defined as follows: ''bed-confined'' denotes the inability to get up from bed without assistance, the inability to ambulate, and the inability to sit in a chair or wheelchair. This definition also applies to the terms ''bedridden'' and ''stretcher-bound''. Bed-confined is not synonymous with non-ambulatory since a paraplegic or quadriplegic person is non-ambulatory but spends a significant amount of time in a wheelchair. Bed-confined is also not synonymous with bed rest, a recommended state of affairs that does not exclude an occasional ambulation to the commode or time spent in a chair.

We recognize that unusual circumstances exist that warrant the need for ambulance services. In these circumstances, the publication of the list does not preclude the Carrier from accepting other ICD–9–CM diagnostic codes to describe a medical condition that is not included on the list. However, we believe that these circumstances will be rare. The codes in Addendum 1 of this proposed rule would enable the supplier to know whether a claim may be paid at the BLS or ALS level of ambulance services. The use of ICD–9–CM diagnostic codes is intended to promote consistency in claims processing. Use of the ICD–9–CM diagnostic codes, however, does not make the claim payable if the beneficiary could have been transported by other means. Proposed § 410.40(c)(3) provides that we will establish guidelines on the use of the designated codes that would ensure medical necessity of ambulance services, coverage at the appropriate level, and consistency in claims filing. We will, in the event that there are subsequent revisions to the listing of ICD–9–CM diagnostic codes to describe the medical condition of the beneficiary, publish the updated listing of codes used for ambulance services as a Notice in the **Federal Register**.

Proposed § 410.40(c)(2) provides for coverage of non-emergency services (including, but not limited to, transportation for an ESRD beneficiary) if the ambulance supplier, before furnishing services to the beneficiary, obtains a current written physician's order certifying that the beneficiary must be transported in an ambulance because other means of transportation would be contraindicated. The physician's order must be dated no earlier than 60 days before the date a service is furnished. The ambulance supplier would also be responsible for obtaining additional written certifications for each subsequent 60-day period.

We believe the requirement for physician's certification for scheduled ambulance services would ensure that scheduled ambulance services are necessary as other means of transportation would be contraindicated. Adding the requirement is consistent with the Secretary's authority to ensure that all claims for services are reasonable and necessary in accordance with section 1862(a)(1) of the Act.

The requirement that this certification be renewed every 60 days is consistent with the Secretary's authority under section 1835(a)(2)(B) of the Act. This section ensures, that, in the case of medical and other health services furnished by a provider, a physician certifies that such services, including

those furnished over a period of time, are medically necessary.

D. Origins and Destinations

In § 410.40(d), we propose to modify the limits on origins and destinations that currently appear in § 410.40(c). We would also remove reference to round-trip ambulance transportation of inpatients of hospitals and RPCHs to outside facilities from this section since this is a Part A benefit and more properly belongs in another section. We will consider the appropriate placement of this text and place it in the proper section in the final rule. We would add a provision that, under Part B, ambulance transportation is permitted from an SNF to the nearest supplier of medically necessary services not available at the SNF where the beneficiary is an inpatient, including the return trip. We would also add a provision that would cover medically necessary ambulance services for an ESRD beneficiary living at home to the nearest dialysis facility capable of furnishing the necessary dialysis services without regard to whether that dialysis facility is hospital-based. Thus, round-trip ambulance services furnished to a beneficiary from his or her residence would be covered. Our purpose in proposing this modification is to make § 410.40(d) consistent with our policy of transporting beneficiaries to the nearest appropriate facility.

E. Consideration of a Coverage Exception for ALS services in Non-Metropolitan Statistical Areas

We are concerned that our policy determining the level of Medicare payment based on the level of medically necessary services may have some negative impact on an ambulance supplier's ability to furnish services in communities with small populations. In addition, several industry representatives have voiced their concerns that this proposed change could possibly decrease access to service or, in extreme circumstances, lead to the collapse of some emergency medical systems. Additional discussions have led us to look further at the need for any exception to these rules. To help us to better understand the extent to which a problem exists, or could potentially exist, we are soliciting information from interested parties on the need for an exception and the areas where it may apply. We are requesting information that would help identify the sole suppliers of ambulance services in non-MSAs and other suppliers that may qualify for an exception. The information could include a list of sole suppliers in rural counties of a State, a description of the level of services offered by these suppliers, the size of the community they serve, the population of the service area, the distance to the nearest carrier, the number of vehicles operated by the supplier(s), time and distance factors related to providing service, and any other information, including relevant economic information that would have a bearing on the need for an exception to our proposed coverage and payment policy.

The solicitation of information is not to determine whether an individual supplier meets eligibility requirements for an exception. This is solely a request for information that will assist us in making the final determination as to whether an exception process is warranted. If we do not receive compelling information regarding the need for an exception, we may choose not to provide an exception to the rule that suppliers bill for the level of services furnished. If we implement an exception to our general ambulance coverage policy, we would review the need for the policy within 5 years after we implement it. We would want to ensure that there is a continued need for an exception and consider any changes that may be needed to reflect current trends in population and the ambulance industry.

To further facilitate our understanding of this issue, we have especially involved the Department's Office of Rural Health Policy and consulted with various industry representatives in an effort to address this issue and consider alternatives that would mitigate negative impact on communities. With these special circumstances in mind, we have examined what special considerations may be warranted for communities.

Absent the detailed information we are requesting through our solicitation, we have developed two alternatives that we could use if we decide that an exception is warranted.

Under our first, and preferred alternative, we would propose in § 410.40(e) to pay ambulance suppliers in non-MSAs for the ALS level of services in all cases if the State Emergency Medical Services (EMS) Director annually makes one of the following certifications:

- The ambulance supplier serves a non-MSA, is the sole supplier of ground ambulance services in the area, owns and operates ambulance vehicles, and furnishes only ALS ambulance vehicles and staff.
- If there is more than one ground ambulance supplier in the non-MSA area, the ambulance supplier seeking the exception is located more than 40 miles from the nearest available ground ambulance supplier in the area.

In order to qualify for this exception, the supplier would submit to the carrier, on an annual basis, financial information demonstrating that without payment at the ALS level, the financial impact would jeopardize beneficiary access to ambulance services in the area. The supplier would also submit information showing Medicare utilization of ambulance services compared to total service; total volume of services furnished by the supplier; and any other specific, pertinent information documenting the impact on beneficiaries' access to ambulance services that might result from payments at the BLS level for suppliers that have ALS ambulances only. On an annual basis, the ambulance supplier would also be responsible for submitting to the State EMS Director information demonstrating that it meets the established geographic exception criteria. Based on the State EMS Director's certification of the geographic criteria and the carrier's review of the financial information, the carrier would determine if the ambulance supplier meets the requirements to qualify for an exception.

We chose the 40-mile standard because, after consultation with the National Highway Traffic Safety Administration, we determined that 40 miles is a reasonable indicator of access to services. It assumes that 20 minutes is an acceptable maximum response time in most areas. The establishment of a distance criteria is consistent with other access standards used for rural areas, including Medicare's criteria for designating Sole Community Hospitals (42 CFR 412.92). In addition, the use of a distance criterion would be relatively easy to administer compared with other possible criteria. We believe ease of implementation is important because the proposed exception would require active participation by the State EMS Directors in certifying the ambulance suppliers that would qualify for the exception. The National Highway Traffic Safety Administration has suggested that in many cases, while distance may be an acceptable criteria, time factors also are important. We did not propose time factors in our first alternative because they would be difficult to administer. Nevertheless, we recognize that time factors may be more appropriate than distance in some areas and we would like to receive comments on this issue.

The second alternative we have considered would be to create an exception with criteria similar to those

used for the sole community hospitals under Medicare's prospective payment system for hospitals. Under this alternative, we would require that the State EMS Director certify that the ambulance supplier is the sole supplier of ambulance services, or is located in an urban or rural area (as defined in § 412.62(f)(1)(ii) and (f)(1)(iii)) and meets one of the following conditions:

- The ambulance supplier is located between 25 and 35 miles from other like ambulance suppliers.
- The ambulance supplier is located between 15 and 25 miles from other like ambulance suppliers, but because of distance, local topography, and weather conditions, the travel time between the supplier and the other nearest ambulance supplier is at least 45 minutes.

These criteria are much more complex than the first alternative and would be difficult to administer. The amount of data that would need to be collected and evaluated would be considerable. It is for this reason that we do not favor this alternative.

F. Limitation on Services Outside the United States

We would redesignate § 410.40(d) as § 410.40(f), ''Specific limits on coverage of ambulance services outside the United States,'' without changing the policy.

G. Limitation on Liability

In considering changes to Medicare coverage of ambulance services, we are mindful of the effect any changes may have on beneficiaries, particularly on beneficiary liability for payment of services. We intend that a beneficiary not pay for an ambulance service for which we deny payment because of a lack of medical necessity, when a beneficiary did not know that the service is not covered. Existing regulations concerning limitations on liability under Medicare in §§ 411.400, 411.402, and 411.406 (part 411, subpart K) would apply to ambulance services. Under the limitation on liability, Medicare payment may be made for certain claims for a service if we exclude the service from coverage in accordance with § 411.15(k) and section 1862(a)(1) of the Act as not medically necessary. A beneficiary who did not know and could not reasonably have been expected to know that payment would be denied for a service under section 1862(a)(1) of the Act generally receives protection from financial liability in accordance with the limitation on liability provisions of section 1879 of the Act as implemented by part 411, subpart K of our regulations. Similarly, when the beneficiary is protected and the ambulance supplier also did not know and could not reasonably have been expected to know that payment would be denied, the supplier also receives protection from financial liability in accordance with the limitation on liability provision. In this case, Medicare payment may be made to the supplier.

A Medicare payment reduction from the ALS to BLS level of services would constitute a partial denial of payment for the ALS level of services. If we reduce payment from the ALS to the BLS level of service on the basis of a lack of medical necessity in accordance with § 411.15(k) and section 1862(a)(1) of the Act, the beneficiary and supplier protections under the limitation on liability provisions in part 411, subpart K and section 1879 of the Act would apply to the payment reduction.

With respect to ambulance services, the limitation on liability applies only in a narrow range of cases in which the denial is made under section 1862(a)(1) of the Act; that is, because the service furnished was not reasonable or necessary. Most denials of Medicare payment for ambulance services are made on the basis of section 1861(s)(7) of the Act and implementing regulations in existing § 410.40 because the services do not meet the definition of ambulance services. When, for example, ambulance services do not meet the rule that other means of transportation would be inappropriate for the beneficiary's condition (proposed § 410.40(c)), or when they violate the limits on origin and destination or the nearest appropriate facility rule (proposed § 410.40(d)), the statutory basis for denial is section 1861(s)(7) of the Act, and the limitation on liability provisions do not apply.

In proposed § 410.40(g), we specify the narrow class of medical necessity denials to which the limitation on liability provisions of part 411, subpart K apply. We state, however, that § 411.404 concerning criteria for determining that a beneficiary knew that services are excluded from Medicare coverage does not apply to medical necessity payment denials for ambulance services.

Under this proposed rule, the use by suppliers of written advance notices to the beneficiaries of the likelihood of noncoverage by Medicare of ambulance services would not be permitted. We believe it would be inappropriate to allow an ambulance supplier to give written advance notice of the likelihood of noncoverage or to attempt to obtain an agreement from a beneficiary to pay for ambulance services when the circumstances surrounding the need for ambulance services usually do not permit a beneficiary to make a rational, informed consumer decision. Nonetheless, if a supplier could not have been expected to know that a particular ambulance service was not medically necessary, the supplier would also not be held liable.

If, upon review, the carrier determines that the services furnished were not reasonable and necessary, and denies coverage of the services, partially or in full, the ambulance supplier has the right to appeal the determination as stated in part 405 subpart H. Consistent with existing policy, the right to appeal applies only to those ambulance suppliers that accept assignment. (This would not be an appropriate application when the supplier does not accept assignment and payment is made directly to the beneficiary. If the supplier does not accept assignment, the beneficiary has the right to appeal.) It is our belief, however, that proposed use of the ICD–9–CM diagnostic codes to describe the condition of the beneficiary would provide suppliers and ambulance personnel with additional knowledge that they need to make the correct decision when submitting a claim for payment. Therefore, we expect that there would be few instances when there would be appeals.

H. Requirements for Ambulances Services

1. Vehicle

We propose in §410.41(a) that a vehicle used as an ambulance must be designed and equipped to respond to medical emergencies and, in non-emergency situations, be capable of transporting beneficiaries with acute medical conditions. The vehicle must also comply with all relevant State and local laws governing licensing and certification of an emergency medical transportation vehicle.

We would also require that, at a minimum, an ambulance contain a stretcher, linens, emergency medical supplies, oxygen equipment, and other lifesaving emergency medical equipment and be equipped with emergency warning lights, sirens, and two-way telecommunications.

2. Vehicle Staff

We propose in §410.41(b)(1) the staffing requirements for the BLS level of services. We propose that the vehicle be staffed by at least two persons each trained to provide first aid and certified as an emergency medical technician-basic (EMT–B) by the State or local

authority where the services are furnished and legally authorized to operate all lifesaving equipment on board the vehicle.

In § 410.41(b)(2), we propose the staffing requirements for the ALS level of services. The ALS-level ambulance would include at least two staff members. One of the staff members must be trained to provide basic first aid at the EMT B level and another member who must be trained and certified as a paramedic or as an emergency medical technician-advanced (EMT–A) who must also be trained and certified to perform one or more ALS services. Paramedics and emergency medical technicians must be certified by the State in which the services are furnished and legally authorized to operate all lifesaving equipment on board.

3. Billing and Reporting Requirements

We propose in § 410.41(c) that a supplier must use diagnostic and procedure codes designated by HCFA. We propose to designate the HCFA Common Procedure Coding System (HCPCS) codes describing the origin and destination of the services and ICD–9–CM diagnostic codes describing the beneficiary's medical condition (see Addendum 1 of this rule) to bill for covered ambulance services. We also would require that a supplier must, at the carrier's request, complete and return an ambulance supplier form established by HCFA and provide Medicare carriers with documentation of its compliance with State and local emergency vehicle and staff licensure and certification requirements (see Addendum 2 of this rule). In this paragraph, we also would require, upon the carriers request, that the supplier provide any additional information as required, for example when a supplier does not submit the required form and documentation or whenever there is a question about the supplier's documentation or there is a question about the supplier's compliance with any of the requirements for vehicle and staff.

To be covered ambulance services, the services must be medically necessary in accordance with section 1862(a)(1) of the Act. Medical necessity is usually established on the basis of the description of the beneficiary's condition at the time of the transportation. Currently, we require the use of International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) diagnostic codes on Part B claims submitted by physicians as well as by other providers. Forty-six of the 53 Medicare carriers require the ambulance suppliers to include ICD–9–CM diagnostic codes to confirm medical necessity.

As stated above, we intend that all suppliers who bill Medicare for ambulance services use the HCPCS codes describing origin and destination, and the ICD–9–CM diagnostic codes to describe a beneficiary's condition, based on the information from the emergency medical technician or paramedic who furnishes treatment at the scene and during transportation.

The documentation required from each supplier would ensure that the vehicles used to furnish ambulance services are equipped and staffed to respond to emergency situations and in scheduled situations to be able to properly respond to acute care needs. The ambulance supplier form requirement would ensure that the documentation requirements are met.

IV. Other Information

A. Paperwork Requirements

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

- Whether the information collection is necessary and useful to carry out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements.

The information collection requirements in § 410.40(c)(2) require the ambulance supplier to obtain certification from the beneficiary's physician to document the beneficiary's need for non-emergency, scheduled transportation by ambulance. We believe it is necessary to ensure that the ambulance services are medically necessary. The requirement for the physician's certification does not require a particular form or format and can be simply a letter written to describe the beneficiary's condition that supports the need for ambulance services. This could take as little as 10 minutes of the physician's time per patient and could be used by the supplier for a 60-day period. The burden on the supplier is to send in the certification with the first claim to the Medicare carrier or intermediary to validate the need for the transportation. We do not know how many suppliers or beneficiaries would be affected by this requirement; however, we do not believe the number to be substantial, nor do we believe the burden to be significant. The following chart shows the potential paperwork burden that may be imposed on physicians by this proposed rule.

ESTIMATED PAPERWORK BURDEN ON PHYSICIANS

CFR Section	Estimated annual number of ambulance trips requiring certification statements	Estimated average time in minutes to complete each statement	Estimated total annual burden hours
410.40(c)(2)	3,000	10	500

The information collection requirements in §410.41(c)(1) concern treatment furnished to beneficiaries transported by ambulance. Suppliers would be required to use ICD–9–CM diagnostic codes describing the beneficiary's condition to complete the claims form to bill the Medicare program for payment for ambulance services. The diagnostic coding system we propose to use is a system of ICD–9–CM diagnostic codes and therefore

the transition from the coding system used by the great majority of suppliers to the new system would be seamless. In addition, the use of the new diagnostic codes would eliminate the narrative description of the beneficiary's condition currently required. Therefore, we believe this requirement would lessen the existing information collection burden on the supplier. The time estimated to place the correct codes on the form is approximately 1 minute. We do, however, acknowledge that using the ICD–9–CM diagnostic coding system may initially require more time than the estimated 1 minute. We would like to solicit comments from those contractors who do not require suppliers to submit claims with diagnostic codes. Specifically, we would like to receive information that will assist us in determining how problematic, if at all, required use of diagnostic codes will be to the contractor and its suppliers and the costs associated with the implementation of such a requirement.

Section 410.41(c)(2) requires the supplier to complete an ambulance supplier form and to provide documentation of vehicle and staff licensure and certification to the Medicare carrier. This simply requires photocopying documentation already required by the State or local law and in the possession of the supplier and sending those copies, along with the form, to the carrier. We would require ambulance suppliers to complete the Ambulance Supplier form on an annual basis or in keeping with licensure or certification requirements established by State or local laws. It is our understanding that an overwhelming number of States require ambulance supplier licensure or certification renewal on an annual basis.

Our decision not to state a specific time frame in which ambulance suppliers will be required to submit the form took into consideration the potential burden on those suppliers operating in areas with renewal requirements other than on an annual basis. The supplier is also required to notify the carrier when a new vehicle or staff member is added to the business. Suppliers will not be required to complete a new form. Carriers may accept the supplier's statement and accompanying documentary evidence that vehicle and personnel requirements are met. We believe receipt of this documentation is necessary to ensure that newly acquired vehicles that will be used to furnish ambulance services are properly equipped and that newly hired EMS personnel are trained and certified to provide the appropriate level of emergency medical service to respond to emergency situations and, in non-emergency situations, are able to respond to the acute care needs of the beneficiary. It is estimated that the time to complete this form is no more than 32 minutes.

Section 410.41(c)(3) requires that the supplier provide any additional information necessary to ensure that the carriers records are complete and up-to-date. Although we are unable to estimate the time that may be necessary to meet this requirement, we do not believe it will take the supplier longer than a couple of minutes to copy and send the additional documentation.

Section 410.40(e) provides for the criteria for our preferred alternative of an exception to the ALS and BLS payment criteria which will allow all payments to a supplier that met the criteria to be made at the ALS level. We may not include an exception in the final rule unless documentation is furnished convincing us that an exception process is necessary, but we have shown the potential paperwork burden associated with our preferred alternative and an alternative that is spelled out in the preamble to this rule.

The following chart shows the potential paperwork burden that may be imposed on the ambulance suppliers by this proposed rule.

ESTIMATED ANNUAL SUPPLIER REPORTING BURDEN

CFR Sections	Estimated number of ambulance suppliers	Estimated average burden per response	Estimated annual burden hours
410.41(c)(1) ICD–9–CM diagnostic codes ALS/BLS	9,000	1 min.	150
410.41(c)(2) ambulance supplier form and documentation	9,000	32 min.	4,530
410.41(c)(3) any additional information	9,000	2 min.	300
410.40(e) Annual submission of supporting financial documentation for an ALS exception. OPTION #1.	(Potential) 3,000.	60 min.	3,000
OPTION #2 FOUND IN THE PREAMBLE	(Potential) 3,000.	60 min.	3,000

We have submitted a copy of this proposed rule to OMB for its review of the information collection requirements in §§410.40 and 410.41.

For comments that relate to information collection requirements, mail comments to:

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

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

B. Response to Comments

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

V. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless the Secretary certifies that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all suppliers of ambulance services are considered to be small entities. Individuals, carriers, and States are not considered to be ''small entities''.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the

operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 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 illustrated below the impact of this regulation does not meet the criteria under E.O. 12866 to require a regulatory impact analysis; however, the following information, together with information provided elsewhere in this preamble constitute a voluntarily analysis and moot the requirements of the RFA. First, this proposed rule was initiated partly because of the concern over the rapid increase in the cost to the Medicare program for furnishing ambulance services to beneficiaries. This rapid increase in expenditures can be attributed to a variety of causes that include the following:

- A greater number of ambulance suppliers provide only the more expensive ALS level of services even if only a BLS level of services is warranted.
- High costs for equipment, supplies, and trained personnel incurred by all ambulance suppliers are passed on to the public.
- Provision of scheduled ambulance services to ESRD beneficiaries for treatment or therapy to hospital-based facilities that may be farther away from the beneficiary's home than nonhospital-based facilities offering the same service. These transports cost the Medicare program more because of the higher mileage charges.
- Erroneous Medicare payment of claims for ambulance services from suppliers of non-emergency vehicles that transport beneficiaries whose medical condition is such that transportation in an ambulance is unnecessary.

Second, we believe the proposals contained in this rule would result in the consequences outlined below:

- The requirement that ambulance services be furnished in a vehicle equipped and staffed to respond to a medical emergency or an acute care situation would improve the overall quality of services furnished to beneficiaries and eliminate payment for transportation services that are furnished in a vehicle not equipped or staffed to provide ambulance services. This particular aspect of the proposed rule may cause some suppliers to have to upgrade their vehicles, equipment, or staff training and certification so that the vehicles meet the definition of an ambulance. There may be some, however, who may not be able to upgrade their vehicles or staff. We do not know how many suppliers this requirement would affect; however, because we believe the entities that may be affected by this proposal primarily provide transportation services, such as wheelchair van transportation, we do not believe the number to be substantial. In an effort to determine the impact of this proposed change, we are requesting information from those suppliers of ambulance services who will potentially be affected by this proposal.
- The requirement for suppliers to use ICD–9–CM diagnostic codes to bill ambulance services would promote consistency in Medicare carrier processing of claims for ambulance services. The use of these codes would also reduce the uncertainty currently experienced by suppliers concerned about whether they will receive payment for their claims for specific types of services, because using the codes would assist suppliers in filing claims properly. The use of the appropriate ICD–9–CM diagnostic code to describe a beneficiary's medical condition would justify the need for ambulance services and determine the appropriate level of coverage. However, use of the appropriate diagnostic code does not make the claim payable if the beneficiary could have been transported by other means.
- The application of the limitation on liability protections would provide a safeguard to beneficiaries who must use ambulance services by ensuring that they would not be required to pay for differences in the amounts paid for BLS and ALS services. These same limitation on liability protections provide safeguards for the suppliers as well. For example, if the supplier erred on the side of caution by furnishing an (ALS level of) ambulance service that was more costly than was necessary because the medical situation was less severe than was first thought to have existed, the supplier would not bear the adverse economic burden of that decision.
- The requirement for physicians to certify the need for scheduled ambulance services of beneficiaries who are inpatients to outside facilities to receive therapy or treatment would ensure that those beneficiaries receiving the services actually need them. Also, the provision permitting ESRD beneficiaries to be transported to nonhospital-based facilities nearest their home would be more convenient, since they would no longer have to be transported to hospital-based facilities that may be farther away. In addition, for those beneficiaries this is a more cost-effective policy since regularly transporting beneficiaries further from their homes would be more costly.

Third, if we are convinced that an exception to the ALS/BLS rule is necessary, the non-Metropolitan Statistical Area exception that would permit coverage of the more costly ALS level of services in non-Metropolitan Statistical Areas could assure access to ambulance services where there is only one ambulance supplier. However we will create an exception only if we believe that the rule would impose financial hardship on isolated suppliers that cannot maintain both BLS and ALS vehicles.

Last, the overall savings that this rule would generate are listed below:

MEDICARE PROGRAM SAVINGS

[In millions]

Fiscal Years				
1997	1998	1999	2000	2001
$50	$55	$60	$65	$75

A primary concern in basing coverage and payment on medical necessity is the issue of ambulance services in sparsely populated areas. We realize that there are areas where multiple ambulances, a mix of BLS and ALS, are not economical and, as such, acknowledge that the distributive effect of this regulation may be perceived as uneven because billing for ALS only services occurs only in some areas. In terms of expenditure cutbacks the estimated $50 million in spending reductions in the first year out of a total of $1.83 billion has been determined to result in a national

reduction of about 2.7 percent of the total expenditures for ambulances services. Through further analysis of this circumstance we have determined that we can expect to see that a limited impact of one half of the anticipated cutback in payments (approximately $25 million) would take place in northern California, Florida, Mississippi, Texas, and Ohio, and one-fourth of the cutback (another $12.5 million) would take place in Alabama, Arkansas, Georgia, Louisiana, Oklahoma, and Oregon. We are able to identify these areas on the basis of regional patterns that reflect areas where there is use of predominately ALS services. There are, however, no national data identifying communities that mandate using ALS services exclusively. The program used to determine this impact is aggregated by locality and does not contain provider specific information. Therefore, while we are unable to determine exactly how many suppliers in the aforementioned areas will be affected, we have estimated the dollar impact by State if the areas furnished a mix of BLS/ALS services approximating the national average.

In determining what special considerations may be warranted to mitigate the possible negative impact on non-Metropolitan Statistical Areas of the country, we considered two alternatives as a possible solution. Under the first and preferred alternative we would propose to continue to reimburse ambulance suppliers in a non-Metropolitan Statistical Area for the ALS level of service if the State EMS Director can certify that the ambulance supplier meets established criteria. The second alternative we considered would be to create an exception with criteria similar to those used for sole community hospitals under Medicare's prospective payment system for hospitals. The specifics of both alternatives are discussed at length in the preamble. We also had to take into consideration questions that were raised that have led us to doubt the need for any exception to the proposed rules. To foster better understanding of this problem or potential problem, we have issued a request for information from interested parties on the need for an exception and to help identify areas where it might apply. This aspect of our analysis is also discussed at length in the preamble.

If an exception is implemented, this perceived ''uneven'' impact may not be as significant in the States listed above. Also, we may find that the overall national impact is less than anticipated. In any event, our clarification of the criteria for coverage of ambulance services should reduce allowances only to those suppliers now receiving payments incorrectly. The limitation on liability provisions will protect both beneficiaries and suppliers where they are ''without fault.'

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

List of Subjects

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR chapter IV would be amended as set forth below:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 410.40 is revised to read as follows:

§410.40 Coverage of ambulance services.

(a) *Basic rules.* (1) Medicare Part B covers ambulance services if the supplier meets the applicable vehicle, staff, and billing and reporting requirements of §410.41 and the medical necessity and origin and destination requirements of this section.

(2) Medicare Part B covers ambulance services if Medicare Part A payment is not made directly or indirectly for the services.

(b) *Levels of services.* Except as provided in paragraph (e) of this section (concerning ALS services furnished in non-MSA areas) and based on the level of services needed to treat a beneficiary's condition (as described by diagnostic codes that HCFA designates for ambulance services), Medicare covers ambulance services within the United States as one of the following levels of services:

(1) Basic life support (BLS) services.

(2) Advanced life support (ALS) services.

(c) *Medical necessity requirements.* (1) Except as provided in paragraph (c)(2) of this section, Medicare covers ambulance services if they are furnished to a beneficiary whose medical condition is such that other means of transportation would be contraindicated.

(2) Medicare covers non-emergency transportation services if the ambulance supplier, before furnishing services to the beneficiary, obtains a current written physician's order certifying that the beneficiary must be transported in an ambulance because other means of transportation would be contraindicated. The physician's order must be dated no earlier than 60 days before the date the service is furnished.

(3) In accordance with section 1861(s)(7) of the Act, HCFA:

(i) Establishes guidelines on the use of diagnostic codes that ensure the medical necessity of ambulance services, coverage at the appropriate level of service (BLS or ALS), and consistency in claims filing.

(ii) Updates the guidelines and codes as necessary.

(d) *Origin and destination requirements.* The following transportation is covered:

(1) From any point of origin to the nearest hospital, RPCH, or SNF that is capable of furnishing the required level and type of care for the beneficiary's illness or injury. The hospital must have available the type of physician or physician specialist needed to treat the beneficiary's condition.

(2) From a hospital, RPCH, or SNF to the beneficiary's home.

(3) From a SNF to the nearest supplier of medically necessary services not available at the SNF where the beneficiary is an inpatient, including the return trip.

(4) For a beneficiary who is receiving renal dialysis for treatment of ESRD if the requirements of paragraph (c)(2) of this section are met, from the beneficiary's home to the nearest facility that supplies renal dialysis, including the return trip.

(e) *Coverage exception for ALS services in non-MSA areas.* Medicare covers ambulance services as ALS level of services if the following conditions are met:

(1) The State Emergency Medical Services Director makes, on an annual basis, the following certification:

(i) The ground ambulance supplier serves a county or comparable New England entity that is not designated as a Metropolitan Statistical Area by the Office of Management and Budget (that is, a non-MSA area).

(ii) The supplier is either the sole supplier of ground ambulance services in the area, or is located more than 40 miles from any other available ground emergency services vehicle in the area.

(iii) The supplier owns and operates ambulance vehicles.

(iv) The supplier furnishes only ALS ambulance vehicles and staff.

(2) The supplier submits annually to the carrier financial information demonstrating that without payment at the ALS level, beneficiary access to ambulance services in the area would be jeopardized.

(f) *Specific limits on coverage of ambulance services outside the United States.* If services are furnished outside the United States, Medicare Part B covers ambulance transportation to a foreign hospital only in conjunction with the beneficiary's admission for medically necessary inpatient services as specified in subpart H of part 424 of this chapter.

(g) *Limitation on beneficiary liability.* (1) If the supplier furnishes BLS level of ambulance services to an individual, but uses an ALS-level vehicle and submits a bill for Medicare payment of ALS level of services, HCFA partially denies coverage of the services under § 411.15(k) of this chapter because the services are not reasonable or necessary and reduces payment from the ALS level of services to the BLS level of services.

(2) For amounts denied under paragraph (g)(1) of this section, the provisions of § 411.404 notwithstanding, HCFA considers beneficiaries to meet the conditions of § 411.400(a)(2) of this chapter, that is, not to have known or been expected to know that the services are not covered under Medicare.

3. Section 410.41 is added to read as follows:

§ 410.41 Requirements for ambulance suppliers.

(a) *Vehicle.* A vehicle used as an ambulance must meet the following requirements:

(1) Be specially designed to respond to medical emergencies or provide acute medical care to transport the sick and injured and comply with all State and local laws governing an emergency transportation vehicle.

(2) Be equipped with emergency warning lights and sirens.

(3) Be equipped with telecommunications equipment to send and receive voice and data transmissions.

(4) Be equipped with a stretcher, linens, emergency medical supplies, oxygen equipment, and other lifesaving emergency medical equipment as required by State or local laws.

(b) *Vehicle staff*—(1) *BLS vehicles.* A vehicle furnishing ambulance services must be staffed by at least two people who meet the following requirements:

(i) Are certified as emergency medical technicians-basic (EMT–B) by the State or local authority where the services are furnished.

(ii) Are legally authorized to operate all lifesaving and life-sustaining equipment on board the vehicle.

(2) *ALS vehicles.* In addition to meeting the requirements of paragraph (b)(1) of this section, one of the two staff members must be certified as a paramedic or an emergency medical technician-advanced (EMT–A) who is certified to perform one or more ALS services.

(c) *Billing and reporting requirements.* An ambulance supplier must comply with the following requirements:

(1) Bill for ambulance services using HCFA designated procedure codes to describe origin and destination and HCFA designated diagnostic codes to describe the beneficiary's medical condition.

(2) Upon a carrier's request, complete and return the ambulance supplier form developed by HCFA and provide the Medicare carrier with documentation of emergency vehicle and staff licensure and certification requirements in keeping with State and local laws.

(3) Upon a carrier's request, provide additional information and documentation as required.

PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for part 424 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 424.124 [Amended]

2. In §424.124, paragraph (c)(2) is amended by removing the citation ''§ 410.140'' and adding in its place the citation ''§ 410.41''.

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

Dated: January 8, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: January 29, 1997.

Donna E. Shalala,

Secretary.

Addendum 1

We would assign International Classification of Diseases 9th revision, Clinical Modification (ICD–9–CM) diagnostic codes to each of the following conditions:

(Listed in the first column are the medical conditions that are encountered most frequently by ambulance crews. The second column contains the corresponding ICD–9–CM code(s). In the third column we have placed an ''A'' denoting ''ALS'', ''B'' denoting ''BLS'', or ''B/A'' denoting both ''BLS/ALS''. If only an ''A'' or ''B'' is in the column, it means that the trip will be paid as only as ALS or BLS. If both ''B/A'' appear, while it is expected that most trips will be BLS, the determination regarding which level of service is medically necessary will be made, based on documentation submitted by the supplier, at the discretion of the carrier. Please note that this list is not exhaustive. In unusual circumstances that warrant the need for ambulance services, the Carrier may accept the use of other ICD–9–CM codes to describe a medical condition that is not on this list).

Condition	ICD–9–CM Code	BLS/ ALS Level
Abdominal Pain	789.00, 789.07 789.09	B/A
Abnormal Electrocardiogram (EKG)	794.31	A
Asphyxiation and Strangulation	994.7	A
Backache, unspecified	724.5	B
Burns	949.0, 949.1, 949.2, 949.3, 949.4, 949.5	B/A
Cardiac Arrest	427.5	A
Chest Pain, unspecified	786.50	A
Coma	780.01	B

Condition	ICD–9–CM Code	BLS/ ALS Level
Contracture of Multiple Joints	718.49	B
Convulsions	780.3	B
Delirium, acute	293.0	B
Dead on Arrival (DOA) (Cause unknown; death occurring in less than 24 hours from onset of symptoms)	798.2	B
Drowning	994.1	A
Drug Overdose; Unspecified Drug or Medicinal Substance	977.9	A
Effects of Lightning	994.0	A
Electrocution and nonfatal effects caused by electric current	994.8	A
Food Poisoning; unspecified	005.9	B/A
Head Injury, closed	854.0	A
Head Injury, open	854.1	A
Hemorrhage of Gastrointestinal Tract, unspecified	578.9	B/A
Hemorrhage, unspecified	459.0	B/A
Hypothermia	991.6	A
Injuries, multiple	959.8	A
Injury to Elbow, Forearm and Wrist	959.3	B
Injury to Face and Neck	959.0	B/A
Injury to Hand	959.4	A
Injury to Hip and Thigh	959.6	B
Injury to Knee, Ankle, Leg and Foot	959.7	B
Injury to Shoulder and Upper Arm	959.2	B
Injury to Trunk	959.1	A
Instantaneous Death	798.1	B
Joint Pain, multiple	719.40	B
Open Wound, Unspecified Eye Ball	871.9	B
Other Artificial Opening (e.g., presence of chest tubes)	v44.48	B
Other Specified Problems Influencing Health Status (e.g., bed-confined)	v49.8	B
Pelvis Pain, female	625.9	B/A
Pelvis Pain, male	789.0	B/A
Pelvis Stiffness	719.55	B/A
Poisoning, unspecified noxious substance eaten as food	989.9	B/A
Respiratory Arrest	799.1	A
Respiratory Distress	786.09	A
Shock	785.50	A
Smoke Inhalation, Symptomatic	987.9	A
Stroke	436	A
Transient Alteration of Awareness	780.02	B/A
Unconscious	780.09	B
Unspecified Complication of Labor and Delivery	669.9	A
Wound Disruption of (Dehiscence)	998.3	B/A

Addendum 2

Note To: (Insert Name of Medicare Supplier)
From: (Insert Name of Medicare Carrier)
Subject: Completion of Attached Ambulance Supplier Form

The attached form must be completed by you whenever your State and Local laws require that you update the licensure of your vehicles and/or staff. We are also requiring that this form be completed at the Carriers discretion so that our agents will be assured that they have the latest documentation on file to make appropriate claims payment determinations.

The form is self explanatory and therefore there are no program instructions for its completion. We do not expect that it will take longer than 30 minutes to answer the questions and will require only another minute or two to copy and attach the photocopies supporting the response to some of the questions.

If you have any questions about completing this form please contact us at (fill in the telephone number and or address of the carrier).

BILLING CODE 4120–01–P

Addendum 2

AMBULANCE SUPPLIER FORM

1. Name of Ambulance Company _____
Please list the legal business name

Medicare Provider Number _____

2. Business Address _____
_____

Mailing Address _____
_____

Post Office Boxes and Drop Boxes are not acceptable as a physical business address

3. Owner's Name(s) _____
Identify all individuals and their social security numbers or entities who have ownership or controlling interest. For each owner, fill in all of the requested information.

Owner's Address_____

Telephone Number(s) _____

4. Business Telephone Number(s) _____
List Telephone Numbers for all locations. The business telephone number(s) must be numbers where patients or customers can reach you or register complaints.

5. Federal Tax Identification Number _____

6. License Number _____
A copy of your current license/certificate must be submitted with this from. The effective date and expiration date must be stated on the license/certificate. Program payment will be made based on these dates. You must provide this office with a copy of the renewal license/certificate in order to receive payment after the expiration date.

All of the following criteria must be met in order to be approved by Medicare. If additional space is needed, please add an attachment.

7. What is the total number of licensed/certified ambulances in your fleet ?
Identify all of the ambulances in your fleet and their location

1. Make_____ Model _____ Year _____

Location _____

#2. Make_____ Model _____ Year _____

Location _____

8. **Do your ambulances have the following:** please respond accordingly for each ambulance in your fleet

(A) First Aid Supplies ? #1: Yes ___ No ____

#2: Yes ___ No ____

(B) Oxygen Equipment ? #1: Yes ___ No ____

#2: Yes ___ No ____

(C)Other Safety and Lifesaving Equipment ? #1 Yes ___ No ___

#2 Yes ___ No ___

Provide a list of equipment with which each ambulance is equipped.

#1 _____

_____

#2 _____

_____

Do your ambulances have the following communications devices ?

Please respond accordingly for each ambulance in your fleet

(A) Two-way telecommunications radio ? #1 Yes ____ No ____

#2 Yes ___ No ___

(B) Portable Communication ? #1 Yes ___ No ___

#2 Yes ___ No ___

(C) Warning Lights ? #1 Yes ___ No ___

#2 Yes ___ No ___

(D) Sirens ? #1 Yes ___ No ___

#2 Yes ___ No ___

9. **Do you provide the following level of service:**

(A) Basic Life Support (BLS) Yes ___ No ___

How many of your ambulances are licensed/certified to provide this level of service ?___

(B) Advanced Life Support (ALS) Yes ___ No ___

How many of your ambulances are licensed/certified to provide this level of service ? ___

(C) Air Ambulance Service Yes ___ No ___

*** Please provide written documentation of certification from the authorized State or local licensing and regulatory agency for each vehicle.**

10. How many crew members do you send on each run ? Please respond accordingly for each ambulance in your fleet

#1 _____

#2 _____

11. Please list the name of each crew member and their individual training (i.e., CPR, First Aid, ACLS etc.). A copy of their certificate(s) of training **must** be attached.

Name: _____

Training: _____

Name: _____

Training: _____

** **QUESTION 12 SHOULD BE COMPLETED BY CERTIFIED BLS COMPANIES ONLY**

12. Do you bill Method 1, an all inclusive base rate ? Yes ___ No ___

Do you bill Method 2, base rate plus a separate charge for mileage ?

Yes ___ No ___

Do you bill Method 3, base rate plus a separate charge for supplies ?

Yes ___ No ___

Do you bill Method 4, separate charges for services, mileage, and supplies ?

Yes ___ No ___

Are you certified to perform defibrillation ? Yes ___ No ___
(If yes, a copy of the certification must be attached)

** **QUESTION 13 SHOULD BE COMPLETED BY CERTIFIED ALS COMPANIES ONLY**

13. Do you bill Method 1, an all-inclusive base rate ? Yes ___ No ___

Do you bill Method 2, base rate plus a separate charge for mileage ?

Yes ___ No ___

Do you bill Method 3, base rate plus a separate charge for supplies ?

Yes ____ No ____

Do you bill Method 4, separate charges for services, mileage, and supplies ?

Yes ___ No ___

Are you certified to perform defibrillation ? Yes ___ No ___
(If yes, a copy of the certification must be attached)

Name of Medical Director: _____

14. What geographic area do you serve ? _____

15. Has your company, any owner or employee **ever** been excluded from participation in the Medicare/Medicaid program ? Yes ___ No ___

If yes, under what name(s) , legal business name and owner(s), did the exclusion occur ?

_____

_____

Please list prior Medicare Identification Number(s) _____

Please list name of prior Carrier _____
(If service was provided to Medicaid program please list prior Medicaid number and the State where service was provided.)

16. You agree to notify this office of any change in operation, ownership or revocation of license. It is also understood that representatives from the Medicare Office may make on-site inspections at any time.

I have read and agree to the above by signing below on this _____ day of _____ In the year of _____.

Name: _____

Title: _____

Signature: _____

[FR Doc. 97–15829 Filed 6–16–97; 8:45 am]
BILLING CODE 4120–01–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB73

Endangered and Threatened Wildlife and Plants, Notice of Second Reopening of Comment Period on Proposed Endangered Status for the Peninsular Ranges Population of the Desert Bighorn Sheep

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, notice of second reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a second reopening of the comment period on the proposed endangered status for the Peninsular Ranges population of desert bighorn sheep (*Ovis canadensis*). On April 7, 1997, the Service reopened the comment period to acquire additional information from interested parties, and to resume the proposed listing action (62 FR 16518). In addition, the Service sought public comment on various articles and reports concerning the distinctiveness and status of bighorn sheep in the Peninsular Ranges. Because of a request to allow for further development of biological, distributional, and status information on the bighorn sheep, the comment period is reopened again for another 15 days.

DATES: The public comment period closes July 2, 1997. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Peter Sorensen, at the address listed above (telephone 760/431–9440, facsimile 760/431–9618).

SUPPLEMENTARY INFORMATION:

Background

The Peninsular Ranges population of the desert bighorn sheep occurs along desert slopes of the Peninsular Ranges from the vicinity of Palm Springs, California, into northern Baja California, Mexico. Depressed recruitment, habitat loss and degradation, disease, loss of dispersal corridors, and random events (e.g., drought) affecting small populations threaten the desert bighorn sheep in the Peninsular Ranges.

On May 8, 1992, the Service published a rule proposing endangered status for the Peninsular Ranges population of the desert bighorn sheep (57 FR 19837). The original comment period closed on November 4, 1992. The Service was unable to make a final listing determination regarding the bighorn sheep 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 or critical habitat determinations. Now that funding has been restored, the Service is proceeding with a final determination for the Peninsular Ranges population of the desert bighorn sheep.

Due to the length of time that has elapsed since the close of the initial comment period, changing procedural and biological circumstances and the need to review the best scientific information available during the decision-making process, the Service reopened the comment period for 30 days on April 7, 1997 (62 FR 16518). Moreover, the Service reopened the comment period to ensure that this proposed listing of a population of desert bighorn sheep is consistent with Service policy published on February 7, 1996, regarding the recognition of distinct vertebrate population segments (61 FR 4722). This policy requires that distinct population segments be discrete from other populations of the species, be biologically and/or ecologically significant to the species, and meet the standards of an endangered or threatened species under section 4(a) of the Act. On May 6, 1997, the Service received a request from Mr. Francis D. Logan, Jr., a representative of a landowner potentially affected by this proposal, to hold a public hearing and to extend the comment period to allow for the development of further biological, distributional, and status information on the bighorn sheep. Though the Service will not hold a hearing, the Service reopens the comment period for 15 days. In this regard, the following recent articles and reports contained in Service files, including other non-cited information, remain available for public review:

Berger, J. 1990. Persistence of different-sized populations: An empirical assessment of rapid extinctions. Conservation Biology 4:91–98.

Bleich, V., C., J. D. Wehausen, and S. A. Holl. 1990. Desert-dwelling mountain sheep: Conservation implications of a naturally fragmented distribution. Conservation Biology 4:383–390.

Bleich, V., C., J. D. Wehausen, R. R. Ramey II, and J. L. Rechel. 1997. Metapopulation theory and mountain sheep: Implications for conservation. Pages 353–373 *in* D. R. McCullough, editor. Metapopulations and Wildlife Conservation, Island Press, Washington, D.C.

Bighorn Institute. 1996. Summary of the San Jacinto Mountains helicopter survey of Peninsular bighorn sheep. unpublished report, 2 pp.

Bighorn Institute. 1996. Summary of the Santa Rosa Mountains helicopter survey of Peninsular bighorn sheep. unpublished report, 3 pp.

Boyce, W. M., P. W. Hedrick, N. E. Muggli-Cockett, S. Kalinowski, M. C. T. Penedo, and R. R. Ramey II. 1997. Genetic variation of major histocompatibility complex and microsatellite loci: A comparison in bighorn sheep. Genetics 145:421–433.

DeForge, J. R., E. M. Barrett, S. D. Ostermann, M. C. Jorgensen, and S. G. Torres. 1995. Population dynamics of Peninsular bighorn sheep in the Santa Rosa Mountains, California. Desert Bighorn Council Trans. 39:50–57.

R. R. Ramey II. 1995. Mitochondrial DNA variation, population structure, and evolution of mountain sheep in the south-western United States and Mexico. Molecular Ecology 4:429–439.

Rubin, E., and W. Boyce. 1996. Results of helicopter survey conducted in Anza-Borrego Desert State Park. unpublished memo to Steve Torres (CDFG Bighorn Sheep Coordinator) and project collaborators. 6 pp.

Wehausen, J. D., and R. R. Ramey II. 1993. A morphometric reevaluation of the Peninsular bighorn subspecies. Desert Bighorn Council Trans. 37:1–10.

Regarding the above articles and reports, the Service particularly seeks information concerning:

(1) the biological and ecological distinctiveness of bighorn sheep in the Peninsular Ranges from other populations of bighorn sheep;

(2) other biological, commercial, or other relevant data on any threat (or lack thereof) to bighorn sheep in the Peninsular Ranges; and

(3) the current size, number, or distribution of bighorn sheep populations in the Peninsular Ranges.

Written comments may now be submitted until July 17, 1997 to the Service office in the **ADDRESSES** section.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U. S. C. 1531 *et seq.*).

Dated: June 9, 1997.

Thomas J. Dwyer,

Acting Regional Director, Region 1.

[FR Doc. 97–15807 Filed 6–16–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 120996A]

Magnuson Act Provisions; Essential Fish Habitat (EFH); Public Meetings

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

ACTION: Public meeting.

SUMMARY: The National Marine Fisheries Service (NMFS) will hold a public meeting in San Francisco, CA, to provide an additional opportunity on the west coast for public input on the proposed rule to implement the essential fish habitat (EFH) provisions of the Magnuson Act.

DATES: The meeting is scheduled to be held on July 2, 1997, from 1 p.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn North, 275 South Airport Boulevard, South San Francisco, CA. Requests for special accommodations should be addressed to Office of Habitat Conservation, Attention: EFH, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282; telephone: 301/713–2325.

FOR FURTHER INFORMATION CONTACT: Lee Crockett, NMFS, 301/713–2325.

SUPPLEMENTARY INFORMATION:

Background

NMFS issued proposed regulations containing guidelines for the description and identification of EFH in fishery management plans, adverse impacts on EFH, and actions to conserve and enhance EFH on April 23, 1997 (62 FR 19723). Notices to extend the comment period were published in the **Federal Register** on May 19, 1997, (62 FR 27214) and again on June 12, 1997 (62 FR 32071). The regulations would also provide a process for NMFS to coordinate and consult with Federal and state agencies on activities that may adversely affect EFH. The guidelines are required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The purpose of the rule is to assist fishery management councils in fulfilling the requirements set forth by the Magnuson-Stevens Act to amend their FMPs to describe and identify EFH, minimize adverse effects on EFH, and identify other actions to conserve and enhance EFH. The purpose of the coordination and consultation provisions is to specify procedures for adequate consultation with NMFS on activities that may adversely affect EFH.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Lee Crockett (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: June 12, 1997.

James P. Burgess,

Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 97–15873 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970520118–7118–01; I.D. 050197A]

RIN 0648–AJ00

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Standard Allowances for Ice and Slime

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would establish standard allowances for ice and slime found on unwashed Pacific halibut and sablefish landed in the Individual Fishing Quota (IFQ) fisheries for these species and incorporate them into the conversion factors for halibut and product recovery rates for sablefish used by NMFS to debit IFQ accounts. This action is necessary to correct inaccuracies in the accounting process for landed IFQ product that are currently occurring because up to 15 percent of the industry participants have been adjusting the ''initial accurate weight of . . . product obtained at the time of landing'' by up to 9 percent to account for ice and slime. Such adjustments are not allowed under the existing regulations. The proposed rule would maintain the requirement that all processors must report the actual scale weight at the time of landing with no adjustments, but would revise the conversion factors and recovery rates used by NMFS for debiting IFQ accounts to include a standard allowance for ice and slime found on landed IFQ product.

DATES: Comments must be received by July 17, 1997.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Copies of the Environmental Assessment/Regulatory Impact Review for this action may be obtained from the above address.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The U.S. groundfish fisheries of the Gulf of Alaska and the Bering Sea and Aleutian Islands in the exclusive economic zone are managed by NMFS pursuant to the fishery management plans (FMPs) for groundfish in the respective management areas. The FMPs were prepared by the North Pacific Fishery Management Council (Council) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, and are implemented by regulations for the U.S. fisheries at 50 CFR part 679. The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773 *et seq.*, authorizes the Council to develop, and NMFS to implement, regulations applicable in Convention waters to allocate halibut fishing privileges among U.S. fishermen.

Under these authorities, the Council developed the IFQ program, a limited access management system for the fixed gear Pacific halibut and sablefish fisheries. NMFS approved the IFQ program in November 1993 and fully implemented the program beginning in March 1995. The Magnuson-Stevens Act and the Halibut Act authorize the Council and NMFS to make regulatory changes to the IFQ program that are consistent with the FMPs and that are

necessary to conserve and manage the fixed gear Pacific halibut and sablefish fisheries.

Rationale for Establishing Standard Allowances for Ice and Slime

Accurately accounting for the harvest of IFQ species is one of the important features of the IFQ program. This action is being proposed to prevent inaccurate accounting of harvests caused by up to 15 percent of the industry adjusting by up to 9 percent the ''initial accurate weight of . . . product obtained at the time of landing'' they are required to report to NMFS to account for ice and slime on unwashed Pacific halibut and sablefish managed under the IFQ program. The present regulations neither establish standard allowances for ice and slime nor allow participants to adjust the weights for reporting purposes to account for ice and slime.

NMFS believes that allowances for ice and slime should be made when it debits an IFQ account and proposes to apply uniform allowances for unwashed product. To ensure that NMFS can determine the actual amount of Pacific halibut and sablefish harvested by participants, deductions cannot be allowed to vary from 0 to 9 percent as anecdotal information from the industry suggests and must be applied to all product containing ice and slime.

Further, anecdotal reports from the industry indicate that some purchasers of IFQ halibut and IFQ sablefish have used deductions as a method to induce participants to deliver their harvest to them. For instance, if a purchaser of IFQ product uses a larger percentage deduction for ice and slime, a smaller amount of IFQ halibut or IFQ sablefish is reported for debiting a participant's IFQ account. This method of ''capturing'' a participant's business is unfair to other purchasers of IFQ halibut and sablefish who do not make any adjustment or who at least use a smaller, more accurate percentage for the deduction, and could harm the resource, a portion of which is being harvested but not accounted for, because it is reported as ''ice and slime'' by the purchaser. Establishing standard allowances for ice and slime and having NMFS apply them for all participants would ''level the playing field'' for IFQ purchasers and participants.

This proposed rule would incorporate in the conversion factors used by NMFS when debiting halibut IFQ accounts a standard allowance for ice and slime for unwashed IFQ halibut product of 2 percent. This allowance is based on long-standing industry convention. For example, the Canadian Department of Fisheries and Oceans, uses a 2-percent allowance for ice and slime on its Halibut Validation Log. This allowance has been accepted by the International Pacific Halibut Commission, the international body entrusted with the primary responsibility for managing Pacific halibut. Processors in the United States have also used a 2-percent allowance for ice and slime when purchasing unwashed Pacific halibut.

This proposed rule also would incorporate in the product recovery rates used by NMFS when debiting sablefish IFQ accounts, a 2-percent allowance for ice and slime. While a 2-percent allowance was proposed by members of the fishing industry, relatively little data exist on the proportion of ice and slime in sablefish landings, since sablefish is a newly exploited fishery resource when compared to Pacific halibut. NMFS particularly requests comments on the appropriateness of a 2-percent deduction for ice and slime for unwashed IFQ sablefish.

Management Action That Would Establish Standard Allowances for Ice and Slime for IFQ Halibut and Sablefish Products Landed Unwashed

This proposed rule would revise the conversion factors and product recovery rates used by NMFS when debiting IFQ accounts to provide a 2-percent allowance to account for ice and slime on IFQ halibut and IFQ sablefish products landed unwashed. The conversion factors and recovery rates would not be used for IFQ halibut or IFQ sablefish products landed washed since ice and slime would be removed by washing before weighing. Because conversion factors and product recovery rates are applied by NMFS by product code, the following new product codes would be established and codified: Product code 51—Whole fish/food fish with ice and slime (sablefish only); product code 54—Gutted only with ice and slime (Pacific halibut and sablefish); product code 55—Headed and gutted with ice and slime (Pacific halibut only); product code 57—Headed and gutted, Western cut, with ice and slime (sablefish only); and product code 58—Headed and gutted, Eastern cut, with ice and slime (sablefish only). The IFQ landing report regulations would continue to require that the participants accurately report the scale weight actually measured at time of landing without any adjustments. Recording any amount on the IFQ landing report that is different from the scale weight actually measured at time of landing would be a violation subject to penalty.

Other Changes That Would Be Made by This Action

The following changes would be made to the regulatory text found at 50 CFR 679.5(l)(1)(iv) and 50 CFR 679.42(c) to clarify ambiguities concerning IFQ program requirements and deducted amounts.

First, the information required by 50 CFR 679.5(l)(1)(iv) to be reported by IFQ landing reports would be clarified by changing the words ''fish product weight of sablefish and halibut landed'' to ''the scale weight actually measured at the time of landing of the halibut or sablefish product.''

Second, the requirement to ''sign any required fish ticket'' in § 679.42(c)(3) would be separated from the requirement to sign the IFQ landing report. Separating those requirements would clarify that the IFQ landing report is the exclusive source of data used by NMFS to debit an IFQ account. This was always the case, notwithstanding the confusion caused by the two requirements being combined in the current regulations. Deductions to an IFQ account would continue to be calculated by NMFS using the scale weight actually measured at the time of landing and reported on the IFQ landing report and, if halibut, multiplying by the appropriate conversion factor, or if sablefish, dividing it by the appropriate product recovery rate based on the product code reported in the IFQ landing report. The scale weight actually measured at the time of landing (referred to in the current regulations as initial accurate scale weight of the [halibut or sablefish] product obtained at the time of landing) and reported in the IFQ landing report would continue to be the exclusive source used by NMFS to make all other IFQ calculations (e.g., underages and the 10-percent adjustment policy).

Third, the regulatory text in § 679.42(c)(3) (i) and (ii) explaining exactly what amount for debit against an IFQ account must be reported to NMFS would be eliminated, since that will now appear in 50 CFR 679.5(l)(1)(iv), the remaining language in § 679.42(c)(3) (i) and (ii) would be moved to § 679.42(c)(2), and new language would be added to § 679.42(c)(2) specifying that the IFQ landings report will be the only source of data used by NMFS for debiting an account.

Because time and locality are critical elements to the landing process, existing 50 CFR 679.5(l)(1)(ii)(A) requires landing reports to be submitted to NMFS within 6 hours after fish are offloaded and prior to shipment or

departure of the delivery vessel from the landing site, whichever occurs first. Therefore, the scale measurement must be made during that period and before the IFQ halibut or IFQ sablefish are shipped. That means that a scale measurement must occur prior to moving the IFQ halibut or IFQ sablefish away from the landing site.

Classification

Section 304(b) of the Magnuson-Stevens Act requires NMFS, upon transmittal by the Council of proposed regulations prepared under section 303(c), to immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act, and other applicable laws. Within 15 days of initiating such evaluation, NMFS shall make a determination. If that determination is affirmative, NMFS must publish such regulations in the **Federal Register**, with such technical changes as may be necessary for clarity and an explanation of those changes, for a comment period of 15 to 60 days. If that determination is negative, NMFS must notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act, and other applicable laws. Furthermore, the Northern Pacific Halibut Act authorizes the Secretary of Commerce to promulgate regulations concerning halibut proposed by the Council that are in addition to, and not in conflict with regulations adopted by the International Pacific Halibut Commission. This proposed rule was determined to be consistent with the applicable fishery management plan and all applicable laws.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities as follows:

This proposed rule, by establishing standard allowances for ice and slime found on Pacific halibut and sablefish managed under the IFQ program, is intended to account more accurately for the actual weight of IFQ halibut and sablefish landed by IFQ program participants. Although the implementation of standard allowances for ice and slime on IFQ halibut and sablefish is likely to affect a substantial number of small entities (i.e., all small entities that harvest and deliver fresh IFQ halibut or IFQ sablefish, and all small entities that receive fresh IFQ halibut or IFQ sablefish), the action would not result in any adverse impacts. Presently, no adjustment for ice and slime is allowed or made. A standard 2-percent allowance for unwashed halibut and sablefish would provide a benefit to all IFQ fisherman delivering unwashed halibut or sablefish by increasing their annual gross revenues by an estimated 2 percent with no change in their production or compliance costs. Establishing these allowances would not affect the revenues or costs of small entities that receive fresh IFQ halibut or fresh IFQ sablefish.

As a result, a regulatory flexibility analysis was not prepared.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: June 10, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq,* and 3631 *et seq.*

2. In § 679.5, paragraph (l)(1)(iv) is revised to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(1) * * *

(iv) *Information required.* Information contained in a complete IFQ landing report shall include: Date, time, and location of the IFQ landing; names and permit numbers of the IFQ card holder and registered buyer; product type landed; product type landed; and the scale weight of the product as actually measured at the time of landing.

* * * * *

3. In § 679.42, paragraph (c) is revised to read as follows:

§ 679.42 Limitation on use of QS and IFQ.

* * * * *

(c) *Requirements and deductions.* (1) Any individual who harvests halibut or sablefish with fixed gear must:

(i) Have a valid IFQ card.

(ii) Be aboard the vessel at all times during the fishing operation.

(iii) Sign any required fish ticket.

(iv) Sign the IFQ landing report required by § 679.5(l)(1)(iv).

(2) The scale weight of the halibut or sablefish product actually measured at the time of landing, required by § 679.5(l)(1)(iv) to be included in the IFQ landing report, shall be the only source of information used by NMFS to debit an IFQ account. An IFQ account will be debited as follows:

(i) For sablefish product, dividing the scale weight actually measured and reported at the time of landing by the product recovery rate found in Table 3 of this part that corresponds to the product code reported in the IFQ landing report; or

(ii) For halibut product, multiplying the scale weight actually reported at the time of landing by the conversion factor listed in paragraph (c)(2)(iii) of this section that corresponds to the product code reported in the IFQ landing report.

(iii) *Halibut conversion factors.*

Product code	Product description	Conversion factor
04	Gutted, head on	0.90
05	Gutted, head off	1.00
54	Gutted, head on, with ice and slime.	0.88
55	Gutted, head off, with ice and slime.	0.98

4. In 50 CFR part 679, Table 1 is amended by adding the following fish product codes/descriptions in numerical order:

TABLE 1 TO PART 679—PRODUCT CODES

Fish product code	Description
	* * * * *
5	*Headed and gutted.* Pacific halibut only
	* * * * *
51	*Whole fish/food fish with ice and slime.* Sablefish only.
54	*Gutted only with ice and slime.* Belly slit and visera removed. Pacific halibut and sablefish only.
55	*Headed and gutted with ice and slime.* Pacific halibut only.
57	*Headed and gutted, Western cut, with ice and slime.* Sablefish only.
58	*Headed and gutted, Eastern cut, with ice and slime.* Sablefish only.
	* * * * *

5. In 50 CFR part 679, Table 3 is revised by adding new product code columns with the following descriptions and product code numbers between Column 37 (Butterfly Backbone Removed) and Column 96 (Decomposed Fish) and adding the following product recovery rate values for the listed FMP species ''SABLEFISH'' in new columns 51, 54, 57, and 58:

TABLE 3 TO PART 679.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES—CONTINUED

FMP species	Species code	Product code			
		Whole fish/ food fish with ice and slime	Gutted with ice and slime	H&G western cut with ice and slime	H&G eastern cut with ice and slime
		51	54	57	58
* * * * * * *					
Sablefish	710	1.02	0.91	0.70	0.65
* * * * * * *					

[FR Doc. 97–15704 Filed 6–16–97; 8:45 am]
BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 62, No. 116

Tuesday, June 17, 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

Federal Crop Insurance Corporation

Crop Revenue Coverage

ACTION: Notice of availability.

SUMMARY: In accordance with section 508(h) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) approves for reinsurance and subsidy the insurance of wheat in select states and counties under the Crop Revenue Coverage (CRC) plan of insurance for the 1998 crop year. This notice is intended to inform eligible producers and the private insurance industry of the availability of the CRC plan of insurance for wheat and its terms and conditions.

FOR FURTHER INFORMATION CONTACT: Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri, 64131, telephone (816) 926–7387.

SUPPLEMENTARY INFORMATION: Section 508(h) of the Act allows for the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy in accordance with section 508(e) of the Act.

In accordance with the Act, the Board approved a program of insurance known as CRC, originally submitted by American Agrisurance, a managing general agency for Redland Insurance Company.

The CRC program has been approved for reinsurance. CRC is designed to protect producers against both price and yield losses. CRC provides a harvest revenue guarantee that pays losses from the established yield coverage at a higher price if the harvest time price is higher than the spring price.

Beginning with the 1996 crop year, the CRC program was available for corn and soybeans in all counties in Iowa and Nebraska and was expanded to include wheat in Kansas, Michigan, Nebraska, South Dakota, Texas, Washington, and select counties in Montana. Beginning with the 1997 crop year, the CRC program was available for cotton, grain sorghum and spring wheat in selected states and counties. Beginning with the 1998 crop year, the CRC program is available for wheat in select states and counties. FCIC herewith gives notice of the availability of the CRC program of insurance for wheat for use by private sector insurance companies for the 1998 crop year.

Upon a written request, FCIC will provide the CRC underwriting rules, rate factors and forms for fall wheat. FCIC will also make available the terms and conditions of the CRC reinsurance agreement. Requests for such information should be sent to Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation at the above stated address.

Notice: The Basic Provisions, Crop Provisions, and Optional Endorsement for the CRC wheat program of insurance are as follows.

Crop Revenue Coverage Insurance Policy

(This is a continuous policy for crop year 1997–1998. Refer to section 2.)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the authority of section 508(h) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1508 (h)). The provisions of the policy may not be waived or varied in anyway by the crop insurance agent or any other agent or employee of the Company. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by the FCIC. No state guarantee fund will be liable to pay your loss. Throughout this policy, ''you'' and ''your'' refer to the named insured shown on the accepted application and ''we'', ''us'' and ''our'' refer to the Company. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If a conflict exists between the Basic Provisions contained herein and the specific Crop Provisions, the Crop Provisions will control.

Basic Provisions

Terms and Conditions

1. *Definitions.* As used in this policy these terms are defined as follows:

(a) Abandon—Failure to continue providing sufficient care (For example, cultivation, irrigation, fertilization, application of chemicals, etc., consistent with good farming practices) for the insured crop to make normal progress toward harvest or maturity, or failure to harvest in a timely manner if harvest is practicable.

(b) Acreage report—A report required by section 6 of these Basic Provisions which contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county whether insurable or not insurable. This report must be filed not later than the final acreage reporting date contained in the Special Provisions for the county for the insured crop.

(c) Acreage reporting date—The date (contained in the Special Provisions) by which you are required to submit your acreage reports.

(d) Another use, notice of—The written notice required when you wish to put acreage to another use (see section 14 of these Basic Provisions).

(e) Application—The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If a break in insurance coverage occurs, a new application must be filed.

(f) Approved yield—The average amount of production per acre obtained under the Actual Production History Program (7 CFR part 400, subpart G) using production records of the insured or yields assigned by FCIC. At least four crop years of yields must be averaged to obtain the approved yield.

(g) Assignment of indemnity—A transfer of policy rights, made on our

form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

(h) CRC rate—A premium rate, as set forth in the County Actuarial Table, used to calculate the risk associated with producing a level of production.

(i) CRC low price factor—A premium factor, as set forth in the County Actuarial Table, used to calculate the risk associated with a decrease in the Harvest Price relative to the Base Price.

(j) CRC high price factor—A premium factor, as set forth in the County Actuarial Table, used to calculate the risk associated with an increase in the Harvest Price relative to the Base Price.

(k) Cancellation date—The calendar date specified in each Crop Provision on which that Crop Provision will automatically renew unless canceled in writing by either you or us.

(l) Claim for indemnity—A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 14 of these Basic Provisions).

(m) Consent—Approval in writing by us allowing you to take a specific action.

(n) Contract—A contract for insurance between you and us consisting of the accepted Application, these Basic Provisions, the Crop Provisions, the Special Provisions, the County Actuarial Table for the insured crops, and the applicable regulations as published at 7 CFR part 400.

(o) Contract change date—The calendar date by which we make any contract (policy language or program date) changes available for inspection in the agent's office (see section 4 of these Basic Provisions).

(p) County—The county or other political subdivision of a state shown on your accepted application and includes acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

(q) County actuarial table—The forms and related material for the crop year which show coverage levels, premium rates, practices, insurable acreage, and other related information regarding crop insurance in the county.

(r) Coverage—The insurance provided by this policy against an insured loss of revenue by unit as shown on your summary of coverage.

(s) Coverage begins, date—The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date after planting is started on the unit (see section 11 of these Basic Provisions).

(t) Crop provisions—The part of the policy that contains the specific provisions of insurance for each insured crop.

(u) Crop year—The period within which the insured crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

(v) Damage—Injury, deterioration, or loss of revenue of the insured crop due to insured or uninsured causes.

(w) Damage, notice of—A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 14 of these Basic Provisions).

(x) Delinquent account—Any account you have with us in which premiums, or interest on those premiums is not paid by the termination date specified in the crop provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

(y) Earliest planting date—The earliest date established for planting the insured crop and qualifying for a replant payment if applicable (see Special Provisions and section 13 of these Basic Provisions).

(z) End of insurance period, date of—The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 11 of these Basic Provisions).

(aa) Final guarantee—The guaranteed dollar amount per acre of the insured crop on the unit.

(bb) FSA—The Farm Service Agency of the United States Department of Agriculture or a successor agency (formerly the Agricultural Stabilization and Conservation Service).

(cc) FSA farm serial number—The number assigned to the farm by the FSA county committee.

(dd) Insured—The named person as shown on the Application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application (see definition of ''Person'' in section 1(ii) of these Basic Provisions).

(ee) Insured crop—The crop defined under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

(ff) Loss, notice of—The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period (see section 14 of the Basic Provisions).

(gg) MPCI—Multiple peril crop insurance program, a program of insurance offered under the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act) and implemented in 7 CFR part 400.

(hh) Negligence—The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

(ii) Person—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

(jj) Policy—(see ''Contract'').

(kk) Practical to replant—Our determination, after loss or damage to the insured crop, based on factors, including, but not limited to moisture availability, condition of the field, time to crop maturity, and marketing, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

(ll) Premium billing date—The earliest date upon which you will be billed for insurance coverage based on your acreage report and which generally falls at or near harvest time.

(mm) Production report—A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 3). The report contains previous years yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

(nn) Reporting date—The acreage reporting date (contained in the Special Provisions) by which you are required to report all your insurable acreage in the county in which you have a share and your share at the time insurance attaches, and any acreage in which you have a share which is not insured (see section 9 of these Basic Provisions).

(oo) Representative sample—Portions of the insured crop or insured crop residue which are required to remain in the field for examination and review by our loss adjusters when making a crop appraisal if required by the crop provisions. The size of the samples are further specified in the crop provisions.

(pp) Sales closing date—The date contained in the Special Provisions which is the final date when an application may be filed. This is the last date for you to make changes in your crop insurance coverage for the crop year.

(qq) Section (for the purposes of unit structure)—A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

(rr) Share—Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, or is intended to cover the landlord's, or tenant's share of the crop (see section 10(b)), insurance will cover only the share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this policy. We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share. A lease containing provisions for *both* a minimum payment (such as a specified amount of cash , bushels, pounds, *etc.*,) *and* a crop share will be considered a crop share lease. A lease containing provisions for *either* a minimum payment *or* a crop share will be considered a cash lease.

(ss) Special provisions—The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

(tt) State—The state shown on your accepted application.

(uu) Summary of coverage—Our statement to you, by unit and specifying the insured crop based upon the information provided in your acreage report.

(vv) Tenant—A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of ''Share'' in section 1(rr) of these Basic Provisions).

(ww) Termination date—The calendar date contained in the Crop Provisions upon which your policy ceases for nonpayment of premium or any other amount due us under the policy.

(xx) Unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another specific entity on a share basis.

(For example, if, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units, one for each crop share lease and one for the two cash leases and the land you own.) Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop on such land will be considered as owned by the lessee (see section 1(rr) ''Share''). Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in the applicable crop provisions. Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. However, no further division may be made after the acreage report date for any reason.

(yy) USDA—The United States Department of Agriculture.

2. *Life Of Policy, Cancellation, And Termination.* (a) This continuous policy will be in effect for the 1997 and 1998 crop years only. After acceptance of the application, you may not cancel this policy the initial crop year. Thereafter, the policy will continue in force for the succeeding crop year unless canceled or terminated as provided below.

(b) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(c) All policies issued by us under the authority of the Act will terminate as of the coincidental or next termination date contained in these policies if any amount due us is not paid on or before the termination date for the crop on which the amount is due. Such unpaid debts will also make you ineligible for any crop insurance provided under the Act until payment is made. If we deduct any amount due us from an indemnity, the date of payment for the purpose of section 2(c) will be the date you sign the properly completed claim for indemnity.

(d) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(e) Your policy will terminate if no premium is earned for 3 consecutive years.

(f) The cancellation and termination dates are contained in the Crop Provisions.

(g) You are not eligible to participate in the Crop Revenue Coverage program if you are identified in the Non-standard Classification System or have elected the Catastrophic Risk Protection endorsement.

(h) If you execute a High Risk Land Exclusion Option for a Crop Revenue Coverage Policy, you may elect to insure the ''high risk land'' under a Catastrophic Risk Protection endorsement. If both policies are in force, the acreage of the crop covered under the Crop Revenue Coverage policy and the acreage covered under the Catastrophic Risk Protection endorsement will be considered as separate crops for insurance purposes including the payment of administrative fees.

3. *Coverage Level, Insurance Guarantee, Prices For Determining Indemnity.* (a) For each crop year the coverage level by which an indemnity will be determined for each unit will be that shown on your summary of coverage. The information necessary to determine those amounts will be contained in the Special Provisions or in the County Actuarial Table.

(b) You may select only one coverage level offered by us for each insured crop. By written notice to us you may change the coverage level for the following crop year not later than the sales closing date for the affected insured crop. If you do not change the coverage level for the succeeding crop year you will be assigned the same coverage level that was in effect the previous crop year.

(c) This policy is an alternative to the Multiple Peril Crop Insurance program and satisfies the requirements of section 508(b)(7) of the Act.

(d) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 calendar days after the cancellation date. If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75

percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your approved yield for the purpose of determining your coverage for the current crop year. If you have filed a claim for any crop year, the production used to determine the indemnity payment will be the production report for that year.

(e) We may revise your Final Guarantee for any farm unit, and revise any indemnity paid based on that Final Guarantee, if we find that your production report under section 3(d) above:

(1) Is not supported by written verifiable records (see section 1(mm) ''Production report''); or

(2) Fails to accurately report actual production.

4. *Contract Changes.* We may change the coverage available under this policy for the second year. Your crop insurance agent will have changes in policy provisions and program dates by the contract change date contained in the Crop Provisions. Your crop insurance agent will have changes in maximum amounts of insurance and premium rates 15 days before the cancellation date contained in the Crop Provisions. In addition, you will be notified, in writing, of these changes. Such notification will be made at least 30 days prior to the cancellation date of the insured crop for policy and program date changes, and 15 days prior to the cancellation date of the insured crop for changes in the maximum amounts of insurance and premium rates.

5. *Liberalization.* If we adopt any revisions which would broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

6. *Report of Acreage.* (a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date shown in the Special Provisions. This report must include the following information, if applicable:

(1) All acreage of the crop (insurable and not insured) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(b) If you do not have a share in any insured crop in the county for the crop year, you must submit an acreage report so indicating.

(c) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity which may be due, you may not revise this report after the acreage reporting date without our consent.

(d) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances which we determine to have actually existed.

(e) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine, by unit, the insurable crop acreage, share, type and practice or deny liability on any unit.

(f) If the information reported by you on the acreage report for a unit results in a lower premium than the actual premium determined to be due on the basis of the share, acreage, practice, type or other material information determined to actually exist, the Final Guarantee on the unit will be reduced proportionately. In the event that acreage is under-reported, all production or value from insurable acreage for the unit, whether or not reported as insurable, will be considered production or value to count in determining the indemnity.

(g) Errors in reporting units may be corrected by us to reduce our liability and to conform to applicable unit division guidelines at the time of adjusting a loss.

7. *Annual Premium.* (a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount due us under this policy will be deducted from any replant payment or indemnity due you under the provisions of this policy.

(c) The annual premium amount is determined by:

(1) Multiplying the Approved Yield times the coverage level, times the Base Rate specified in the County Actuarial Table, times the Base Price as defined in the County Actuarial Table;

(2) Multiplying the approved yield times the coverage level, times the CRC Rate specified in the County Actuarial Table, times the CRC Low Price Factor specified in the County Actuarial Table;

(3) Multiplying the Approved Yield times the coverage level, times the Base Rate specified in the County Actuarial Table, times the CRC High Price Factor specified in the County Actuarial Table;

(4) Adding items (1), (2), and (3) together;

(5) Multiplying the result of item (4) above times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Adjustment Factor; Rate Class Option Factor and; Option Factor specified in the County Actuarial Table;

(6) Multiplying the Approved Yield times the coverage level, times the Base Rate specified in the County Actuarial Table, times the MPCI Market Price Election, times the insured acres, times your share at the time coverage begins, and as applicable, times any Rate Map Adjustment Factor; Rate Class Option Factor and; Option Factor specified in the County Actuarial Table, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level as follows:

75%=0.235
70%=0.319
65%=0.417
60%=0.412
55%=0.503
50%=0.600

(7) Subtracting item (6) from item (5) above to determine the annual producer paid premium.

8. *Insured Crop.* (a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates and Final Guarantee have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the Special Provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) which is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions or unless we agree, in writing, to insure such crop; or

(6) used for wildlife protection or management.

9. *Insurable Acreage.* (a) Acreage planted to the insured crop in which you have a share is insurable unless it is acreage:

(1) On which a crop has not been planted or harvested in at least one of

the three previous crop years, unless FSA classifies such acreage as cropland;

(2) Which has been strip-mined, unless we agree in writing to insure such acreage;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) Which is planted with a crop other than the insured crop, unless allowed by the Crop Provisions; or

(5) Which is otherwise restricted by the Crop Provisions or Special Provisions.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and water, at the time coverage begins, to carry out a good irrigation practice.

(c) If acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as ''nonirrigated,'' or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage which we will insure to the amount allowed under any acreage limitation program established by the USDA if we notify you of that restriction prior to the sales closing date.

10. *Share Insured.* (a) You may only insure your share as defined in section 1(rr) of these Basic Provisions.

(b) You, as a landlord (or tenant), may insure your tenant's (or landlord's) share of the crop if evidence of the other party's approval of that insurance is demonstrated (Lease, Power of Attorney, etc.). The respective shares must be clearly set out on the acreage report and a copy of the other party's approval must be retained by us.

11. *Insurance Period.* Coverage begins on each unit or part of a unit, the later of: the date you submit your application, when the insured crop is planted, or on the calendar date for the beginning of the insurance period if specified in the Crop Provisions, and ends at the earliest of:

(a) Total destruction of the insured crop on the unit;

(b) Harvest of the unit;

(c) Final adjustment of a loss on a unit;

(d) The calendar date for the end of the insurance period contained in the Crop Provisions;

(e) Abandonment of the crop on the unit; or

(f) As otherwise specified in the Crop Provisions.

12. *Causes of Loss.* The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) The failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop if applicable.

13. *Replanting Payment.* (a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) If the information reported by you on the acreage report results in a lower premium than the actual premium determined to be due based on the acreage, share, practice, or type determined actually to have existed, the replanting payment will be reduced proportionately.

(e) No replanting payment will be paid for replanting any crop if we determine it is not practical to replant (see section 1(kk)).

14. *Duties In The Event Of Damage Or Loss.* Your Duties: (a) In case of damage or loss of revenue to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period);

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions; and

(4) Give us notice of your expected revenue loss not later than 45 days after the date the Harvest Price is published.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop which is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop.

We will not give such consent if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production for the insured crop on the unit and that any loss of production has been directly caused by one or more of the insured causes, specified in the Crop Provisions, during the insurance period.

(f) All notices required in section 14 of these Basic Provisions that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties: (a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:

(1) We reach agreement with you; or

(2) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30 day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the MPCI loss adjustment procedures established or approved by FCIC to determine production to count.

15. *Production Included In Determining Indemnities.* (a) The total production to be counted for a unit will include all production determined in accordance with the Crop Provisions.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field

appraisals conducted after the end of the insurance period.

16. *Crops As Payment.* You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

17. *Arbitration.* If you and we fail to agree on any factual determination, disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved pursuant to 7 CFR part 11.

18. *Access To Insured Crop And Record Retention.* (a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also upon our request, provide separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records may, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to units by us; or

(3) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the Act or by continuing insurance previously applied for, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, county FSA offices, banks, warehouses, gins, cooperatives, marketing associations, accountants, etc. You must assist us in obtaining all records which we request from third parties.

19. *Other Insurance.* (a) Other Like Insurance. You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the fraud provisions under this policy. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in section 19(a) of these Basic Provisions prevents you from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire.

If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, we will be liable for loss for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to any other insurance; or

(2) The amount by which the loss is determined to exceed the indemnity paid or payable under such other insurance.

For the purpose of section 19(b)(2) of these Basic Provisions, the amount of loss will be the reduction in revenue of the insured crop on the unit involved determined pursuant to this policy.

20. Conformity To Food Security Act. Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act, due to violation of the Controlled Substance Provision (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by the United States Department of Agriculture. Your insurance policy will be canceled if you are determined, by the appropriate United States Government Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you and your premium will be refunded less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid.

21. *Amounts Due us.*

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any part thereof, on any unpaid amount due us. For the purpose of premium amounts due us, interest will start on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under section 21(b) of these Basic Provisions will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see section 21(d) of these Basic Provisions), if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

22. *Legal Action Against us.* You may not bring legal action against us unless you have complied with all of the policy provisions.

23. *Payment And Interest Limitations.* We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year and may vary with each publication.

24. *Concealment, Misrepresentation Or Fraud.* This policy will be void in the event you have falsely or fraudulently concealed either the fact that you are restricted from receiving benefits under the Act or that action is pending which may restrict your eligibility to receive such benefits. We will also void this policy if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this or any other FCIC or FCIC reinsured policy. This voidance will not affect your obligation to pay premiums or waive any of our rights under this policy, including the right to collect any amount due us. The voidance will be effective as of the time coverage began for the crop year within which such act occurred.

25. *Transfer Of Coverage And Right To Indemnity.* If you transfer any part of your share during the crop year, you may transfer your coverage rights. The transfer must be on our form and approved by us. Both you and the

person to whom you transfer your interest are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

26. *Assignment Of Indemnity.* You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy.

27. *Subrogation (Recovery Of Loss From A Third Party).* Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

28. *Descriptive Headings.* The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

29. *Notices.* All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day. All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. You should advise us immediately of any change of address.

Crop Revenue Coverage Insurance Policy

Wheat Crop Provisions

This is a risk management program. This risk management tool may be reinsured under the authority provided by section 508(h) of the Federal Crop Insurance Act. If a conflict exists among the Crop Revenue Coverage Basic Provisions (Basic Provisions), these Wheat Crop Provisions, and the Special Provisions, the Special Provisions will control these Wheat Crop Provisions and the Basic Provisions and these Wheat Crop Provisions will control the Basic Provisions.

1. Definitions

(a) Adequate Stand—A population of live plants per unit of acreage which will produce at least the yield used to establish your Final Guarantee.

(b) Average Daily Settlement Price—Refer to the definition contained in the Commodity Exchange Endorsement—Wheat.

(c) Base Price—Refer to the definition contained in the Commodity Exchange Endorsement—Wheat.

(d) Calculated Revenue—The production to count multiplied by the Harvest Price.

(e) Days—Calendar days.

(f) Final Guarantee—The number of dollars guaranteed per acre determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—The Approved Yield per acre multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—The Approved Yield per acre multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

(g) Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full Final Guarantee.

(h) Good farming practices—Good farming practices are the cultural practices generally in use in the county for the insured crop to make normal progress toward maturity and produce at least the yield used to determine the Final Guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

(i) Harvest—Combining or threshing the insured crop for grain or cutting for hay or silage on any acreage. A crop which is swathed prior to combining is not considered harvested.

(j) Harvest Price—Refer to the definition contained in the Commodity Exchange Endorsement—Wheat.

(k) Initially planted—The first occurrence of planting the insured crop on insurable acreage for the crop year.

(l) Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(m) Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the Final Guarantee on the irrigated acreage planted to the insured crop.

(n) Late planted—Acreage planted to the insured crop during the late planting period.

(o) Late planting period—(not applicable for fall-planted wheat)—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

(p) Latest final planting date—(1) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate a final planting date for spring-planted acreage only;

(2) The final planting date for fall-planted acreage in all counties for which the Special Provisions designate a final planting date for fall-planted acreage only; or

(3) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate final planting dates for both spring-planted and fall-planted acreage.

(q) Local market price—The cash grain price per bushel for the U.S. No. 2 grade of the insured crop offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade of the insured crop. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein, oil or moisture content, or milling quality will not be considered.

(r) Nurse crop (companion crop)—A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

(s) Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted.

(t) Practical to replant—In lieu of the definition of ''practical to replant'' in the Basic Provisions, our determination, after loss or damage to the insured crop, based on factors, including but not

limited to moisture availability, condition of the field, time to crop maturity, etc., that a replanting of the insured crop will attain maturity in the remainder of the crop year. It will not be considered practical to replant after the end of the late planting period or the final planting date if a late planting period is not applicable except that it may be determined practical to replant after the end of the late planting period or the final planting date if such practice is generally occurring in the area (see section 7).

(u) Prevented planting—Inability to plant the insured crop with proper equipment by the latest final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period if applicable. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

(v) Prevented planting guarantee—The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 12(d).

(w) Replanting—Performing the cultural practices necessary to replace the seed of the same insured crop, and replacing the seed for the same crop in the insured acreage with the expectation of growing a successful crop.

(x) Swathed—Severance of the stem and grain head from the ground without removal of the seed from the head and placing into a windrow.

(y) Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

(z) Wheat—Wheat for grain *only*.

2. Unit Division

Unless limited by the Special Provisions, a unit as defined in section 1(xx) of the Basic Provisions, may be divided into optional units if, for each optional unit you claim, all the conditions of this section are met, or if we agree to such division in writing. Optional units must be established at the time you file your report of acreage for each crop year.

(a) You must have verifiable records of planted acreage and production for each optional unit for at least the last crop year used to determine your Final Guarantee.

(b) You must plant the crop in a manner which results in a clear and discernable break in the planting pattern at the boundaries of each optional unit.

(c) You must have measurements of stored production or records of marketed production from each optional unit in a manner that permits us to verify the production from the optional unit.

(d) Each optional unit must meet one or more of the following:

(1) Optional Units by Section, Section Equivalent, or FSA Farm Serial Number: Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas which have not been surveyed using the systems identified above or another system approved by us, and in areas where boundaries are not readily discernable, each optional unit must be located in a separate FSA Farm Serial Number.

(2) Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices: In addition to or instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be established if each optional unit contains only irrigated acreage or only non-irrigated acreage. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your Final Guarantee is based. You must plant, cultivate, fertilize, or otherwise care for the irrigated acreage and the non-irrigated acreage in an appropriate manner.

(3) Optional Units by Initially Planted Winter Wheat or Initially Planted Spring Wheat: In addition to or instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number as described in section 2(d)(1) or by irrigated and non-irrigated practices as described in section 2(d)(2), optional units may be established if each optional unit contains only initially planted winter wheat or only initially planted spring wheat. Optional units may be established in this manner only in counties having both fall and spring final planting dates as designated by the Special Provisions.

(e) Basic units may not be divided into optional units on any basis (production practice, type, variety, planting period, etc.) other than as described under this section. If you do not comply fully with these conditions, we will combine all optional units which are not established in compliance with these provisions into the basic unit from which they were formed. We may do this at any time we discover that you have failed to comply with these conditions. If failure to comply with these provisions is determined to be inadvertent, and if the optional units are combined, the premium paid for electing optional units will be refunded to you.

3. Coverage Level

In addition to the requirements of section 3 (Coverage Level) of the Basic Provisions, all the insurable wheat in the county insured as grain under this policy will have the same coverage level election.

4. Contract Changes

In accordance with section 4 (Contract changes) in the Basic Provisions, the contract change date is December 31 preceding the cancellation date for counties with a March 15 cancellation date and June 30 preceding the cancellation date for all other counties

5. Cancellation and Termination Dates

The cancellation and termination dates are:

Crop, state and county	Cancellation date	Termination date
Wheat		
All Colorado counties except Alamosa, Archuleta, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, and San Miguel Counties; all Iowa counties except Plymouth, Cherokee, Buena Vista, Pocahontas, Humbolt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties and all Iowa counties north thereof; all Wisconsin counties except Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties and all Wisconsin counties north and west thereof; and all other states except Alaska, Arizona, California, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.	September 30 ...	September 30.

Crop, state and county	Cancellation date	Termination date
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Idaho; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, and all Iowa counties north thereof; Massachusetts; all Montana counties except Daniels, Roosevelt, Sheridan, and Valley Counties; New York; Oregon; Rhode Island; all South Dakota counties except Harding, Perkins, Corson, Walworth, Edmonds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties and all South Dakota counties north and east thereof; Washington; and all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie Counties.	September 30 ...	November 30.
Matanuska-Susitna County, Alaska; Arizona; California; Nevada; and Utah	October 31	November 30.
All Alaska counties except Matanuska-Susitna County; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Harding, Perkins, Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota, and all South Dakota counties north and east thereof; Vermont; Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin, and all Wisconsin counties north and west thereof; Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	March 15	March 15.

6. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions, the crop insured will be wheat you elect to insure, that is grown in the county on insurable acreage, and for which premium rates are provided by the County Actuarial Table:

(1) In which you have a share;

(2) That is planted for harvest as grain;

(3) That is not:

(i) Interplanted with another crop;

(ii) Planted into an established grass or legume; or

(iii) Planted as a nurse crop, unless planted as a nurse crop for new forage seeding, but only if seeded at a normal rate and intended for harvest as grain.

(b) If you anticipate destroying any acreage prior to harvest you:

(1) May report all planted acreage when you report your acreage for the crop year and specify any acreage to be destroyed as uninsurable acreage. (By doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not destroy such acreage, you will be subject to the under-reporting provisions contained in section 6(f) of the Basic Provisions); or

(2) If the County Actuarial Table provides a reduced premium rate for acreage destroyed by a date designated in the Special Provisions, you may report all planted acreage as insurable when you report your acreage for the crop year. Premium will be due on all the acreage. Your premium amount will be reduced by the amount shown on the County Actuarial Table for any acreage you destroy prior to a date designated in the Special Provisions if you do not claim an indemnity on such acreage. In accordance with section 14(b) of the Basic Provisions, you must obtain our consent before and give us notice after you destroy any of the insured crop so your acreage report can be revised to make you eligible for this reduction in premium.

(c) In counties for which the Wheat Special Provisions designate both fall and spring final planting dates, you may elect a winter wheat coverage endorsement. This endorsement provides two options for alternative coverage for wheat that is damaged between the fall final planting date and the spring final planting date. Coverage under the endorsement will be effective only if you designate the coverage option you elect by executing the endorsement by the sales closing date for winter wheat in the county.

7. Insurance Period

In lieu of the requirements under section 11 (Insurance Period) of the Basic Provisions, and subject to any provisions provided by the Winter Wheat Coverage Endorsement if you have elected such endorsement, the insurance period is as follows:

(a) Insurance attaches on each unit or part thereof on the later of the date we accept your application or the date the insured crop is planted subject to the following limitations:

(1) The acreage must be planted on or before the final planting date designated in the Special Provisions for the type (winter or spring) except as allowed in section 12(c).

(2) Whenever the Special Provisions designate only a fall final planting date, any acreage of winter wheat damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(3) Whenever the Special Provisions designate both fall and spring final planting dates, winter wheat planted on or before the fall final planting date which is damaged:

(i) Before the fall planting final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(ii) On or after the fall final planting date, but before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to an appropriate variety of the insured crop unless we agree that replanting is not practical.

If you have elected coverage under one of the available Winter Wheat Coverage Endorsement Options available in the county, the insurance period for wheat will be in accordance with the selected option.

(4) Whenever the Special Provisions designate only a spring final planting date:

(i) Any acreage of spring wheat damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree that replanting is not practical; and

(ii) Whenever the Special Provisions designate only a spring final planting date, any acreage of fall planted wheat is not insured unless you request such coverage and we agree in writing that the acreage has an adequate stand in the spring to produce the yield used to determine your Final Guarantee. Insurance will then attach to acreage having an adequate stand on the earlier of the spring final planting date or the date we agree to accept the acreage for insurance. If such fall planted acreage is not to be insured it must be recorded on

the acreage report as an uninsured fall planted crop.

(b) Insurance ends on each unit at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on the unit;

(4) September 25 following planting in Alaska, or October 31 of the calendar year in which the crop is normally harvested in all other states; or

(5) Abandonment of the crop on the unit.

8. Causes of Loss

In addition to the provisions under section 12 (Causes of Loss) of the Basic Provisions, any loss covered by this policy must occur within the insurance period. The specific causes of loss for wheat are:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage allowed because of insufficient or improper application of pest control measures;

(d) Plant disease, but not damage allowed because of insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply; or

(i) A Harvest Price that is less than the Base Price.

9. Replanting Payments

(a) A replant payment for wheat only is allowed as follows:

(1) You comply with all requirements regarding replanting payments contained under section 13 (Replanting Payment) of the Basic Provisions and in any winter wheat coverage endorsement for which you are eligible and which you have elected;

(2) The wheat must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage;

(3) The acreage must have been initially planted to spring wheat in those counties with only a spring final planting date;

(4) The damage must occur after the fall final planting date in those counties where both a fall and spring final planting date are designated;

(5) Replanting must take place not later than 25 days after the spring final planting date; and

(6) The replanted wheat must be seeded at a rate that is normal for initially planted wheat (if new seed is planted at a reduced seeding rate into a partially damaged stand of wheat, the acreage will not be eligible for a replanting payment).

(b) No replanting payment will be made for acreage initially planted to winter wheat in any county for which the Special Provisions contain only a fall final planting date.

(c) In accordance with section 13(c) of the Basic Provisions, the maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or 3 bushels, times the Base Price times your share.

(d) When wheat is replanted using a practice that is uninsurable for an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

In addition to your duties under section 14 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or for any

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured unit of wheat by:

(1) Multiplying the insured acreage of wheat by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result by your share.

If the result of section 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be due.

(c) The total production (bushels) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for acreage:

(A) Which is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(d));

(iv) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If:

(A) Agreement on the appraised amount of production is not reached, you may elect to continue to care for the crop, or we will give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.

(B) You elect to continue to care for the crop, we will determine the amount of production to count for the acreage using the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested production from the insurable acreage.

(d) Mature wheat production may be adjusted for excess moisture and quality deficiencies.

(1) Production will be reduced by .12 percent for each .1 percentage point of moisture in excess of 13.5 percent for wheat. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in wheat not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight, total damaged kernels (excluding heat damage), shrunken or broken kernels, or defects (excluding foreign material and heat damage), or grading garlicky, light smutty, smutty or ergoty;

(ii) Substances or conditions are present, including mycotoxins, that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is specified in section 8;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grain grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Production of wheat that is eligible for quality adjustment, as specified in sections 11(d)(2) and 11(d)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Late Planting and Prevented Planting

(a) In lieu of section 8(b)(2) and section 1(hh) of the Basic Provisions, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 12(c)), and acreage you were prevented from planting (see section 12(d)). These coverages provide reduced guarantees. The reduced guarantees will be combined with the Final Guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage). For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the Final Guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre Final Guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre Final Guarantee for timely planted acreage by 93 percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre Final Guarantee for timely planted acreage by:

(i) Fifty percent (0.50) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(ii) Twenty-five percent (0.25) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the latest final planting date for the insured crop.

The total of the three calculations will be the Final Guarantee for the unit. Your premium will be based on the result of multiplying the per acre Minimum Guarantee for timely planted acreage by the 150 acres in the unit.

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

(c) Late planting. (1) For spring-planted wheat acreage in counties for which the Special Provisions designate a spring final planting date, the Final Guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) per day for the first through the tenth day; and

(ii) Two percent (.02) per day for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions, you must report the dates the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting the insured crop, you may elect:

(i) To plant the insured crop during the late planting period. The Final Guarantee for such acreage will be determined in accordance with section 12(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the Prevented Planting Guarantee for such acreage will be 50 percent of the final guarantee for timely planted acres. In counties for which the Special Provisions designate a spring final planting date, the Prevented Planting Guarantee will be based on your Final Guarantee for spring-planted acreage of the insured crop. For example, if your Final Guarantee for timely planted acreage is 120 dollars per acre, your prevented planting guarantee would be 60 dollars per acre (120 dollars multiplied by 0.50). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with sections 11(c) through (e); or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No Prevented Planting Guarantee will be provided for such acreage if the substitute crop is planted on or before the tenth day following the latest final planting date for the insured crop; or

(B) A Prevented Planting Guarantee equal to 25 percent of the Final Guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the tenth day following the latest final planting date for the insured crop. If you elected to exclude this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your Final Guarantee for timely planted acreage is 120 dollars per acre, your prevented planting guarantee

would be 30 dollars per acre (120 dollars multiplied by 0.25). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Proof may be required that you had the inputs available to plant and produce the intended crop with the expectation of at least producing the Minimum Guarantee.

(3) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions, the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for wheat for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for the insured crop in the county. If the wheat coverage remains in effect for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year, except the policy may have been canceled to transfer the policy to a different insurance provider, if there is no lapse in coverage), prevented planting coverage for the 1999 crop year began on the 1998 sales closing date.

(4) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to the insured crop on the FSA Farm Serial Number during the previous crop year; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to the insured crop during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) Prevented planting coverage will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the County Actuarial Table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop (see section 12(d)(1)(ii)) or a substitute crop (see section 12(d)(1)(iii))) unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years;

(F) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of acres of the insured crop that are timely planted and late planted, if the late planting period is applicable. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(5) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions, you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted acreage of the insured crop in counties for which the Special Provisions designates a spring final planting date, or the acreage reporting date for fall-planted acreage of the insured crop in counties for which the Special Provisions designates a fall final planting date only. For the purpose of determining acreage eligible for a Prevented Planting Guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

Crop Revenue Coverage

Optional Endorsement

Winter Wheat Coverage Endorsement

(This is a Continuous Endorsement)

_____

Insured's Name and Address

_____

Town, State, Zip Code

_____

Agency Name and Address

_____

Town, State, Zip Code

Policy No.: _____

Crop Year Effective: _____

Option Selected (Check One and sign below)
A ____ B ____

(a) In return for payment of the additional premium designated in the County Actuarial Table, this endorsement is attached to and made a part of your Crop Revenue Coverage policy provisions subject to the terms and conditions described herein.

(b) This endorsement is available only in counties for which the Special Provisions designate both a fall final planting date and a spring final planting date.

(c) This endorsement modifies the provisions of sections 7 and 11 of the Crop Revenue Coverage Wheat Crop Provisions (Wheat Crop Provisions).

(1) You must have a Crop Revenue Coverage policy in force and elect to insure wheat under that policy.

(2) You may select either Option A or Option B. Failure to select either Option A or Option B means that you have rejected both Options and this endorsement would be void.

(3) Insurance Period. Coverage under this endorsement begins on the later of the date we accept your application for coverage or on the fall final planting date designated in the Special Provisions. Coverage ends on the spring final planting date designated in the Special Provisions.

(4) The provisions under section 14 of the Crop Revenue Coverage Basic Provisions (Basic Provisions) are amended to require that all notices of damage must be provided to us by the spring final planting date designated in the Special Provisions.

Option A

(30 Percent Coverage and Acreage Release)

Whenever any winter wheat is damaged during the insurance period (see section (c) (3) above), and at least 20 acres or 20 percent of the acreage in the unit, whichever is less, does not have an adequate stand to produce at least 90 percent of the Minimum Guarantee for the acreage (to calculate the actual percentage, multiply the appraised production determined in accordance with section 11(c)(1) of the applicable Wheat Crop Provisions times the Base Price and then divide that quantity by the Minimum Guarantee), you may, at your option, take one of the following actions:

(a) Destroy the remaining crop on such acreage. By doing so, you agree to accept an amount of Calculated Revenue to count against the unit Final Guarantee equal to 70 percent of the Final Guarantee for the damaged acreage, or an appraisal determined in accordance with section 11(c)(1) of the applicable Wheat Crop Provisions if such an appraisal results in a greater amount of Calculated Revenue. This amount will be considered Calculated Revenue in determining any final indemnity on the unit and will be used to settle your claim as described in the provisions under section 11 (Settlement of Claim) of the applicable Wheat Crop Provisions. You may use such acreage for any purpose, including planting and separately insuring any other crop. If you elect to utilize such acreage for the production of spring wheat, you must:

(1) Plant the spring wheat in a manner which results in a clear and discernible break in the planting pattern at the boundary between it and any remaining winter wheat; and

(2) Store or market the production from such acreage in such a manner which permits us to verify the amount of spring wheat production separately from any winter wheat production.

In the event you are unable to provide records of production that are acceptable to us, the spring wheat acreage will be considered to be a part of the original winter wheat unit. If you elected to insure the spring wheat acreage as a separate optional unit, any premium amount for such acreage will be considered earned and payable to us.

(b) Continue to care for the damaged crop. By doing so, coverage will continue under the terms of the Basic Provisions, applicable Wheat Crop Provisions, and this Option.

(c) Replant the acreage to an appropriate variety of wheat, if it is practical, and receive a replanting payment in accordance with the terms of section 9. (Replanting Payments) of the applicable Wheat Crop Provisions. By doing so, coverage will continue under the terms of the Basic Provisions, the applicable Wheat Crop Provisions, and this Option, and the Final Guarantee for winter wheat will remain in effect.

Option B

(With Full Winter Damage Coverage)

Whenever any winter wheat is damaged during the insurance period (see section (c)(3) above), and at least 20 acres or 20 percent of the acreage in the unit, whichever is less does not have an adequate stand to produce at least 90 percent of the Minimum Guarantee for the acreage (to calculate the actual percentage, multiply the appraised production determined in accordance with section 11(c)(1) of the applicable Wheat Crop Provisions times the Base Price and then divide that quantity by the Minimum Guarantee), you may, at your option, take one of the following actions:

(a) Continue to care for the damaged crop. By doing so, coverage will continue under the terms of the Basic Provisions, the applicable Wheat Crop Provisions, and this Option.

(b) Replant the acreage to an appropriate variety of wheat, if it is practical, and receive a replanting payment in accordance with the terms of section 9 (Replanting Payments) of the applicable Wheat Crop Provisions. By doing so, coverage will continue under the terms of the Basic Provisions, the applicable Wheat Crop Provisions, and this Option, and the Final Guarantee for winter wheat will remain in effect.

(c) Accept our appraisal of the crop on the damaged acreage as Calculated Revenue to count against the Final Guarantee for the damaged acreage, destroy the remaining crop on such acreage, and be eligible for any indemnity due under the terms of the Basic Provisions and the applicable Wheat Crop Provisions. The appraisal will be considered Calculated Revenue in determining any final indemnity on the unit and will be used to settle your claim as described in the provisions of section 11 (Settlement of Claim) of the applicable Wheat Crop Provisions. You may use such acreage for any purpose, including planting and separately insuring any other crop. If you elect to utilize such acreage for the production of spring wheat, you must:

(1) Plant the spring wheat in a manner which results in a clear and discernible break in the planting pattern at the boundary between it and any remaining winter wheat; and

(2) Store or market the production from such acreage in a manner which permits us to verify the amount of spring wheat production separately from any winter wheat production.

In the event you are unable to provide records of production that are acceptable to us, the spring wheat acreage will be considered to be a part of the original winter wheat unit. If you elected to insure the spring wheat acreage as a separate optional unit, any premium amount for such acreage will be considered earned and payable to us.

_____
Agent's signature

_____
Date

_____
Insured's signature

_____
Date

Collection Of Information And Data (Privacy Act)

To the extent that the information requested herein relates to the information supplier's individual capacity as opposed to the supplier's entrepreneurial (business) capacity, the following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). The authority for requesting information to be furnished on this form is the Federal Crop Insurance Act, as amended, (7 U.S.C. 1501 *et seq.*) and the Federal Crop Insurance Regulations contained in 7 CFR chapter IV.

Collection of the Social Security Account Number (SSN) or the Employer Identification Number (EIN) is authorized by section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) and is required as a condition of eligibility for participation in the Federal crop insurance program. The primary use of the SSN or EIN is to correctly identify you, and any other person with an interest in your operation of 10 percent or more, as a policyholder within the systems maintained by the Federal Crop Insurance Corporation (FCIC). Furnishing the SSN/EIN is voluntary; however, failure to furnish that number will result in your being denied program participation and benefits.

The balance of the information requested is necessary for the insurance company and FCIC to process this form to provide insurance, provide reinsurance, determine eligibility, determine the correct parties to the agreement, determine and collect premiums or other monetary amounts (or fees), and pay benefits. The information furnished on this form will be used by Federal agencies, FCIC employees, insurance companies, and contractors who require such information in the performance of their duties. The information may be furnished to: FCIC contract agencies; employees and loss adjusters; reinsured companies; other agencies within the United States Department of Agriculture; the Internal Revenue Service; the Department of Justice, or other Federal or State Law enforcement agencies; credit reporting agencies and collection agencies; other Federal agencies as requested in computer matching programs; and in response to judicial orders in the course of litigation. Furnishing the information required by this form is voluntary; however, failure to report the correct, complete information requested may result in rejection of this form; rejection of any claim for indemnity, replanting payment, or other benefit; ineligibility for insurance; and a unilateral determination of any monetary amounts due.

Signed in Washington, DC, on June 11, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–15804 Filed 6–16–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Florida Citrus Fruit Crop Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date (acceptance of applications).

SUMMARY: Effective for the 1998 crop year only, the Federal Crop Insurance Corporation (FCIC) gives notice of its intention to extend the date for acceptance of Florida citrus fruit crop insurance applications for those counties where producers are offered Florida citrus fruit crop insurance. The sales closing date of April 30, 1997, shall be extended to June 30, 1997.

EFFECTIVE DATE: April 30, 1997.

FOR FURTHER INFORMATION CONTACT: Michael Hand, Claims and Underwriting Services Division, 1400 Independence Avenue, SW, Room 6749–S, Washington, D.C. 20250–0803, telephone (202) 720–3439.

SUPPLEMENTARY INFORMATION: FCIC's multiple peril crop insurance regulations require producers to file applications for crop insurance protection on or before the policy sales closing date to receive coverage. FCIC has determined that an extension of the sales closing date is needed for Florida counties in which Florida citrus fruit crop insurance is available. By extending the sales closing date, agents will have additional time to explain changes in the 1998 Florida citrus fruit crop provisions, such as coverage and rate changes, to carryover insureds and to complete their sales efforts with potential new insureds. It will also give growers more time to make crop insurance decisions for the 1998 crop year. The Manager of FCIC has determined that extension of the sales closing date for the 1998 Florida citrus fruit crop year in counties in which the Florida citrus fruit insurance is available will not adversely affect the actuarial status of the crop insurance program. Therefore, the Manager of FCIC has determined that the April 30 sales closing date shall be extended to June 30, 1997, for the Florida counties in which the Florida citrus fruit crop provisions is available.

Section 457.8(b) of the Common Crop Insurance Regulations, in part, authorizes the FCIC Manager to extend the sales closing date for accepting applications by notice in the **Federal Register** upon determination that no adverse effect will result from such extension. FCIC has determined that no adverse effect will result from this extension.

FCIC will discontinue the acceptance of applications, however, if adverse conditions develop.

Notice

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1508 *et seq;*) FCIC herewith gives notice that, effective for the 1998 crop year only, applications for Florida citrus fruit crop insurance in counties in which the Florida citrus fruit crop provisions are available with a published sales closing date of April 30, 1997, will be accepted up to the close of business on June 30, 1997. This sales closing date may be terminated by the Corporation prior to June 30, 1997, if FCIC determines that adverse conditions have developed.

Signed in Washington, D.C. on June 10, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–15718 Filed 6–16–97; 8:45 am]

BILLING CODE 3401–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass and Chugach National Forests Special Use Permit Fee Schedule Implementation, Alaska Region

AGENCY: Forest Service.

ACTION: Notice of Intent to prepare a Fee Schedule to be applied to selected Special Use Permits located throughout the Tongass and Chugach National Forests.

SUMMARY: The Alaska Region is preparing a fee schedule to be applied to various special use authorizations located throughout the region. It will include recreation residences covered under the **Federal Register** notice of June 2, 1994 (59 FR 28714), as well as cabins listed under ANILCA and other uses and occupancy of the public lands. Additional relevant authorities are the

Federal Land Policy and Management Act, 36 CFR sub-parts 216.6 and 251.57.

DATES: Written comments should be received by August 1, 1997.

ADDRESSES: Written comments pertaining to the proposed fee schedule should be sent to to Rich Goossens, Regional Appraiser, Public Services Staff, USDA Forest Service, P.O. Box 21628, Juneau, AK 99801.

SUPPLEMENTARY INFORMATION: The USDA Forest Service is required to levy and collect fees from permits authorizing uses. Typically, fees are based upon fair market value (fair market rent) or other sound business practices, which more often than not involve an appraisal. An appraisal would take into consideration the rights that are granted as well as what others are paying in the private sector.

The National Forests in Alaska administer over 1,000 Special Use Permits (SUP) which may fall in as many as many as fifty categories. It would be preferable to conduct site specific appraisals on a frequent basis to ensure that the public is receiving fair rent for these uses. However, with the vastness of Alaska, the scattered nature of these uses and the prohibitive cost of conducting site specific appraisals, it is deemed nearly impossible to complete that task under the strict narrative appraisal guidelines. However, another option utilized elsewhere which has demonstrated efficiency, diminished cost, ease of application and incorporates the sound business premise, is the development of a fee schedule based upon a market survey.

A market survey was conducted, and concluded that fees should be mid-range to the low end of the fee spectrum, as seen in the private sector. In some instances the rents for these uses will increase and in other cases they will go down. By using a fee schedule a significant amount of time and effort by both the agency and the permittee will be saved in administration, and fees will be predictable for first-time permittees.

Dated: June 10, 1997.

Phil Janik,

Regional Forester.

[FR Doc. 97–15857 Filed 6–16–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Filed Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Louisiana

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices for review and comment.

SUMMARY: It is the intention of the NRCS in Louisiana to issue revised conservation practice standards: Prescribed Grazing (Code 528A), Brush Management (Code 314), Fence (Code 382), Pipeline (Code 516), and Trough or Tank (Code 614), in Section IV of the FOTG.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: Inquire a writing to Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service (NRCS), 3737 Government Street, Alexandria, Louisiana 71302. 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 of the NRCS in Louisiana will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Louisiana regarding disposition of those comments and a final determination of change will be made.

Dated: June 5, 1997.

Donald W. Gohmert,

State Conservationist, USDA, Natural Resources Conservation Service, Alexandria, Louisiana 71302.

[FR Doc. 97–15781 Filed 6–16–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice to Recipients of Form AD–622, ''Notice of Preapplication Review Action,'' Under the Section 515 Rural Rental Housing Program

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Notice.

SUMMARY: This Notice provides information to all applicants for the Section 515 Rural Rental Housing Program who have received Form AD–622, ''Notice of Preapplication Review Action,'' inviting a formal loan application. The intent of this Notice is to inform such recipients that the Agency intends to keep their application as an active proposal until the Agency publishes final regulations.

EFFECTIVE DATE: June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Reese-Foxworth, Senior Loan Officer, Multi-Family Housing Processing Division, USDA, Stop 0781, Washington, DC, 20250, telephone (202) 720–1940 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

The Rural Rental Housing Program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans.

Discussion of Notice

The Rural Housing Service (RHS), formerly Rural Housing and Community Development Service (RHCDS), a successor Agency to the Farmers Home Administration (FmHA), amended its regulations for the Rural Rental Housing (RRH) Program to implement legislative reforms mandated by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997, Public Law 104–180, enacted August 6, 1996. On May 7, 1997, the Agency published in the **Federal Register** (62 FR 25062) an interim final rule with request for comments entitled, ''Rural Rental Housing (RRH) Assistance.'' Additionally, the Agency published a Notice in the **Federal Register** (62 FR 28982) of its intent to conduct a Public Hearing on June 11, 1997, from 10:00 a.m. to 2:00 p.m., in room 107–A of the Jamie L. Whitten Federal Building located at 1400 Independence Avenue, SW, Washington, DC 20250.

The ''Implementation Proposal'' section of the preamble of the interim final rule stated that loan requests that have been issued an AD–622 inviting a

formal application that are not located in a designated place in accordance with the requirements of the interim rule will be returned to the applicant. This Notice is to advise such applicants that this policy is revised. Loan requests that have been issued an AD–622 inviting a formal application for a complex that is not located in a designated place, in accordance with the interim rule, will be held until after the Final Rule on the reforms is published, estimated to be on or about November 1, 1997. The reason for not returning such loan requests at this time is because the Agency anticipates that the interim rule requirements on designating places may change based on the public comments and the scheduled hearing on June 11, 1997. The Agency does not desire to adversely affect such applicants by returning their loan requests. Until the Final Rule is published, Rural Development Offices will retain these loan requests. Retaining these loan requests should not be construed as an indication or guarantee of future funding. Rather, applicants may maintain the current status of their loan request at their own cost and risk; however, such applications will be subject to the provisions of the Final Rule. Such applicants must keep their applications current and may withdraw same at any time.

Dated: June 9, 1997.

Eileen Fitzgerald,

Acting Administrator, Rural Housing Service.

[FR Doc. 97–15803 Filed 6–16–97; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty orders and findings and to terminate suspended investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of June 1997.

EFFECTIVE DATE: June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC. 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Belgium
Sugar
A–423–077
44 FR 33878
June 13, 1979
Contact: Lyn Johnson at (202) 482–5287

France
Sugar
A–427–078
44 FR 33878
June 13, 1979
Contact: Lyn Johnson at (202) 482–5287

Germany
Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, Except Synchronous & V belts
A–428–802
54 FR 25316
June 14, 1989
Contact: Ron Trentham at (202) 482–4793

Germany
Precipitated Barium Carbonate
A–428–061
46 FR 32884
June 25, 1981
Contact: Tom Futtner at (202) 482–3814

Germany
Sugar
A–428–082
44 FR 33878
June 13, 1979
Contact: Mark Ross at (202) 482–4852

Italy
Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured
A–475–802
54 FR 25313
June 14, 1989
Contact: Ron Trentham at (202) 482–4793

Japan
Nitrile Rubber
A–588–706
53 FR 22553
June 16, 1988
Contact: Sheila Forbes at (202) 482–5253

Singapore
V-Belts
A–559–803
54 FR 25315
June 14, 1989
Contact: Zev Primor at (202) 482–4114

Taiwan
Carbon Steel Plate
A–583–080
44 FR 33877
June 13, 1979
Contact: Michael Heaney at (202) 482–4475

Taiwan
Oil Country Tubular Goods
A–583–505
51 FR 22098
June 18, 1986
Contact: Michael Heaney at (202) 482–4475

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity To Object

Domestic interested parties, as defined in § 353.2 (k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of June 1997. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k) (3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230.

You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203.

This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: June 4, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 97–15868 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–401–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, Initiation of Antidumping Duty Administrative Reviews and Notice of Request for Revocation of an Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping duty administrative reviews and notice of request for revocation of an order.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom. In accordance with our regulations, we are initiating those administrative reviews. The review period is May 1, 1996 through April 30, 1997. We have also received a request to revoke the antidumping duty order covering ball bearings and parts thereof from Singapore with respect to NMB Singapore Ltd., /Pelmec Industries (Pte.) Ltd. (NMB/Pelmec), the only known producer/exporter of this merchandise from Singapore.

EFFECTIVE DATE: June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a), for administrative reviews of the antidumping duty orders covering antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom. The orders cover three domestic like products: ball bearings (ball), cylindrical roller bearings (cylindrical), and spherical plain bearings (spherical). Pursuant to 19 CFR 353.25, NMB/Pelmec has requested revocation of the antidumping duty order covering ball bearings and parts thereof from Singapore. NMB/Pelmec is the only known producer/exporter of this merchandise from Singapore. NMB/Pelmec based its request on its claim that there has been an absence of dumping on sales of the subject merchandise for a period of three consecutive years.

Applicable Statute and Regulations

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 Agreement 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).

Initation of Reviews

In accordance with 19 CFR 353.22(c), we are initiating administrative reviews of the following antidumping duty orders. Unless the time limit is extended in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended, we intend to issue the preliminary results of these reviews no later than February 2, 1998, and the final results no later than 120 days after publication of the preliminary results.

Proceedings and firms	Domestic like product
France A–427–801:	
SKF France (including all relevant affiliates)	Ball & Spherical.
SNFA Societe Nouvelle de	Ball & Cylindrical.
Roulements (SNR)	Ball & Cylindrical.
Germany A–428–801:	
Bruckner FAG Kugelfischer	Ball.
Georg Schaefer AG	All.
INA Walzlager Schaeffler KG	Ball & Cylindrical
NTN Kugellagerfabrik (Deutschland) GmbH	Ball.
SKF GmbH (including all relevant affiliates)	All.
Torrington Nadellager (Torrington/Kuensebeck)	Ball & Cylindrical.
Italy A–475–801:	
Meter, S.p.A	Cylindrical.
FAG Italia S.p.A. (including all relevant affiliates)	Ball & Cylindrical.
SKF-Industrie S.p.A. (including all relevant affiliates)	Ball & Cylindrical.
Somecat S.p.A	Ball & Cylindrical.
Japan A–588–804:	
Koyo Seiko Company, Ltd	All.
Nachi-Fujikoshi Corp	Ball & Cylindrical.
Nippon Pillow Block Sales Company, Ltd	Ball & Cylindrical.
NSK Ltd	Ball & Cylindrical.
NTN Corp	All.
Romania A–485–801:	
Tehnoimportexport, S.A	Ball.
Singapore A–559–801:	
NMB Singapore/Pelmec Ind	Ball.

Proceedings and firms	Domestic like product
Sweden A–401–801:	
SKF Sverige (including all relevant affiliates)	Ball & Cylindrical.
United Kingdom A–412–801:	
Barden Corporation	Ball & Cylindrical.
FAG (U.K.) Ltd	Ball & Cylindrical.
NSK Bearings Europe, Ltd./ RHP Bearings Ltd	Ball & Cylindrical.
SNFA Bearings Ltd	Ball & Cylindrical.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) of the Department's regulations. However, due to the large number of parties to these proceedings, we strongly recommend that parties submit their APO applications as soon as possible, and we will process them on a first-come, first-served basis.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 C.F.R. 353.22(c) and 353.25(c).

Dated: June 10, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for AD/CVD Enforcement, Group 1.

[FR Doc. 97–15867 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–401–801, A–549–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final court decision and amended final results of administrative reviews

SUMMARY: On November 19, 1996, the Court of International Trade (CIT) affirmed the Department of Commerce's (the Department's) final remand results affecting final assessment rates for the first administrative reviews (covering the period November 9, 1988 through April 30, 1990) of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Sweden, and the United Kingdom. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. As there is now a final and conclusive court decision in these actions, we are amending our final results of reviews and we will subsequently instruct the U.S. Customs Service to liquidate entries subject to this review. The Department has already instructed the U.S. Customs Service to liquidate entries subject to the first administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore and Thailand as a result of final and conclusive court decisions at an earlier date.

EFFECTIVE DATE: June 17, 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:

Background

On July 11, 1991, the Department published its final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof, from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, covering the period November 9, 1988 through April 30, 1990 (*AFBs I*) (56 FR 31692). The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. Subsequently, two domestic producers, the Torrington Company and Federal-Mogul, and a number of other interested parties, filed lawsuits with the CIT challenging the final results. These lawsuits were litigated at the CIT and the Court of Appeals for the Federal Circuit (CAFC). In the course of this litigation, the CIT issued a number of orders and opinions of which the following have resulted in changes to the antidumping margins calculated in *AFBs I*:

Federal-Mogul v. *United States*, Ct. No. 91–07–00528, 824 F. Supp. 215 (CIT 1993), and Slip Op. 96–1 dated January 2, 1996 (United Kingdom);

Federal-Mogul v. *United States*, Ct. No. 91–07–00529, Slip Op. 96–2 dated January 2, 1996 (Sweden);

Federal-Mogul v. *United States*, Ct. No. 91–07–00530, 813 F. Supp. 856 (CIT 1993), and 839 F. Supp. 864 (CIT) (Japan);

Federal-Mogul and The Torrington Company v. *United States*, Consol. Ct. No. 91–07–00530 and 91–08–00569, 834 F. Supp. 1391 (CIT 1993), 18 CIT 160 (1994), 871 F. Supp. 443 (CIT 1994), and 907 F. Supp. (CIT 1995), (Japan);

Federal-Mogul v. *United States*, Ct. No. 91–07–00531, 17 CIT 1258 (1993), and Slip Op. 95–188 dated November 22, 1995 (France);

Federal-Mogul v. *United States*, Ct. No. 91–07–00532, F. Supp. 767 (CIT 1993), 17 CIT 1258 (1993), and Slip Op. 96–5 dated January 2, 1996 (Italy);

Federal-Mogul v. *United States*, Ct. No. 91–07–00533, 824 F. Supp. (CIT 1993), 839 F. Supp. 881 (CIT 1993), Slip Op. 95–191 dated November 22, 1995, and Slip Op. 96–6 dated January 2, 1996 (Germany);

RHP Bearings v. *United States*, Ct. No. 91–08–00560, 808 F. Supp. 835 (CIT 1992) (United Kingdom);

Torrington v. *United States*, Ct. No. 91–08–00562, 832 F. Supp. 393 (CIT 1993), Slip Op. 96–10 dated January 4, 1996 (France);

Torrington v. *United States*, Ct. No. 91–08–00564, 834 F. Supp. 1384 (CIT 1993), (Thailand) (*see* 60 FR 36779);

Torrington v. *United States*, Ct. No. 91–08–00565, 829 F. Supp. 492 (CIT 1993), (Singapore);

Torrington v. *United States*, Ct. No. 91–08–00567, 832 F. Supp. 379 (CIT 1993), 850 F. Supp. 12 (CIT 1994), 853 F. Supp. 446 (CIT 1994), and Slip Op. 96–9 dated January 4, 1996 (Germany);

Torrington v. *United States*, Ct. No. 91–08–00568, (832 F. Supp. 365 (CIT 1993), 850 F. Supp. 1 (CIT 1993), 850 F. Supp. 7 (CIT 1994), and Slip Op. 95–189 dated November 22, 1995 (Italy);

Torrington v. *United States*, Ct. No. 91–08–00569, 818 F. Supp. 1563 (CIT 1993), (Japan);
Torrington v. *United States*, Ct. No. 91–08–00570, 824 F. Supp. 1095 (CIT 1993), (United Kingdom);
NTN v. *United States*, Ct. No. 91–08–00577, 826 F. Supp. 1435 (CIT 1993), and Slip Op. 96–69 dated November 19, 1996 (Japan);
Koyo Seiko Company, Ltd. v. *United States*, Ct. No. 91–08–0051, 796 F. Supp. 1526 (CIT 1992), (Japan);
Nachi-Fujikoshi Corp. v. *United States*, Ct. No. 91–08–00595, 798 F. Supp. 716 (CIT 1992), (Japan).

In the context of the above-cited litigation, the CIT, in some cases based on decisions by the CAFC, ordered the Department to make methodological changes and to recalculate the antidumping margins for certain firms under review. Specifically, the CIT ordered the Department, *inter alia:* (1) To change its methodology to account for VAT taxes with respect to the comparison of U.S. and home market prices; (2) to not deduct pre-sale inland freight incurred in the home market if the Department determined that there was no statutory authority to make such a deduction; (3) to develop a methodology which removes post-sale price adjustments and rebates paid on out-of-scope merchandise from any adjustment made to foreign market value or to deny such an adjustment if a viable method could not be found; (4) to apply a best-information-available rate where a firm failed to report U.S. sales discounts properly, and (5) to correct certain clerical errors.

On May 16, 1996, the CIT affirmed the final remand results of the Department for all the above-cited cases (Slip Op. 96–77) (except those cases involving Singapore and Thailand for which there were final and conclusive court decisions at an earlier date) and, on November 13, 1996, the Court ordered these cases dismissed (Slip Op. 96–183). As there are now final and conclusive court decisions in these actions, we are amending our final results of review in these matters and we will subsequently instruct the U.S. Customs Service to liquidate entries subject to these reviews.

Amendment to Final Determination

Pursuant to 516A(e) of the Tariff Act, we are now amending the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom and the period November 9, 1988 through April 30, 1990. The revised weighted-average margins are as follows:

Company	BBs	CRBs	SPBs
France			
ADH	2.91	(3)	(3)
Dowty Rotol	(3)	(1)	(2)
FiatAvio	(3)	(1)	(2)
INA	(3)	(3)	(3)
Pratt & Whitney	4.89	(3)	(1)
SKF	7.89	(1)	25.66
SNFA	(3)	(3)	(2)
SNR	2.09	(3)	(1)
SNECMA	(3)	(3)	(2)
Turbomeca	7.44	(3)	(1)
Germany			
Dowty-Rotol	(3)	(1)	(1)
FAG	11.45	3.59	12.24
FiatAvio	(3)	(3)	(2)
GMN	1.73	(2)	(2)
GRW	0.16	(1)	(1)
HDM	(3)	(3)	(1)
INA	11.88	8.40	(1)
MBB	(3)	(3)	(3)
NWG	53.43	(2)	(2)
NTN	5.07	(2)	(2)
Pratt & Whitney	5.39	(3)	(1)
SKF	6.11	7.07	4.22
ZF	42.72	(3)	(3)
Italy			
Dowty Rotol	12.67	(1)	(4)
FAG	4.89	(1)	(4)
Fiat Avio	(3)	(3)	(4)
Japanese Aero Engines	(1)	(1)	(4)
Meter	(3)	(3)	(4)
Rolls-Royce	(1)	(3)	(4)
SKF	4.41	(3)	(4)
SNECMA	(3)	(3)	(4)
Somecat	(3)	(2)	(4)
Japan			
Asahi Seiko	(3)	(1)	(1)
Fujino	2.13	(2)	(2)
Honda	3.84	(3)	(3)
IJK	17.60	(3)	(1)

Company	BBs	CRBs	SPBs
Isuzu	0.92	(3)	(3)
Izumoto	11.67	(2)	(2)
Japanese Aero Engines	(3)	(3)	(3)
Koyo Seiko	9.95	1.46	(1)
Minebea	(3)	(3)	(3)
Nachi	9.97	9.73	(1)
Nakai	12.73	(1)	(1)
Nankai	13.28	(1)	(1)
NPBS	(3)	(1)	(1)
NSK	6.28	49.85	(1)
NTN	2.45	1.92	(3)
Osaka Pump	(3)	(1)	(1)
Showa	18.94	(2)	(2)
Takeshita	(3)	(1)	(1)
Tottori	5.83	(2)	(2)
Wada	23.72	(2)	(2)
Yamaha	0.07	(2)	(2)
Singapore			
NMB/Pelmec	(3)	(4)	(4)
Sweden			
SKF	3.20	4.14	(4)
Thailand			
NMB/Pelmec	(3)	(4)	(4)
United Kingdom			
Barden Corporation	(3)	(1)	(4)
Cooper Bearings	(2)	(3)	(4)
Dowty Rotol	9.01	(3)	(4)
FAG	(3)	(3)	(4)
FiatAvio	(1)	(3)	(4)
Pratt & Whitney	5.98	(3)	(4)
RHP Bearings	14.54	30.34	(4)
Rolls-Royce	3.71	(1)	(4)
SKF	4.92	(1)	(4)
SNFA	(1)	(2)	(4)

1 No U.S. sales during the review period.
2 No review requested.
3 No change to original margin as a result of litigation.
4 No antidumping order covers this merchandise.

The above rates will become the new antidumping duty deposit rates for firms that have not had a deposit rate established for them in subsequent reviews.

Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise made by firms covered by this review of the period November 11, 1988 through April 30, 1990. Individual differences between United States price and foreign market value may vary from the percentages listed above. Where the Department has not already issued appraisement instructions to the Customs Service, it will do so after publication of these amended final results of reviews

Dated: June 9, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–15870 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Antidumping Administrative Review.

SUMMARY: On February 3, 1997, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on porcelain-on-steel (POS) cooking ware from the People's Republic of China (PRC) (62 FR 4979). This review covers shipments of the merchandise to the United States during the period December 1, 1994 through November 30, 1995. Based upon our findings at verification and our analysis of the comments received from interested parties, we have made certain changes to our preliminary results. These changes are addressed in the *Facts Available, Export Price and Normal Value* sections below.

EFFECTIVE DATE: June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Judy Kornfeld or Kelly Parkhill, Office of CVD/AD Enforcement VI, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482–2786.

Applicable Statute and Regulations

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 references to the regulations as amended by the Interim Regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1986, the Department published in the **Federal Register** (51 FR 43414) the antidumping duty order on POS cooking ware from the PRC. On December 4, 1995, the Department published a notice of ''Opportunity to Request Administrative Review'' (60 FR 62070) of this antidumping duty order. We received a timely request for review, and on February 1, 1995, we initiated the review, covering the period December 1, 1994, through November 30, 1995 (61 FR 3670). This review covers one manufacturer/exporter of POS cooking ware from the PRC, Clover Enamelware Enterprise, Ltd. (Clover) and its third-country reseller in Hong Kong, Lucky Enamelware Factory Ltd. (Lucky). Clover and Lucky (hereafter Clover/Lucky) are affiliated parties within the meaning of section 771(33) of the Act. (*See* Memorandum from Case Analyst to File, dated January 17, 1997, ''POS Cooking Ware from the PRC—Status as Affiliated Parties,'' which is a public document on file in the Central Records Unit (Room B–099 of the Main Commerce Building).)

On February 3, 1997, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on POS cooking ware from the PRC (62 FR 4979). There was no request for a hearing. On March 4, 1997, a case brief was timely submitted by Clover/Lucky (respondent).

We verified the questionnaire response of Clover/Lucky during March 1997. The results of this verification are outlined in the public version of the verification report dated May 8, 1997 (Verification Report), which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building). We invited interested parties to comment on our verification report. On May 11, 1997, Clover/Lucky submitted comments and on May 14, 1997, General Housewares Corp. (petitioner) submitted comments. On May 19, 1997, respondent submitted rebuttal comments. The Department has now completed this review in accordance with section 751(a) of the Act.

Scope of the Review

Imports covered by this review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the HTS item 7323.94.00. HTS items numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

Separate Rates

In our preliminary results, we determined that Clover/Lucky was entitled to a separate rate under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588; May 6, 1991), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585; May 2, 1994). During the course of verification, we confirmed that export prices for Clover are not set by, nor subject to approval of, any government authority. This point was supported by the company's sales documentation and customer correspondence. We also confirmed, based on examination of documents related to sales negotiations, written agreements and other correspondence, that respondents have the authority to negotiate and sign contracts and other agreements independent of government intervention (see Verification Report, pp. 4–5).

Based on our examination of company records during verification, we have determined that Clover had autonomy from the central government in making decisions regarding selection of management. We also found no involvement by any government entity in the selection of management or hiring. The record therefore demonstrates an absence of *de facto* government control over Clover.

The record similarly demonstrates an absence of *de jure* government control over Clover, for reasons stated in the preliminary results of this review. Accordingly, we determine that Clover/Lucky should receive a separate rate. (For a further discussion, *see* Memorandum from Kelly Parkhill to Barbara E. Tillman, dated January 17, 1997, ''Assignment of Separate Rate for Clover/Lucky in the 1993–1994 and 1994–1995 Administrative Reviews of POS Cooking Ware from the Peoples Republic of China,'' which is a public document on file in the Central Records Unit (Room B–099 of the Main Commerce Building).)

Facts Available

Section 776(a)(2) of the Act states that, if an interested party withholds information that has been requested or provides such information but the information cannot be verified as provided in section 782(i), the Department shall also use the facts otherwise available in reaching the applicable determination. Section 776(b) of the Act authorizes the Department to use, as facts otherwise available, information derived from the petition, the final determination, a previous review, or other information placed on the record. We determine, in accordance with section 776(a)(2) of the Act, that the use of partial facts available as the basis for calculating certain constructed values is appropriate in this case, as discussed below. (*See* Memorandum to Jeffrey Bialos from Barbara E. Tillman ''Use of Facts Available'' dated May 30, 1997 (Facts Available Memorandum), which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building).)

At verification, we were unable to tie reported labor hours to supporting attendance and payroll documents. In addition, we discovered that the labor hours reported on certain supporting documents were altered for purposes of this antidumping proceeding; company officials admitted to altering certain source documents in order to reconcile them with the figures reported in the questionnaires responses. Because Clover/Lucky did not act to the best of its ability in responding to our request for this information pursuant to section 782(e)(4) of the Act, we have drawn an adverse inference under the authority provided by section 776(b) of the Act. As facts available, we are using the highest labor cost for an individual piece of cooking ware from the information submitted by Clover/Lucky. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Welded Carbon Steel Pipe from Turkey* (61 FR 69067, 69073; December 31, 1996).

Also at verification, we discovered certain information which had not been previously reported in Clover/Lucky's

questionnaire responses. The company did not report three steel invoices, certain minor chemicals used in the production of POS cooking ware, well water consumed for industrial use and two insignificant brokerage and handling fees. We verified and collected this new information, which has been placed on the record as verification exhibits. Nevertheless, because Clover/Lucky failed to provide this information by the deadline for submission of information, in accordance with section 776(a) of the Act, the Department must use facts available. However, because Clover/Lucky was fully cooperative in complying with our request for this information at verification, the Department has determined that, in selecting among the facts available to apply to these unreported expenses, no adverse inference is warranted. Consequently, as facts available, we have used this new information now on the record in determining these final results. *See Notice of Final Determination of Sales at Less Than Fair Value; Brake Drums and Brake Rotors from the People's Republic of China;* 62 FR at 99160, 99167 (February 28, 1997). (*See also* Facts Available Memorandum for a further discussion.)

Export Price

As described in the preliminary results, the Department used export price (EP) for sales made by Clover/Lucky, in accordance with section 772(a) of the Act. Pursuant to findings at verification, as discussed in the *Facts Available* section above and Facts Available Memorandum, we made minor adjustments to movement expenses to include import and export declaration fees found at verification, which were not reported in Clover/Lucky's questionnaire responses. (See Memorandum from Case Analyst to the File, ''Analysis for the Final Results of the 1994–1995 Administrative Review of POS Cooking Ware from the PRC—Clover/Lucky'' dated May 30, 1997 (*Calculation Memorandum*), on file in the Central Records Unit (Room B–099 of the Main Commerce Building).)

Normal Value

As stated in the preliminary results, in accordance with section 773(c)(3) of the Act, we calculated normal value (NV) by valuing factors of production, except with respect to the factors of steel, percolators and packing materials purchased by Lucky. For these factors, which were paid for in market economy currencies, we used the actual prices paid for the factors to calculate the factor-based NV in accordance with our practice. *See e.g., Lasko Metal Products* v. *United States,* 437 F. 3d 1442, 1443 (Fed. Cir. 1994). We calculated NV for these final results as discussed in the preliminary results, making adjustments for specific verification findings and certain revisions to surrogate values, discussed below (for a fuller discussion see *Calculation Memorandum*).

- At verification, we discovered three steel invoices from the period of review (POR) that were not reported in Clover/Lucky's questionnaire responses. (*See Facts Available* section above.) As a result, we are adjusting the average price paid for steel inputs to include these three purchases.
- At verification, we discovered five chemicals used in the production of POS cooking ware during the POR which were not reported in Clover/Lucky's questionnaire responses. (*See Facts Available* section above.) We valued these chemical factors of production, which included bentonite, antimony trioxide, potassium chloride, titanium dioxide and sodium nitrite, by using the consumption amounts collected at verification and surrogate per kilogram values obtained from the *Foreign Trade Statistical Bulletin-Imports,* November 1995, from Indonesia (Indonesian Import Statistics), which is public information.
- At verification, we discovered that certain packing materials purchased by Clover were paid for in renminbi, instead of Hong Kong dollars, as reported in Clover/Lucky's questionnaire response. However, because there is no other information on the record that can be used to construct a value for these packing materials and because these materials were invoiced in Hong Kong dollars, as facts available, we have continued to use the actual prices charged in Hong Kong dollars to Clover to value these materials.
- In our preliminary results, we used a surrogate overhead rate which included energy and indirect labor. Thus, we did not include Clover/Lucky's reported energy factors. However, at verification we discovered that water, one of the reported energy/utility factors, is not only an indirect material input falling under factory overhead, but also a direct material input in the production of cooking ware. In addition, we discovered that well water is consumed for industrial use, but, as the company does not pay for the well water, it was not previously reported. (*See Facts Available* section above.) As described above, we collected information at verification regarding the total amount of water consumed for industrial use and calculated a cost for water consumed in the production of POS cooking ware by using Indonesian water rates reported in the *ADB, Water Utilities Data Book for the Asian Pacific Region* for 1993, which is public information. We adjusted these water rates to reflect yearly inflation using wholesale price indices, excluding petroleum, obtained from the *International Financial Statistics* published by the International Monetary Fund.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as well as the verification report. We received a case brief from respondent and comments on the verification report from respondent and petitioner.

Comment 1: In the preliminary results, the Department found that Clover/Lucky did not report some or all factors of production data for three models sold in the United States during the POR. Respondent claims that two model numbers were inadvertently omitted from one exhibit in the questionnaire response and the other model number involved a typographical error. The company corrected these discrepancies and submitted the revised information. Along with these corrections, respondent also submitted changes to the local color oxide consumption and scrap steel percentage reported in its response.

Department's Position: Because the information and minor clarifications were submitted to the Department prior to verification and because we were able to establish the accuracy of the information at verification, we accepted them and have adjusted our final results accordingly.

Comment 2: Respondent claims that the import and export declaration fees paid in Hong Kong dollars during the POR were insignificant when compared to the total sales to the United States during the POR. Therefore, the company claims that it omitted these amounts and treated them as indirect selling expenses.

Department's Position: Although we agree with respondent that these fees are small relative to total sales to the United States during the POR, we disagree that these fees should be classified as indirect selling expenses. As discussed in the verification report, these fees are charged for the preparation of import and export declarations for each shipment the company arranges. These fees are directly tied to each sale and should have been reported separately or included in brokerage and handling expenses. We have therefore treated them as direct selling expenses, specifically brokerage and handling

expenses, for purposes of these final results.

Comment 3: With respect to the Department's discovery at verification of three missing steel invoices, respondent claims that these unreported invoices resulted in minimal changes to the average steel prices paid for each thickness of steel. Respondent further claims they did not have any significant effect on the computation of the factors for steel usage.

Department's Position: The effect on the average steel price is only one consideration in evaluating the significance of the three missing steel purchases. The significance is also determined by the proportion of the unreported purchases to total purchases during the POR. Respondent failed to report approximately 18 percent of the POR purchases of steel. However, because we collected the invoices as part of our completeness check at verification, and they are now on the record, as facts available we are including these three invoices in calculating the average price paid for steel during the POR. *See Facts Available* section above and Facts Available Memorandum.

Comment 4: With respect to its reporting of theoretical weights for each product, respondent states that the reported theoretical weights were generally greater than the actual weights for selected items at verification, and therefore the steel usage overstatement, which had the effect of increasing the normal value, was not an error in favor of Clover. As to the frying pan, the actual weight again was shown to be less than either the true theoretical weight or the incorrectly calculated theoretical weight reported in the submission.

Department's Position: We have accepted respondent's methodology for calculating theoretical weights as reported in its response because we find it to be reasonable and not distortive for purposes of performing the antidumping analysis. *See, e.g., Gray Portland Cement and Clinker from Mexico; Final Results of Antidumping Duty Administrative Review* (62 FR 17148, 17163; April 9, 1997). In our Verification Report, we noted that the reported length of the handle portion of the frying pan was incorrect, and, therefore, the theoretical weight for the frying pan was miscalculated. We adjusted the theoretical weight for the frying pan in calculating our final results.

Comment 5: With respect to the five missing chemicals discovered at verification by Department officials, respondent claims that these chemicals were not omitted from the response altogether, but were included in calculating the ''chemical 2'' factor input reported in its response. Further, respondent understood that it was required to provide actual quantities purchased during the POR that were delivered to Clover.

Department's Position: Respondent included the quantity of the five chemicals in an aggregate consumption figure in its response. However, it did not identify these chemicals in the breakdown of that aggregate figure. An aggregate figure alone is insufficient for reporting purposes if the chemicals which make up this quantity are not properly identified.

In order for the Department to properly calculate a factor value for each input, it must have the exact breakdown of each chemical used. The Department uses these reported inputs, along with appropriate prices from a chosen surrogate country, to arrive at the normal value of the subject merchandise in non-market economy cases. For that reason, the Factors of Production questionnaire asks for each factor of production used to produce one unit of the subject merchandise. As mentioned earlier, we verified and collected the new information and used surrogate per kilogram values obtained from the Indonesian Import Statistics, which is public information.

Comment 6: With respect to the labor factor of production, and specifically usage of the piece rate table, respondent states that this table is based upon years of experience from performing the same process over a period of 30 years on the same equipment as well as historical data derived from the original Hong Kong factory. Moreover, respondent claims the piece rate table is revised when needed based on the changes in the production process and the changes in the efficiency pattern of the workers. According to respondent, the table, which it regards as its list of standard labor hours, includes the people required to produce each piece or set, the time it takes to dip, clean and hang each piece at each phase of the production process, the technical specification for each machine, and the conveyer speed. Respondent claims that no separate documentation exists or was prepared, such as time and motion studies, to support the figures in the piece-rate table because the piece rate table was regarded as accurate and salaries were based upon this table.

Further, the workers are paid following the piece rate table based upon the discretion of the supervisor who calculates the work/hour credit for the quantities produced. The discretion is based upon the knowledge and experience of the supervisor of the manufacturing process.

Department's Position: Our findings at verification corroborate respondent's description of how the standard hours in the piece rate table were derived.

> Company officials explained that the piece rate table is based on estimates, many of which date back to when Lucky began producing enamelware in Hong Kong 30 years ago. The table is updated periodically to add standard times for new products. No time-in-motion studies or timing of production process was [sic] done in coming up with either the original Hong Kong standards or the standards for new enamelware products. All standards were created based on experience of those involved in creating the tables as to how long the process should take to produce a given item. Since these hours were based solely on the individuals' estimates, there was no documentation available to support any of these figures.

See Verification Report, p. 21.

However, in speaking with company officials and in our examination of the piece rate tables at verification, there was no indication that the piece rate tables were revised on any basis other than the periodic update described above; no mention was made of making changes to the tables to reflect changes in the production process or worker efficiency. Also, other than a brief description of the process, or the machine used in a process, we saw nothing in the piece rate tables that indicated technical specifications for machinery or conveyer speeds.

The accuracy of information submitted to the Department for use in its determinations must be verifiable. The figures from the piece rate table submitted by respondent in lieu of actual labor hours (as requested by the Department in its original and supplemental questionnaires) are not. No supporting documentation for these rates exists. Statements by company officials that the rates are accurate and reflect actual labor hours are not sufficient for the Department to consider the reported figures to have been verified, particularly in light of the fact that many of the standard times are 30 years old and are based on the experience and production of workers at the original plant located outside the PRC. As such, we continue to find that the reported ''labor'' factor of production was not supported by source documents at verification. Therefore, we have drawn an adverse inference under the authority provided by section 776(b) of the Act. For a further discussion of our decision to use adverse facts available for this factor, see the *Facts*

Available section of this notice and the Facts Available memorandum.

Comment 7: With respect to the labor factor of production, respondent also claims that the majority of Clover's production workers were paid on a piece rate basis during the POR. Respondent additionally states that the ''floating workers'' labor hours, which are only in the Enameling Department, are tied to the labor hours of the ''fixed post worker'' which are calculated from the piece rate table. Probationary workers are not paid based on the piece rate table inasmuch as they have not developed the skills to handle the work. Therefore, respondent claims, the piece rate table accurately reflects the actual labor hours used to produce the subject merchandise.

Department's Position: We disagree with respondent. In trying to ascertain whether the reported hours from the piece rate table accurately reflected the actual hours worked by Clover production workers, the Department verifiers found that a large number of workers were not paid based on the piece rate table. This includes the metal shearer, any worker assigned to assist him, probationary employees, workers in the Milling Department and ''floating workers,'' the latter constituting approximately half of the workers in the Enameling Department. In addition, even those workers whose pay is based on the piece rate table, may have significant portions of their pay calculated on a non-piece rate basis. For example, adjustments are made to working hours for certain duties, equipment set-up, equipment down time and assignment to unfamiliar machines.

Further, the Department was unable to reconcile the reported per unit labor hours from the piece rate tables with the company's payroll and attendance records. At verification, the Department selected three cooking ware items for verification. Numerous errors and discrepancies were found in our examination of these items. In one instance, we discovered that the supervisor had made up the hours on certain supporting documents. In another, we found that workers were paid for days on which they were absent, and not paid for days on which they worked. For two of the three cooking ware items, company officials could not account for the discrepancies between the reported information on labor and the source documents. As a result, none of the reported labor hours for these items could be verified.

Together or separately, the significant number of workers paid on a non-piece rate basis, the numerous adjustments to working hours, the errors and discrepancies found at verification, and the inability to reconcile the piece rate table with the company's payroll and attendance records demonstrates that the per unit labor hours submitted by respondent in the questionnaire response based on the piece rate table cannot be relied upon for purposes of these final results. We have therefore drawn an adverse inference under the authority provided by section 776(b) of the Act. For a further discussion of our decision to use adverse facts available for the labor factor of production, see the *Facts Available* section of this notice and the Facts Available Memorandum.

Comment 8: With respect to supporting documents relating to the labor factor of production, respondent claims that because the volume of items going through the Metal Cleaning Department is so large, and varies throughout the day, the supervisor listed some of the figures for the computed labor hours based on his estimation. Respondent claims that computing labor hours in this department is complicated and mistakes are easily made. The fictitious hours initially recorded by the supervisor on the supporting documentation was not done for purposes of responding to the Department. As to the fictitious entries in the revised document, respondent claims that the supervisor understood he was to support the payment of days worked against the days actually paid, and therefore prepared the records on this basis, not as a method to create fictitious documents to provide to the Department. In any case, respondent believes that the incorrect documents provided in two transactions does not invalidate the total payment procedures.

Department's Position: The Department found numerous instances of errors and discrepancies in its verification of respondent's reported labor hours. These errors and discrepancies were not limited to two instances; errors, discrepancies and/or deviations from the reported labor hours and piece rate based pay were found in every department and every cooking ware item the Department examined. In addition, many of the errors or discrepancies affected more than one employee. In some cases, respondent was able to account for or provide an explanation for the error, discrepancy or deviation; however, in several instances, the information submitted in the response could not be reconciled with the company's attendance and payroll records (see Verification Report, pp. 20–24; and Facts Available Memorandum). Further, at verification, a company official admitted to altering two supporting payroll documents in an effort to support the figures reported in the response while another official stated that he made up the labor hours recorded on certain attendance/payroll documents (see Verification Report, p. 22, 23).

For these reasons, and for the reasons discussed in the *Department's Position* on *Comments 6 and 7,* we find that the information submitted by respondent with respect to the labor factor of production cannot be relied upon. Therefore, with respect to this factor, the Department must rely upon facts otherwise available. Further, because respondent did not act to the best of its ability in responding to our request for such information pursuant to section 782(e)(4) of the Act, as demonstrated by its alteration of source documents and inability to reconcile the submitted labor hours in response with the company's actual labor hours as recorded in its attendance and payroll records, we have drawn an adverse inference under the authority provided by section 776(b) of the Act. For a further discussion of our decision to use adverse facts available for this factor, see the *Facts Available* section of this notice and the Facts Available Memorandum.

Comment 9: Respondent states that it now has an explanation for a discrepancy that could not be resolved at verification. While reviewing time cards and the Monthly Attendance Summary, the Department found a worker who worked 13 days during the month of May but was paid for 18 days. Company officials now believe that the figure ''13 days'' was actually overlooked when the payment records were created, and that the worker was mistakenly paid for 18 days.

Department's Position: Respondent's comment addresses yet another discrepancy discovered while the Department attempted to verify reported labor hours. At verification, company officials could not explain this discrepancy. It is not clear what respondent now means by ''overlooked;'' however, at this point, the explanation does not override our findings at verification or our results in this review. The purpose of verification is to verify the accuracy of the response through examination of source documents, not to recreate supporting source documentation that respondent has failed to maintain. *See Belmont Industries* v. *United States*, 733 F. Supp. 1507, 1508 (CIT 1990). As stated above, with respect to labor hours, the Department is relying upon facts otherwise available and we have drawn an adverse inference under the authority

provided by section 776(b) of the Act. For a further discussion of our decision to use adverse facts available for this factor, see the *Facts Available* section of this notice and the Facts Available Memorandum.

Comment 10: Respondent claims that its purchases of packaging materials from a PRC supplier during the POR was based upon quotations and acceptances in Hong Kong dollars. Therefore, it reported these purchases in Hong Kong dollars. The payment in renminbi at the market rate of exchange was a manner of facilitating this payment.

Department's Position: At verification, Department officials discovered that certain packing materials, reported in Hong Kong dollars, were actually purchased from a PRC supplier in renminbi. However, because the supplier originally charged Clover for these goods in Hong Kong dollars, we are using the reported Hong Kong dollar prices in our calculations, as was done in our preliminary results. *See Normal Value* section above.

Comment 11: Respondent states that the Department's well water consumption calculation is incorrect because it is based on a 365-day period. The company claims that the figure should be based on the number of working days during the POR, which was 282 days based on Clover's payroll records.

Department's Position: We disagree with respondent. At verification, the Department asked company officials to shut off the well water to the plant and record the city water consumed over a several day period. This period ran from Saturday through Monday. As the sample period included both working and non-working days, it is proper to estimate the annual water consumption on a 365-day basis rather than the number of work days during the POR. In addition, the 282 day figure referred to by respondent in its comments was never reported in its submission and, thus, not verified by the Department.

Comment 12: Respondent suggests a number of changes to the language in the verification report which it claims are needed to address alleged inaccuracies or omissions.

Department's Position: We have addressed respondent's suggested changes in a memorandum to the file. *See* Memorandum to Barbara E. Tillman from the Team ''Response to Respondent's Suggested Changes to Language in the Verification Report'' dated May 30, 1997, which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Comment 13: Petitioner asserts that the Department should not accept and use any of the data reported in Clover/Lucky's response. Instead, the Department should reject Clover/Lucky's response in its entirety and resort to total facts otherwise available to calculate Clover/Lucky's dumping margin. According to petitioner, this margin should be based on the highest rate ever calculated for any respondent in the history of this proceeding, which is 66.65 percent.

Petitioner claims that it is the Department's practice to reject a response in its entirety and resort to total facts available when it discovers that information contained in the response was fabricated by the respondent for purposes of the investigation or review. In the *Final Determination of Sales at Less than Fair Value; Sulfanilic Acid From the Republic of Hungary* (58 FR 8256, 8257; February 12, 1993) *(Sulfanilic Acid from Hungary),* the Department discovered at verification that a relevant portion of the respondent's questionnaire response may have been fabricated, and the Department rejected the respondent's entire response and used best information available (BIA). Petitioner claims that this policy applies with even greater force when, as in this review, the Department discovers direct evidence and/or the respondent admits that it knowingly fabricated information submitted to the Department.

Respondent claims that petitioner's statement that information submitted in the response was knowingly false and fabricated by Clover/Lucky is a mischaracterization of the verification report. At no time did the company officials who prepared the final questionnaire responses intend to mislead the Department or fabricate information for the purposes of the questionnaire response. Source documents altered by a Clover employee were not discovered by company officials until the verification visit. Thus, the alteration made by the employee was not known by the company officials at the time the questionnaire responses were drafted. Petitioner also failed to mention that after the altered source documents were returned to their original state, and a transcribing error was accounted for, the source documents, worksheet and information reported in the response tied to one another.

In regard to petitioner's assertion that the supervisor of the Metal Fabrication department ''made up'' data on which Clover/Lucky based its calculation of hours worked submitted in its responses, respondent claims that these were only minor discrepancies and that, further, the lasagna pan was discussed in the Department's verification report without any reference to ''made up'' data. Moreover, the allegedly ''made up'' information was initially compiled by the supervisor for an internal report, not for the questionnaire response. Again, the company officials who prepared the responses were unaware of the fact that the supervisor in this department may have made up the labor hour figures.

Department's Position: We disagree with petitioner that the use of total facts available is appropriate in this review. The decision to totally reject the response and use best information available in the case cited by petitioner, *Sulfanilic Acid from Hungary,* was based on the antidumping law as it existed prior to the Uruguay Round Agreements Act (URAA). In deciding whether to reject Clover/Lucky's response and use total facts otherwise available in this review, the Department must examine the facts of the case in light of the new statutory guidelines that exist under the Act, as amended by the URAA.

Section 782(e) of the Act states that:

> In reaching a determination under section * * * 751 * * * the administering authority * * * shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority * * *, if—
>
> (1) The information is submitted by the deadline established for its submission,
>
> (2) The information can be verified,
>
> (3) The information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,
>
> (4) The interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority * * * with respect to the information, and
>
> (5) The information can be used without undue difficulties.

Clover/Lucky's sales response and its response for the factors of production, other than labor, meet each of the above criteria. For those miscellaneous items where the information did not meet the second criterion, *i.e.*, it could not be verified, the Department obtained the necessary accurate information during the course of verification. This information is being used as facts otherwise available in the Department's calculations. (*See Facts Available* section and Facts Available Memorandum.) Although the Department encountered some difficulties in its verification of Clover/Lucky's response, many of the errors in

the response and discrepancies between it and the company's books and records were resolved at verification. The information now on the record pertaining to the non-labor portions of Clover/Lucky's response, including exhibits taken at verification, has been verified, is sufficiently complete to be reliable, and can be used without undue difficulties.

Further, the Statement of Administrative Action (SAA) provides guidance concerning the use of facts available to the Department in evaluating whether submitted information should be considered or rejected under the new Act. It states:

> Commerce * * * may take into account the circumstances of the party, including (but not limited to) the party's size, its accounting systems, and computer capabilities, as well as the prior success of the same firm, or other similar firms, in providing requested information in antidumping and countervailing duty proceedings. SAA, H. R. Doc. 316, 103d Cong., 2d Sess. 865 (1994).

In NME cases, it is quite common for the Department to encounter difficulties in obtaining complete and accurate information regarding factors of production. *See, e.g., Notice of Final Determination of Sales at less Than Fair Value; Certain Cased Pencils from the People's Republic of China* (59 FR 55625, 55630; Nov. 8, 1994). The information provided by Clover/Lucky in the non-labor portions of the response was similar to and in many ways more accurate than information the Department typically receives in responses provided by similarly situated companies in the PRC or other NME countries. Therefore, the Department considers that, with respect to the non-labor portion of Clover/Lucky's response, the company has acted to the best of its ability in providing the information and meeting the requirements established by the administering authority.

As the Department has noted above, the same determination cannot be made with respect to the company's submitted labor hours. In trying to reconcile the company's reported labor hours to source documents, the Department found a considerable number of errors and discrepancies as well as numerous deviations from the piece rate table standards that respondent used as the basis for its reported hours and which it claimed reflected the actual working hours of its employees. In addition, the Department discovered that, in one production department, a supervisor recorded fictitious information on supporting payroll/attendance documents while, in another department, payroll and attendance records indicated that employees were either paid for days they did not work or not paid for days they did (see Verification Report, pp. 23–24).

Many of the discovered errors or discrepancies affected more than one employee, indeed more than one category of employees. Although in a few instances, respondent was able to account for or provide an explanation for the error, discrepancy or deviation, in most instances, the information submitted in the response could not be reconciled with the company's attendance and payroll records (see Verification Report, pp. 20–24; and Facts Available Memorandum).

Clover/Lucky's response with respect to labor does not meet the criteria listed under section 782(e) of the Act. The information could not be verified, nor can it serve as a reliable basis for reaching the applicable determination. Further, due to the significant number of errors and discrepancies, the information cannot be used by the Department without undue difficulties.

More importantly, however, is the fact that, at verification, a company official admitted to altering two supporting payroll documents in an effort to support the figures reported in the response (see Verification Report, p. 22). Regardless of the inability of the Department to reconcile significant portions of the labor response with the company's books and records, the alteration of supporting source documents, on its own, is sufficient grounds for rejecting the submitted labor hours and using facts otherwise available as it calls into question the reliability of all submitted information with respect to the labor factor of production.

For all of the above reasons, we find that the information submitted by respondent with respect to the labor factor of production cannot be relied upon. Therefore, with respect to this factor, the Department has relied upon facts otherwise available. Further, because respondent did not act to the best of its ability in responding to our request for such information pursuant to section 782(e)(4) of the Act, as demonstrated by its alteration of source documents and the numerous errors and discrepancies discovered during the course of the verification, we have drawn an adverse inference under the authority provided by section 776(b) of the Act. For a further discussion of our decision to use adverse facts available for this factor, see the *Facts Available* section of this notice and the Facts Available Memorandum.

The Department has considered petitioner's argument that the alteration of source documents and recording of fictitious information on certain supporting payroll documents calls into question the reliability of the entire response, not just that portion pertaining to labor. During our verification of the other portions of Clover/Lucky's response, we did not find any indication that other source documents had been altered or contained fictitious information. In many cases, our verification of these other items was complete, in that the reported figures for the entire year were checked and cross-checked to all relevant source documents and records.

In addition, there was no indication that the company officials preparing the response knew of the altered source documents or payroll documents containing fictitious information prior to verification. Further, these company officials were forthcoming about the documents in question. When questions first arose about these source documents, they spoke with the employees that had originally compiled the information and immediately reported to the Department verifiers that, in the first instance, the source documents had been altered, and in the second instance, the information recorded on certain supporting payroll documents had been made up. Finally, we found no evidence that the company officials responsible for altering certain source documents and reporting fictitious information on certain supporting payroll records participated in compiling the information for the response outside of their respective departments.

Based on the above, the Department does not consider the non-labor information submitted by Clover/Lucky as it now appears on the record to be unreliable. Therefore, as discussed above, and in accordance with the mandate of section 782(e) of the Act, the Department cannot reject the response in its entirety and use total facts otherwise available in determining Clover/Lucky's antidumping margin.

The Department would like to clarify its position with respect to two statements in respondent's rebuttal comments on this issue. First, the verification report in no way suggests that the actions taken by the Clover employee who altered the documents were ''clarified to the satisfaction of the ITA.'' The Department does not condone the alteration of source documents for purposes of the proceeding; it is not possible for respondent to clarify this to our satisfaction. Respondent quotes the verification report out of context; the statement cited by respondent is merely

repeating the company's explanation of its resolution of the error, including the alteration of source documents. As discussed above, the Department considers the alteration of source documents by this employee to be sufficient grounds not only for finding the affected labor hours to have failed verification, but also for finding the entire portion of the response with respect to labor to be not verifiable.

Second, the production departments examined with respect to the lasagna pan and round pie plate were not the same, as claimed by respondent in its rebuttal brief. The two departments were, respectively, the Metal Fabrication Department and the Metal Cleaning Department (the latter department being the department in which the supervisor made up the information on certain supporting payroll documents) (see Verification Report, p. 22). Since the production departments examined during the course of the verification were not the same as claimed by respondent in its rebuttal comments, the conclusions drawn by respondent are fundamentally incorrect and, therefore, cannot be addressed further by the Department.

Comment 14: Petitioner states that if the submission of false information alone does not render Clover/Lucky's response unusable, the numerous additional discrepancies found by the Department's verifiers should still require use of total facts available. In the eighth administrative review, the Department preliminarily rejected Clover/Lucky's response in its entirety and used total BIA based on Clover/Lucky's failure of verification for information submitted to the Department. Petitioner believes that the verification report in this review addresses more numerous and extensive discrepancies than those found in the eighth administrative review. Petitioner cites *Silicon Metal From Brazil; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part* (62 FR 1954, 1969; January 14, 1997) as support for using total, rather than partial facts available.

Moreover, even if the Department determined that all of Clover/Lucky's data except those relating to the labor factor of production could be used, use of total facts available would still be necessary because there is no reliable facts available information that can be used as a surrogate for the flawed labor data. Petitioner cites *Certain Cut-To-Length Carbon Steel Plate From Sweden; Final Results of Antidumping Duty Administrative Review* (62 FR 18,396, 18,401; April 15, 1997) as support for this argument.

Respondent asserts in its rebuttal comments that there is clearly no justification for rejection of its responses in their entirety. In *Final Determination of Sales at Less Than Fair Value; Paint Filters and Strainers From Brazil* (52 FR 19181, 19183; May 21, 1987), the Department stated that finding omissions or errors in responses is common during verification. A review of the petitioner's allegations, compared with the overall accuracy of information submitted by Clover/Lucky demonstrates that the errors and omissions found at verification are not sufficient in themselves to invalidate or discredit Clover/Lucky's response for the POR. Respondent also asserts that the responses for each administrative review should be judged on their own merits.

Respondent finally claims that the other discrepancies were explained in its previously submitted comments, discussed above, and should be regarded as verifiable after review of these explanations, as the information submitted was not materially deficient. In addition, the balance of the information reported in the responses was determined to be correct.

Department's Position: We disagree with petitioner that the use of total facts otherwise available is warranted in this review. As explained above, the Department must evaluate whether to apply total facts otherwise available in this review under section 782 (e) of the Act.

Clover/Lucky's sales response and its response for the factors of production, except with respect to labor, meet each of the criteria in section 782(e). That aside, we also disagree that the errors found at this verification, with respect to the non-labor portions of the response, were more numerous or more serious than those found in the previous administrative review where the Department decided that the use of total best information available was appropriate. *See Porcelain-on-Steel Cooking Ware from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review* (62 FR 4250; January 29, 1997).

The record in the two proceedings clearly shows that the Department encountered far greater problems in verifying the non-labor portion of the questionnaire responses in the earlier review. For example, in the prior review, with respect to steel purchases from market economy suppliers and steel consumption, the Department found numerous errors in the reporting of steel purchases, was unable to tie steel requisitions to inventory withdrawals, and could not corroborate the submitted theoretical per-unit steel consumption figures with actual readings or tie them to measurements in the technical drawings. *See* Memorandum from Case Analyst to the File, dated May 28, 1997, ''Submission of the Verification Report (Public Version) from the 1993-1994 Antidumping Administrative Review Proceeding of POS Cooking Ware from the PRC to the Record for the 1994–1995 Antidumping Administrative Review Proceeding of This Case'' (1993–1994 Verification Report), which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building), pp. 2–8. Therefore, the Department determined that the information regarding the price and quantity of steel, the major material input into POS cooking ware was not sufficiently complete or reliable to use in its calculations.

In the instant review, the Department was able to verify all aspects of steel consumption, including the scrap rate, inventory withdrawals, and the reported per unit steel consumption figures (see Verification Report, pp. 15–17). Although the Department discovered three unreported steel purchases, during the course of verification, it obtained the missing invoices, determined that there were no other unreported steel purchases, and confirmed the accuracy of the remaining reported purchases (see Verification Report, p. 16). The missing invoices are on the record and the Department has used the price information contained in these invoices as facts otherwise available for the unreported purchases *(see Facts Available* section and Facts Available Memorandum). Therefore, unlike the prior review, the information available to the Department regarding the price and quantity of steel is sufficiently complete and reliable to use in its margin calculations.

In the prior review, the Department was unable to verify the consumption of enamel frit, another significant material input in the POS cooking ware production process (see 1993–1994 Verification Report, p. 8). In this review, following a correction to remove certain quantities of clay and quartz from the reported enamel frit figure, the Department was able to tie the reported amount of enamel frit consumed to the company's books and records (see Verification Report, pp. 17–18).

Also, in the prior review, respondent failed to report the quantity of various energy inputs (fuel, water and electricity) consumed by Clover/Lucky and there was no verifiable information

on the record regarding the consumption of these energy factors (see 1993–1994 Verification Report, pp. 1, 13–14). In this review, respondent supplied these consumption figures. The Department found no discrepancies in its verification of fuel consumption in this review (see Verification Report, p. 26). The Department was also able to verify electricity and city water consumption once the company had revised their figures to reflect the actual rather provisional invoices (see Verification Report, pp. 24–25). Further, the Department was able to obtain an accurate estimation of industrial well water consumption, which it had not been able to do in the previous review (see Verification Report, p. 25).

Respondent's submitted figures for depreciation could not be verified in the previous review. The Department selected the smallest production department for verification because of the unwieldiness of the company's records, yet the company was still unable to support the depreciation expenses for a significant portion of the selected department. The company was also unable to explain or demonstrate that it kept track and could distinguish between molds and dies owned by Clover, the PRC factory, and those on loan from Lucky, the parent company located in Hong Kong (see 1993–1994 Verification Report, pp. 11–13). In this review, the Department was able to verify depreciation expenses (see Verification Report, p. 26). Further, the company demonstrated that it was able to distinguish between the molds and dies owned by Clover and those on loan from Lucky, and the Department confirmed that Clover's reported depreciation expenses did not include depreciation expenses associated with the Lucky's molds and dies.

With respect to chemical inputs, the Department did discover that respondent failed to identify five minor chemicals used in the production process of POS cookware in this review (see Verification Report, p. 18). These chemicals were part of an aggregate mixture of chemicals described in the response as ''Chemical 2;'' the aggregate figure included the quantities of these five chemicals but, because they were not identified, these quantities were incorrectly allocated to other chemicals in the mix. During the course of the verification, we obtained an accurate breakdown of Chemical 2 and, as explained above, have used this information as facts otherwise available in our calculations *(see Facts Available* section and Facts Available Memorandum).

Unlike the prior review, there is sufficient information on the record of this proceeding, with respect to the non-labor portions of the response, to serve as a reliable basis for our calculations. Further, as explained above, the Department is rejecting the information submitted by respondent with respect to labor and using adverse facts otherwise available in its calculations *(see Department's Position* on *Comment 8,* as well as the *Facts Available* section above and the Facts Available Memorandum). We consider the information selected, the highest labor cost for an individual piece of cooking ware from the information submitted by Clover/Lucky, to be sufficiently adverse for use in our calculations.

Final Results of Review

As a result of the comments received and our findings at verification, we have changed the results from those presented in our preliminary results of review. Therefore, we determine that the following margins exist as a result of our review:

Manufacturer/exporter	Margin (percent)
Clover Enamelware Enterprise/ Lucky Enamelware Factory ...	57.56
PRC-Wide Rate	66.65

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of POS cooking ware from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For Clover/Lucky, which has a separate rate, the cash deposit rate will be the company-specific rate stated above; (2) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate stated above; (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 777(i) of the Act (19 U.S.C. 1677f(i), and 19 CFR 353.22.

Dated: June 3, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–15871 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Arkansas for Medical Sciences; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 96–109R. *Applicant:* University of Arkansas for Medical Sciences, Little Rock, AR 72205. *Instrument:* Rapid Kinetics Accessory, Model SFA–20. *Manufacturer:* Hi-Tech Ltd., United Kingdom. *Intended Use:* See notice at 61 FR 55973, October 30, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent

scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant.

The National Institutes of Health advises in its memorandum dated May 19, 1997, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–15865 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–039. *Applicant:* University of California, San Diego, Scripps Institute of Oceanography, 7835 Trade Street, San Diego, CA 92121. *Instrument:* Wave Measurement Equipment. *Manufacturer:* Datawell bv, The Netherlands. *Intended Use:* The instrument is intended to be used in support of research on the evolution of directional wave spectra across the continental shelf and near complex bathymetric features. *Application accepted by Commissioner of Customs:* May 20, 1997.

Docket Number: 97–041. *Applicant:* University of North Carolina at Chapel Hill, Center for Environmental Medicine and Lung Biology, 104 Mason Farm Road, EPA Human Studies Facility, CB# 7310, Chapel Hill, NC 27599–7310. *Instrument:* Graphite Aerosol Generator, Model GFG–1000. *Manufacturer:* Palas GmbH, Germany. *Intended Use:* The instrument will be used to combine radiolabeling techniques with the generator to produce fine particles that may be used in inhalation studies of regional deposition and clearance in healthy and diseased subjects. Another use is to produce carbon particles with this generator that can be coated with polyaromatic hydrocarbons. The resulting particles can then be used to expose cell systems of animals for toxicology studies. *Application accepted by Commissioner of Customs:* May 21, 1997.

Docket Number: 97–042. *Applicant:* The University of Houston, 4800 Calhoun Boulevard, Houston, TX 77204. *Instrument:* Electron Microscope, Model JEM–2010F. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used to study the crystal structure, crystalline defects and chemical composition of oxide and non-oxide compounds, high-temperature superconductors, metals, minerals and inorganic thin films. It will be used to measure the atomic arrangements within crystalline and non-crystalline compounds and defects therein by electron diffraction and electron imaging. Application accepted by Commissioner of Customs: May 29, 1997.

Docket Number: 97–043. *Applicant:* University of New Mexico, Center for Micro-Engineered Materials, Farris Engineering Center, Room 203, Albuquerque, NM 87131–6041. *Instrument:* X-Ray Photoelectron Spectrometer, Model AXIS HSi. *Manufacturer:* Kratos Analytical, United Kingdom. *Intended Use:* The instrument will be used for studies of organic and inorganic materials, specifically metals, metal sulfides, metal oxides and organically modified inorganic surfaces. There will be a wide variety of experiments conducted to determine the bulk or composition of the material under study and to determine the oxidation states of the components in the material. *Application accepted by Commissioner of Customs:* May 29, 1997.

Docket Number: 97–044. *Applicant:* University of Rochester, Procurement Services, 70 Goler House, Rochester, NY 14627. *Instrument:* (2) ICP Mass Spectrometers, Model Plasma 54. Manufacturer: VG Elemental, United Kingdom. *Intended Use:* The instruments are intended to be used to study trace metal concentrations in natural water, sediments and biological materials occurring naturally in the environment in and around Rochester, NY and remote environments such as the open Atlantic and Pacific oceans. *Application accepted by Commissioner of Customs:* May 30, 1997.

Docket Number: 97–045. *Applicant:* Baylor University, Office of Sponsored Programs and Contracts, P.O. Box 97088, Waco, TX 76798–7088. *Instrument:* Electron Microscope, Model JEM–1010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used for traditional TEM studies of plant cell development, plant sperm ultrastructure, bacterial cell wall morphology and ultrastructure of plant-viral interactions. In addition, the instrument will be used for educational purposes through instruction of the techniques of electron microscopy to both undergraduate and graduate students. *Application accepted by Commissioner of Customs:* May 30, 1997.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–15866 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE
International Trade Administration

Development of a Database for U.S. Children's Apparel Producers

To serve the U.S. children's apparel industry better, the Office of Textiles and Apparel is undertaking a new initiative. It is developing a database of U.S. children's apparel producers which will be used to create an electronic directory that will be available to international buyers through a free-standing kiosk. Featuring U.S. manufacturers of children's apparel by product and brand name, the directory will give international retailers and potential agents and distributors the opportunity to access information and communicate with these manufacturers from anywhere in the world, including via-e-mail and fax.

If your company has manufacturing facilities in the United States, and you are interested in being included in the database, you may obtain a form from the U.S. Department of Commerce. Please contact Kim-Bang Nguyen, Project Officer, Office of Textiles and Apparel, U.S. Department of Commerce, at (202) 482–4805 or via-e-mail at: kim-bang__nguyen@ita.doc.gov The form must be returned no later than August 31, 1997. This new initiative is part of our continuing effort to promote U.S.-made children's apparel worldwide. It will provide international exposure for you without you having to spend

resources to participate in international exhibitions.

The kiosk will be introduced at three international children's apparel exhibitions: Pitti Bimbo, Italy, Mode Enfantine, France and Kind & Jugend, Germany. These shows will be held in the summer of 1998.

I hope you will take advantage of this **free**, unique and exciting opportunity to promote your company to international buyers in a creative, far-reaching and high-profile format.

Dated: June 12, 1997.

D. Michael Hutchinson,

Acting Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries.

[FR Doc. 97–15878 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–602]

Certain Stainless Steel Cooking Ware From the Republic of Korea: Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Revocation in Part of Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances countervailing duty administrative review, and revocation in part of countervailing duty order.

SUMMARY: On May 12, 1997, the Department published a notice of initiation of a changed circumstances countervailing duty administrative review and preliminary results of review with intent to revoke, in part, the countervailing duty order on certain stainless steel cooking ware from the Republic of Korea. We are now revoking this order in part, with regard to stainless steel camping cooking ware, as described in the *Scope of Review*, based on the fact that domestic parties have expressed no interest in the importation or sale of this stainless steel camping cooking ware imported from the Republic of Korea.

EFFECTIVE DATE: June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Amy S. Wei or James Terpstra, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4737.

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 January 24, 1997, at the request of Peregrine Outfitters, Inc. (Peregrine), the Department revoked in part the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea with respect to stainless steel camping cooking ware (62 FR 3662).

On March 31, 1997, Peregrine subsequently requested that the Department conduct a changed circumstances administrative review to determine whether to partially revoke the countervailing duty order on certain stainless steel cooking ware from the Republic of Korea (52 FR 2140, January 20, 1987) with respect to imports of stainless steel camping cooking ware. Imports of other types of stainless steel cooking ware are not affected by this request. In addition, the petitioner informed the Department in writing that it did not object to the changed circumstances review and had no interest in the importation or sale of stainless steel camping cooking ware produced in the Republic of Korea, as described by Peregrine.

We preliminarily determined that petitioner's affirmative statement of no interest constituted changed circumstances sufficient to warrant a partial revocation of this order. Consequently, on May 12, 1997, the Department published a notice of initiation and preliminary results of changed circumstances countervailing duty administrative review and intent to revoke this order in part (62 FR 25926). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments.

Scope of Review

The merchandise covered by this changed circumstances review is stainless steel camping cooking ware from the Republic of Korea. This changed circumstances administrative review covers all manufacturers/exporters of stainless steel cooking ware meeting the following specifications of stainless steel camping cooking ware: (1) made of single-ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consisting of 1.0, 1.5, and 2.0 quart saucepans without handles and 2.5, 4.0, and 5.0 quart saucepans with folding bail handles and with lids that also serve as fry pans. These camping cooking ware items can be nested inside each other in order to save space when packing for camping or backpacking. The order with regard to imports of other stainless steel cooking ware is not affected by this request.

Final Results of Review; Partial Revocation of Countervailing Duty Order

The affirmative statement of no interest by petitioner in stainless steel camping cooking ware from the Republic of Korea constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking the order on certain stainless steel cooking ware from the Republic of Korea with regard to cooking ware which meets the specifications of stainless steel camping cooking ware from the Republic of Korea, in accordance with sections 751 (b) and (d) of the Act and 19 CFR 355.25(d)(1).

The Department will instruct the U.S. Customs Service (Customs) to proceed with liquidation, without regard to countervailing duties, of all unliquidated entries of stainless steel camping cooking ware from the Republic of Korea that are not subject to final results of administrative review. The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of stainless steel camping cooking ware from the Republic of Korea that are not subject to final results of administrative review.

This notice also serves as a reminder to parties subject to administrative protection orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). 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 terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the countervailing duty order and notice are in accordance with sections 751 (b)(1) and (d) of the Act

and §§ 355.22(h) and 355.25(d) of the Department's regulations.

Dated: June 10, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–15869 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061097E]

Endangered Species; Permits

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

ACTION: Notice of receipt of a request to modify permit 962 (P509B).

SUMMARY: Notice is hereby given that Carlos Diez and Robert van Dam, Puerto Rico Department of Natural and Environmental Resources (P509B) have applied in due form to modify Permit 962. This permit authorizes the take of listed sea turtles for the purpose of scientific research, subject to certain conditions set forth therein.

DATES: Written comments or requests for a public hearing on the request to extend Permit 962 must be received on or before July 17, 1997.

ADDRESSES: The applications, permits, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401);

or

Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

Written comments, or requests for a public hearing on the request to modify Permit 962 should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: Carlos Diez and Robert van Dam request a modification to permit 962, under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

The permit currently authorizes the hand capture of 200 listed hawksbill sea turtles (*Eretmochelys imbricata*) and 20 listed green sea turtles (*Chelonia mydas*) annually, to be examined, photographed, measured, and tagged. The research is currently authorized in the waters surrounding Mona and Monito Islands, PR. Some of the turtles may be lavaged, have blood or scute samples taken, or have time-depth recorders attached. The goal of the research is to provide information on the ecology and population dynamics of the hawksbill.

The permittee's have requested the following modifications to their permit: 1) an increase in the level of take of hawksbill turtles to a total of 300 annually; 2) an increase in the level of take of green turtles to a total of 100 annually; 3) authorization to net capture green turtles; 4) authorization to include the Puerto Rican Islands of Culebra, Vieques, Desecheo, and Caja de Muertos in the study area; 5) authorization to collect up to 10 cc's of blood from all turtles taken under the authority of this permit for genetic analysis and sex determination; and 6) authorization to include Teresa Tellevast, U.S. Fish and Wildlife Service, as an agent under this permit. The increase in take and additional survey locations will provide additional information on the ecology and population dynamics of hawksbill and green turtles in Puerto Rican waters.

Those individuals requesting a hearing on the request to modify Permit 962 should set out the specific reasons why a hearing on this particular request would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in these permit summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: June 11, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–15872 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

June 11, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting import limits.

EFFECTIVE DATE: June 18, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. 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); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryover, carryforward, carryforward used and recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 64507, published on December 5, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 11, 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 November 29, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997.

Effective on June 18, 1997, you are directed to adjust the current limits for the following categories, pursuant to the Uruguay Round

Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
237	1,770,758 dozen.
331/631	5,283,208 dozen pairs.
333/334	284,535 dozen of which not more than 40,848 dozen shall be in Category 333.
336	607,182 dozen.
338/339	2,444,511 dozen.
340/640	1,027,503 dozen.
341/641	927,191 dozen.
342/642	506,588 dozen.
345	155,445 dozen.
347/348	2,343,917 dozen.
350	153,684 dozen.
351/651	572,815 dozen.
352/652	2,497,049 dozen.
359–C/659–C [2]	778,255 kilograms.
431	186,643 dozen pairs.
443	44,866 numbers.
445/446	30,353 dozen.
633	37,562 dozen.
636	1,756,412 dozen.
638/639	2,299,879 dozen.
643	732,745 numbers.
645/646	781,052 dozen.
647/648	1,372,257 dozen.
649	7,882,316 dozen.
650	109,997 dozen.
659–H [3]	1,368,321 kilograms.
847	236,034 dozen.
Group II	
200–229, 300–326, 330, 332, 349, 353, 354, 359–O [4], 360, 362, 363, 369–O [5], 400–414, 432, 434–442, 444, 448, 459, 464–469, 600–607, 613–629, 630, 632, 644, 653, 654, 659–O [6], 665, 666, 669–O [7], 670–O [8], 831–846 and 850–859, as a group.	160,325,773 square meters equivalent.
Sublevel in Group II	
361	1,941,270 numbers.
369–S [9]	429,539 kilograms.
611	5,132,118 square meters.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C).

[5] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090 (Category 659–H).

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[9] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–15797 Filed 6–16–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 17, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: June 11, 1997.

Gloria Parker,

Director, Information Resources, Management Group.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Public Libraries Survey, FY 1996–FY 1998.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting Burden and Recordkeeping:

Responses: 57.

Burden Hours: 1,710.

Abstract: The Public Libraries survey has been conducted annually since it first collected FY 1990 data. The Data collection provides a national census of public libraries and their public library

service outlets. It includes descriptive data for each state and for each individual public library. The data are collected entirely electronically and the survey is designed and coordinated by a federal/state cooperative system. Data collected allow analysis of such important variables as expenditures, staffing, size of collection and services comparing among libraries of similar size (as measured by population of legal service area). This information is used for policy decisions in the areas of legislation, funding and resource allocation. With this complete file of administrative entities, it is possible to select samples for specialized surveys for example on children's services or on access for persons with disabilities.

[FR Doc. 97–15774 Filed 6–16–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–43–000]

ANR Pipeline Company; Notice of Informal Settlement Conference

June 11, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, June 16 and Friday, June 27, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.103(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 William J. Collins at (202) 208–0248.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15788 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–389–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 11, 1997.

Take notice that on June 6, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets bearing a proposed effective date of June 7, 1997:

Fifth Revised Sheet No. 281
Sixth Revised Sheet No. 282
Second Revised Sheet No. 283

Columbia states that the purpose of this filing is to make minor modifications to the auction time periods in Section 4 (Auctions of Available Firm Service) of the General Terms and Conditions (GTC) of its Tariff to render them comparable to similar time periods applicable to capacity release transactions.

Columbia states that copies of its filing have been mailed to all firms customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such interventions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. A copy of this filing is on file with the Commission and is available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15784 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–390–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 11, 1997.

Take notice that on June 6, 1997, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets bearing a proposed effective date of June 7, 1997:

Third Revised Sheet No. 145
Second Revised Sheet No. 145A
Third Revised Sheet No. 146
Second Revised Sheet No. 147

Columbia Gulf states that the purpose of this filing is to make minor modifications to the auction time periods in Section 4 (Auctions of Available Firm Service) of the General Terms and Conditions (GTC) of its Tariff to render them comparable to similar time periods applicable to capacity release transactions.

Columbia Gulf states that copies of its filing have been mailed to all firm customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such interventions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. A copy of this filing is on file with the Commission and is available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15794 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11562–000]

Robert Craig; Notice of Surrender of Preliminary Permit

June 11, 1997.

Take notice that Robert Craig, Permittee for the Icy Gulch Project No. 11562, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11562 was issued March 11, 1996, and would have expired February 28, 1999. The project would have been located on Sheep Creek, near Juneau, Alaska.

The Permittee filed the request on May 16, 1996, and the preliminary permit for Project No. 11562 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15789 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–596–000]

El Paso Natural Gas Company; Order To Show Cause

June 11, 1997.

On June 25, 1996, El Paso Natural Gas Company (El Paso) filed a prior notice request to construct and operate a delivery point on its Santan Line in Maricopa County, Arizona to deliver natural gas to Southwest Gas Corporation (Southwest).

Thereafter, El Paso filed a notice of withdrawal of its prior notice request, citing a 1981 Gas Sales Agreement between El Paso and Salt River Project Agricultural Improvement and Power District (Salt River). The 1981 Gas Sales Agreement provides that the Santan Line will not be used without Salt River's consent for any purpose except the transportation of gas to Salt River.

On August 16, 1996, Southwest filed in opposition to El Paso's notice of withdrawal. Southwest contends that the Santan Line facilities have been incorporated into El Paso's jurisdictional open-access interstate transmission system and that El Paso's decision not to proceed with the construction of the delivery point constitutes discriminatory denial of access.

For the reasons discussed below, the Commission is requiring El Paso to show cause why it should not be required to construct and operate the delivery point for and provide the proposed transportation service to Southwest if capacity is available.

I. Procedural Matters

Notice of El Paso's prior notice request for authorization to construct and operate a delivery point to permit the transportation and delivery of natural gas to Southwest under El Paso's blanket certificate was published in the **Federal Register** on July 8, 1996 (61 FR 35729).[1] Eight parties filed timely, unopposed motions to intervene.[2] Timely, unopposed motions to intervene are granted by operation of rule 214 of the Commission's regulations.

On August 7, 1996, El Paso filed a notice of withdrawal of its prior notice request. Salt River filed in support of El Paso's notice of withdrawal on August 14, 1996; at the same time it filed a conditional protest opposing El Paso's prior notice request should the notice of withdrawal not become effective. On August 16, 1995, Southwest filed a motion opposing El Paso's notice of withdrawal.

Thereafter, Salt River and Southwest filed a series of pleadings in the nature of answers and responses to answers. While our rules do not permit answers to answers,[3] we may, for good cause, waive a rule.[4] We find good cause to do so in this instance. Accordingly, to achieve a complete and accurate record, we will accept and consider all tendered pleadings.

II. Background

On January 11, 1982, the Commission issued an order authorizing El Paso to construct and operate 9.9 miles of 12.75-inch diameter pipeline to extend from El Paso's existing 16-inch Ocotillo Pipeline eastward to Salt River's Santan combined-cycle generating station (Santan Plan) for the transportation and delivery of natural gas for direct salt to Salt River.[5] This order provided that ''[c]osts associated with the construction and operation of the facilities authorized herein shall not be allocated to jurisdictional customers under a Natural Gas Act, Section 4 filing by El Paso.'' [6]

The 1981 Gas Sales Agreement between El Paso and Salt River, under which the direct sales were initiated, states that the Santan Line will not be used without Salt River's consent for any purpose except the transportation of gas to Salt River.

In 1990, El Paso and Salt River entered into a Transportation Service Agreement regarding the use of the Santan Line. Under the Transportation Service Agreement, Salt River, pursuant to Subpart A of Part 284 of the Commission's regulations, converted its full natural gas requirements under the existing Gas Sales Agreement to firm transportation service. The 1990 Agreement provides that El Paso will continue the same quality of service El Paso provided under the existing Gas Sales Agreement, with only those modifications that are necessary to reflect the conversion of service from sales to transportation.

III. The Parties' Position

Southwest, stating that the 1981 Gas Sales Agreement between Salt River and El Paso has been converted to full requirements firm transportation service, contends that the Santan Line has been incorporated into El Paso's jurisdictional open-access interstate transmission system. Southwest states that El Paso has informed it that Salt River has not paid a surcharge for the sole use of the Santan Line for some time; Southwest infers from this that operation and maintenance costs associated with the Santan Line are recovered by El Paso through its systemwide rates. Southwest contends that all open-access transportation customers should have an equal right of access to any part of the pipeline's integrated transmission system on a non-discriminatory, non-preferential basis subject to the pipeline's operating tariff provisions and delivery and receipt point priorities. Accordingly, Southwest concludes that El Paso's failure to construct the delivery point could constitute a discriminatory denial of access to El Paso's open-access transmission system.

[1] El Paso was granted a Part 157 blanket certificate in El Paso Natural Gas Co., 20 FERC ¶ 62,454 (1982).

[2] They are: Amoco Production Co., Arizona Public Service Co., Citizens Utilities Co., Colorado Interstate Gas Co., Conoco, Inc., El Paso Municipal Customer Group, Southern Union Gas Co., and Southwest Gas Corp.

[3] *See* 18 CFR § 835.213(a) (1) and (2) (1996).

[4] 18 CFR § 385.101(e) 1996).

[5] El Paso Natural Gas Co., 18 FERC ¶ 61,015 (1982).

[6] *Id.* at 61,021 (Ordering Paragraph D).

Salt River responds that El Paso designed and constructed the Santan Line to serve the exclusive needs of Salt River's Santan Plant, and that Salt River reimbursed El Paso for the construction and operational costs of the Santan Line through an incremental surcharge and minimum purchase obligation. It states that as a result of this arrangement, El Paso was prohibited by the terms of the Santan Line certificate from allocating costs associated with the construction and operation of the Line to its jurisdictional customers.

Salt River adds that the 1990 Transportation Service Agreement converting the 1981 Gas Sales Agreement to full requirements transportation service provides for continuation of the same quality of service as provided under the 1981 Gas Sales Agreement, modified only as necessary to reflect the conversion of service from sales to transportation. Thus, Salt River concludes that the Santan Line is not part of El Paso's open-access transmission system, and that the provision that the Santan Line will not be used by El Paso for any purpose other than to serve the Santan Plant is legally enforceable.

Salt River states nonetheless that it is willing to consider a proposal by El Paso to install a new tap for Southwest on the Santan Line assuming adequate capacity exists to ensure that the peak generating capability of the Santan Plant will not be adversely affected. Salt River adds that it has advised Southwest that, because the new tap would be located upstream of the Santan Plant, Salt River, at a minimum, must have written assurance that it will receive adequate notice of and be fully compensated in the event gas intended for Salt River at the Santan Plant is otherwise diverted to Southwest.

IV. Discussion

Under section 5 of the Natural Gas Act (NGA), the Commission has ''broad power to stamp out undue discrimination,'' including the authority to impose ''suitable remedies'' in an appropriate case.[7] That authority includes the power to order an interstate pipeline to add new delivery points.[8]

Under Part 284 of the Commission's regulations, an interstate pipeline with a blanket certificate must provide service without undue discrimination. Although the rules do not require that a pipeline construct facilities,[9] the pipeline cannot discriminate against any shipper in constructing minor facilities to accept or deliver supplies.[10] The Commission consistently interprets this to mean that if a pipeline decides to build facilities for one customer, it must build facilities for other similarly situated shippers on a non-discriminatory basis,[11] unless there is some appropriate justification not to do so.[12]

Here, the dispute focuses on whether El Paso must provide non-discriminatory open-access service to Southwest on the Santan Line pursuant to Part 284 of our regulations, if capacity is available and despite the sole-use provision in Salt River's Agreement.

Since El Paso is presently providing open-access service to Salt River on the Santan Line, the Commission will require that El Paso show cause why it should not be required to provide a delivery point for Southwest. In doing so, El Paso should provide, in particular, all information necessary to make a determination as to: (1) Why the provisions of the 1981 Gas Sales Agreement and the 1990 Transportation Service Agreement should be considered to override the terms and conditions imposed on service rendered under Part 284 of the Commission's regulations; (2) why the Commission should not require the parties to amend their contract to remove the sole use provision; and (3) why El Paso should not be required to construct and operate the delivery point for and provide the proposed transportation service to Southwest if capacity is available.

In its response, El Paso should address the specific concerns raised above by the Commission. As stated, the Commission is accepting considering all previously tendered pleadings. Therefore, the parties should not reiterate any arguments from those pleadings.

The Commission Orders

(A) Within 30 days of the issuance of this order, El Paso is ordered to show cause why it should not be required to provide a delivery point for Southwest, as described above.

(B) Notice of this proceeding will be published in the **Federal Register**. Interested parties will have 20 days from the date of publication of the notice to intervene.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15819 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

[7] *Associated Gas Distributors* v. *FERC,* 824 F.2d 981, 1001 (D.C. Cir. 1987), *cert. denied sub nom.* Interstate Natural Gas Ass'n of Am., 485 U.S. 1006 (1988).

[8] *City of Gainsville, Fla.* v. *Florida Gas Transmission Co.,* 55 FERC ¶ 61,486, at p. 62,664 (1991).

[9] Order No. 436, at p. 31,550.

[10] *Id.,* Order No. 636–A, at p. 30,585.

[11] *See, e.g.,* Texas Eastern Transmission Corp., 37 FERC ¶ 61,260, at p. 61,683 n. 114 (1986).

[12] *Id.* at p. 61,679.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–562–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

June 11, 1997.

Take notice that on June 6, 1997, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP97–562–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon an inactive meter station for Orlando Utilities Commission (OUC) under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes to abandon the Highlands Meter Station in Orange County, Florida, because OUC no longer has any present or future use for the meter station. The meter station has been inactive since 1984. FGT indicates that the proposed abandonment will not change the certificated levels of service which FGT is currently providing OUC.

Any person or the Commission's staff may, with 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15791 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–391–000]

Gas Research Institute; Notice of Annual Application

June 11, 1997.

Take notice that on June 10, 1997, Gas Research Institute (GRI) filed an application requesting advance approval of its 1998–2002 Five-Year Research, Development and Demonstration (RD&D) Plan and 1998 RD&D Program, and the funding of its RD&D activities for 1998, pursuant to the Natural Gas Act and Section 154.401(b) of the Commission's Regulations.

In its application, GRI requests approval of a total obligations budget of $164.3 million in 1998, which is $6.1 million less than the $170.4 million approved for GRI's 1997 RD&D Program. Of this amount, GRI plans to obligate $141.4 million to contract RD&D expenditures, while the remaining $22.9 million will be obligated to administrative and general expenditures.

During the twelve months ending December 31, 1998, GRI expects to *collect* $163 million from FERC-approved surcharges, and $7 million from intrastate and other sources, for total receipts of $170 million. GRI states that it intends to *disburse* this entire amount by the end of 1998. Accordingly, GRI plans to end 1998 with the same cash balance level of $40 million it plans to have at the start of 1998.

GRI proposes to fund its 1998 RD&D Program using the following previously-approved (for 1997) surcharges: (1) A demand/reservation surcharge on two-part rates of 26.0 cents per Dth per Month for ''high load-factor customers''; (2) a demand/reservation surcharge on two-part rates of 16.0 cents per Dth per month for ''low load-factor customers''; (3) a volumetric commodity/usage surcharge of 0.88 cents per Dth for firm services involving two-part rates and for one-part interruptible rates; (4) a special ''small customer'' surcharge of 2.0 cents per Dth; and (5) a surcharge of 1.74 cents per Dth per month for one-part, firm service outside the ''small customer'' class.

Since it does not seek to change its surcharges for 1998, GRI asks that the Commission not require its member pipelines to file new tariff sheets to simply restate the currently effective surcharges.

The Commission staff will analyze GRI's application and prepare a Commission Staff Report. This Staff Report will be served on all parties and filed with the Commission as a public document by August 11, 1997. Comments on the Staff Report by all parties, except GRI, must be filed with the Commission on or before August 22, 1997. GRI's reply comments must be filed on or before August 29, 1997.

Any person desiring to be heard or to protest GRI's application, except for GRI members and state regulatory commissions, who are automatically permitted to participate in the instant proceedings as intervenors, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All protests, motions to intervene and comments should be filed on or before June 25, 1997. All comments and protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party, other than a GRI member or a state regulatory commission, must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15792 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. OA97–237–000, ER97–1079–000 and EC97–35–000]

New England Power Pool; Notice of Filing

June 11, 1997.

Take notice that on June 5, 1997, the New England Power Pool (NEPOOL) Executive Committee submitted materials related to its filing on December 31, 1996 in the captioned dockets. These materials describe the transmission charges that should be in effect under the formula rates contained in the NEPOOL Open Access Tariff.

The NEPOOL Executive Committee states that copies of these materials were sent to protestants and persons seeking intervention in the captioned dockets, the New England state governors and regulatory commissions and the participants in the New England Power Pool.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 20, 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. 97–15795 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–388–000]

Northern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

June 11, 1997.

Take notice that on June 6, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff the following tariff sheets proposed to become effective on July 6, 1997:

Fifth Revised Volume No. 1

Second Revised Sheet No. 201
Original Sheet No. 302
Original Sheet No. 303

Northern states that the above-referenced tariff sheets amend the General Terms and Conditions of Northern's Tariff to allow Northern to acquire and hold interruptible contractual rights on other pipelines for transportation and storage capacity for the benefits of its shippers.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All 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. Any person wishing to become a party must file to motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15785 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–315–000]

Northwest Pipeline Co.; Notice on Technical Conference

June 11, 1997.

On May 29, 1997, the Commission issued an order [1] in the captioned docket requiring, among other things, a technical conference on Northwest Pipeline Company's proposed pooling provisions. Due to the complexity of the topic, it is possible that this conference could require more than one day. Therefore the conference will first convene at 9:30 a.m. on July 15, 1997, 888 First Street, NE., Washington, DC, in a room to be designated at that time. If necessary, the conference will continue through 5:30 p.m. of the same day and reconvene at 9:30 a.m. on July 16, 1997.

Any questions concerning the conference should be directed to John M. Robinson, (202) 208–0808, or Kenneth P. Niehaus, (202) 208–0398.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15786 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Northwest Pipeline Corporation, 79 FERC ¶ 61,259 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–167–005]

Sea Robin Pipeline Co.; Notice of Proposed Changes to FERC Gas Tariff

June 11, 1997.

Take notice that on June 6, 1997, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet in compliance with the Commission's Order dated May 28, 1997 in this docket, to become effective May 1, 1997:

Substitute First Revised Fourth Revised Sheet No. 7

On April 22, 1997, the Commission issued on ''Order on Settlement, Establishing Just and Reasonable Rates,'' in which the Commission ordered Sea Robin to reduce its rates at the levels contained in the order. Sea Robin made a compliance filing on April 29, 1997, which the Commission accepted by letter order dated May 28, 1997, with the exception of one modification. In the letter order, the Commission directed Sea Robin to eliminate from the tariff sheet a reference to GISB Standard No. 5.3.22. Sea Robin states that it has eliminated this reference.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15787 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Projects Nos. 1932–010, 1933–010, and 1934–010]

Southern California Edison Company; Notice of Public Meeting and Site Visit To Discuss Information Needs for the Proposed Relicensing of the Lytle Creek Hydroelectric Project, Santa Ana River 1 and 2 Hydroelectric Project, and the Milo Creek 2/3 Hydroelectric Project

June 11, 1997.

Take notice that the Commission staff will hold a meeting with Southern California Edison (Edison), the applicant for the Lytle Creek Hydroelectric Project No. 1932, the Santa Ana River Hydroelectric Project No. 1933, and the Mill Creek 2/3 Hydroelectric Project No. 1934, and representatives of the City of Redlands, California, intervenor in the relicensing proceedings for Projects Nos. 1933 and 1934. The projects are located near the City for Redlands in San Bernardino County, California. The meeting will be held on Thursday, June 26, 1997, from 12 p.m. to 4 p.m. at the Board Room of the Redlands School District, 25 West Lugonia Avenue, Redlands, California.

The purpose of the meeting is to discuss the Commission's request, dated November 19, 1996, for Edison to conduct a streamflow and temperature study in some reaches of the Santa Ana River and its tributaries that the three projects affect. All interested individuals, organizations, and agencies are invited to attend the meeting.

In addition, the Commission staff will make a site visit on June 25, 1997, to the three projects, so that the staff can view the projects' area. All interested individuals, organizations, and agencies are invited to accompany the Commission staff on the site visit. Participants will meet at 8:30 a.m. at the U.S. Army Corps of Engineers Seven Oaks dam construction office parking lot, adjacent to the guard office, on Santa Ana Canyon Road, northeast of Mentone, California. Participants should provide their own transportation for the site visit; four-wheel-drive vehicles are recommended. Further, participants should bring their own lunches for the day-long site visit.

For further information, please contact Dianne Rodman at (202) 219–2830.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15790 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–561–000]

Tennessee Gas Pipeline Company; Notice of Application

June 11, 1997.

Take notice that on June 4, 1997, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP97–561–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by sale to Tennessee's affiliate, EPEC Offshore Gathering Company (EOGC), certain pipeline and measuring facilities and appurtenances thereto located in the vicinity of Eugene Island Block No. 24 (Eugene Island Facilities) on the Outer Continental Shelf (OCS). In addition, Tennessee requests that the Commission find that the facilities to be transferred to EOGC are non-jurisdictional gathering facilities exempt from the Commission's jurisdiction pursuant to NGA Section 1(b), all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to abandon by sale to EOGC 2.44 miles of 12-inch pipeline extending from Murphy Exploration and Production Company's Eugene Island Block 24 ''A'' Platform on the OCS to a subsea point of interconnection with a 12-inch pipeline owned by Quivira Gas Company at the boundary between the OCS and state waters in Eugene Island Block 10, a meter station, and all appurtenances thereto, excluding the electronic flow computer. Tennessee states that to the extent EOGC is unable to negotiate contracts with existing shippers for gathering service on the Eugene Island Facilities, EOGC will agree to provide gathering service pursuant to a default contract which will ensure that existing shippers receive gathering service under terms and conditions consistent with the terms and conditions under which they currently receive transportation service, for a two-year default term.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 2, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulation Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15793 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2699–001, 2019–017, 11452–000, 11477–000 and 11563–000]

Utica Power Authority, Northern California Power Agency; Notice Establishing Deadline for Submission of Final Amendments

June 11, 1997.

The Angels Project No. 2699 and the Utica Project No. 2019 were licensed to Pacific Gas and Electric Company (PG&E) on November 6, 1970, and July 11, 1951, respectively. The projects are located on Angels Creek, North Fork Stanislaus River, Silver Creek, Mill Creek, and Angels Creek in Alpine, Calaveras, and Toulumne Counties, California. The licenses for the Angels Project expired on December 31, 1995, and the Statutory deadline for filing an application for a new license was December 31, 1993. The license for the Utica Project expired on May 8, 1996, and the statutory deadline for filing an application for a new license was May 8, 1994.

PG&E filed applications for new licenses for both the Angeles and the Utica Projects and the Northern California Power Agency (NCPA) filed competing applications for the Angels Project (P–11452–000) and the Utica Project (P–11477–000).

By order issued November 29, 1995, the Commission approved the transfer of the original licenses for both projects from PG&E to the Calaveras County Water District (CCWD) and the simultaneous transfer of a portion of the Utica Project (Upper Utica Project, P–11563) to NCPA. This portion consists of the Union Dam and Reservoir, the Utica Dam and Lake, and the Alpine Dam and Lake. The current Utica Project (P–2019) is the remaining original Utica Project, which includes the Mill Creek Tap, Upper Utica Conduit, Hunters Reservoir, the Lower Utica Conduit, Murphys Forebay, Murphys Powerhouse, with an installed capacity of 3.6 MW, and Murphys Afterbay.

By order issued March 18, 1997, the Commission approved the transfer of both licenses from CCWD to the Utica Power Authority (UPA). By virtue of these transfers, UPA and NCPA have assumed the respective portions of PG&E's applications for Project Nos. 2019 and 2699.

Pursuant to section 15(c)(1) of the Federal Power Act, the deadline for the applicants (UPA and NCPA) to file final amendments, if any, to their applications is September 30, 1997.

Any questions concerning this notice should be directed to Héctor M. Pérez on (202) 219–2843.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15783 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10819–002, Idaho]

Idaho Water Resource Board; Notice of Availability of Final Environmental Assessment

June 11, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original, major license for the Dworshak Small Hydroelectric

Project (project), and has prepared a final Environmental Assessment (EA) for the project. The project is located on the existing water conveyance system providing water from the Corps of Engineers' Dworshak dam to two fish hatcheries. The Dworshak dam is located on the North Fork Clearwater River in Clearwater County, Idaho.

In the final EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the final EA 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15782 Filed 6–16–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5843–1]

Access to Confidential Business Information by Booz-Allen, & Hamilton, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is authorizing Booz-Allen, & Hamilton, Inc. to participate in reviews of selected Superfund cost recovery documentation and records management. During the review, the contractor will have access to information which has been submitted to EPA under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of this information may be claimed or determined to be Confidential Business Information (CBI).

DATES: The contractor (Booz-Allen, & Hamilton, Inc.) will have access to this data five working days from June 17, 1997.

ADDRESSES: Send or deliver, written comments to Veronica Kuczynski, U.S. Environmental Protection Agency, Office of the Comptroller (3PM30), 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Veronica Kuczynski, Office of the Comptroller, (3PM30), 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone (215) 566–5169.

SUPPLEMENTARY INFORMATION: Under Contract 68–W4–0010, Work Assignment #ESS026, Booz-Allen, & Hamilton, Inc. will be conducting an on-site review of the procedures and systems currently in place for compliance with Superfund cost recovery and record keeping requirements in the State of Delaware. This review involves conducting transaction testing to evaluate recipient conformance with applicable regulations and acceptable business practices and documenting findings. The contractor will examine transactions for the following:

(1) *Expenditures Review:* Expenditure documentation such as expense reports, timesheets, and purchase requests from the point of origination to the point of payment to determine compliance with such requirements as site-specific accounting data, authorizing signature and reconciliation of timesheets to expense reports.

(2) *Financial Reports:* Review financial drawdowns, Financial Status Reports, and internal status reports, to determine if information is consistent between these documents, if recipient is properly using information, and if the reports are submitted when required.

(3) *Record Keeping Procedures:* Review samples of Superfund documentation to determine the effectiveness of the recipient procedures to manage and reconcile this documentation (focusing on site-specific documentation, retention schedules, and the ability of the recipient to provide EPA with required financial documentation for cost recovery purposes in the specified time frame).

In providing this support, Booz-Allen, & Hamilton, Inc., employees may have access to recipient documents which potentially include financial documents submitted under section 104 of CERCLA, some of which may contain information claimed or determined to be CBI.

Pursuant to EPA regulations at 40 CFR part 2, subpart B, EPA has determined that Booz-Allen, & Hamilton, Inc., requires access to CBI to provide the support and services required under the Delivery Order. These regulations provide for five working days notice before contractors are given access to CBI.

Booz-Allen, & Hamilton, Inc. will be required by contract to protect confidential information. These documents are maintained in recipient office and file space.

Dated: June 10, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97–15853 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5843–4]

National Drinking Water Advisory Council; Drinking Water State Revolving Fund Working Group; Notice of Open Meeting

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the Drinking Water State Revolving Fund Working Group of the National Drinking Water Advisory Council, established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on July 16 and 17, 1997, from 9:00 a.m. to 5:00 p.m., in the Mount Vernon room (lobby level), Sheraton City Centre Hotel, 1143 New Hampshire Avenue, NW, Washington, DC. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of this meeting is to discuss policy issues related to the Drinking Water State Revolving Fund (DWSRF). The meeting is open to the public to observe. The working group members are meeting to analyze relevant issues and facts facing the DWSRF program. Statements from the public will be taken at the end of the meeting if time allows.

For more information, please contact Richard Naylor, Designated Federal Officer, U.S. EPA, Office of Ground Water and Drinking Water (4606), 401 M Street, SW, Washington, D.C. 20460. The telephone number is (202) 260–5135 and the e-mail address is naylor.richard@epamail.epa.gov.

Dated: June 3, 1997.

Charlene Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 97–15845 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Seventh Meeting of the WRC–97 Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–97 Advisory Committee will be held on Wednesday, June 25, 1997 at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 1997 World Radiocommunication Conference.

DATE: June 25, 1997; 2:00 pm–4:00 pm.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Crystal Foster, FCC International Bureau, Satellite and Radiocommunication Division, at (202) 418–0749.

SUPPLEMENTARY INFORMATION:

1. The Federal Communications Commission (FCC) established the Advisory Committee for the 1997 World Radiocommunication Conference to provide advice, technical support and recommendations relating to the preparation of recommended United States proposals and positions for the 1997 World Radiocommunication Conference (WRC–97). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the seventh meeting of the WRC–97 Advisory Committee.

2. This meeting will continue reviewing the work of the Advisory Committee. The draft conference proposals developed by the Committee's Ad Hoc and Informal Working Groups (IWGs) will be considered for approval.

3. The WRC–97 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. Further information regarding the WRC–97 Advisory Committee is available on the World Wide Web at: http://www.fcc.gov/ib/wrc97/.

4. The proposed agenda for the seventh meeting is as follows:

Draft Agenda

Seventh Meeting of the WRC–97 Advisory Committee, Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554

June 25, 1997; 2:00 p.m.–4:00 p.m.

1. Opening Remarks
2. Approval of Agenda
3. Approval of Minutes
4. Update on Delegation to WRC–97
5. Reports from Working Groups Chairs & Consideration of Draft Proposals
6. Update on NTIA Radio Conference Subcommittee
7. Reports on Significant International Meetings (CPM, CITEL)
8. Other Business

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15815 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meetings; Open Commission Meeting Thursday, June 19, 1997

The Federal Communications Commission will hold a Open Meeting on the subject listed below on Thursday, June 19, 1997, which is scheduled to commence at 9:30 a.m. in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Mass Media—Title: Broadcast Advertisement of Distilled Spirits. Summary: The Commission will consider action regarding the recent initiation of broadcast advertising by the distilled spirits industry, particularly with regard to liquor consumption by minors, and seeks comment on what governmental response, if any, is appropriate.

2—Compliance and Information—Title: The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines (CI Docket No. 95–6). Summary: The Commission will consider amending Section 1.80 of the rules regarding forfeitures. This action follows the Notice of Proposed Rule Making, seeking comments on the Commission's forfeiture assessment process.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800 or fax (202) 857–3805 and 857–3184. These copies are available in paper format and alternative media which includes, large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its—inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/≤. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770; and from Conference Call USA (available only outside the Washington, DC metropolitan area), telephone 1–800–962–0044. Audio and video tapes of this meeting can be obtained from the Office of Public Affairs, Television Staff, telephone (202) 418–0460, or TTY (202) 418–1398; fax numbers (202) 418–2809 or (202) 418–7286.

Dated June 12, 1997.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15930 Filed 6–13–97; 12:31 pm]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Semiannual Report of Payment Accepted From Non-Federal Sources Under 31 U.S.C. 1353; for the Period Beginning October 1, 1996 Ending March 31, 1997; Summary Report

Reimbursement/In-Kind Payments in Excess of $250

Total Number of Sponsored Events: 125.

Total Number of Sponsoring Organizations: 86.

Total Number of Different Commissioners/Employees Attending: 97.

TOTAL AMOUNT OF REIMBURSEMENT RECEIVED

	Check	In-kind
In excess of $250	$43,282.99	$120,933.90
Under $250 (Detail not included)	834.86	1,563.58
Total	44,117.85	122,497.48

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert Stephens.

Government position: Attorney Advisor, International Bureau.

3. *Event:* 1st AHCIET Forum, ''Global Information Society''.

4. *Sponsor of Event:* AHCIET.

5. *Sponsor Address:* Attn: Olga Marta Solano Brenes, Guzmon el Bueno, 133, Edificio Britannio (7 Planta), 28003 Madrid—Espana.

6. *Location of Event:* San Jose, Costa Rica.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 11/04–06/96.
9. *Travel Dates:* 11/02–06/96.
10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	.....	$670.00
2. Hotel Room ...	.....	*697.60
3. Meals	.....	.....
4. Grd. Transportation	.....	.....
		1367.60

*Meals are included in total per voucher.

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Karl A. Kensinger.
Government Position: Attorney, International Bureau.
3. *Event:* Mobile Sattelite Communications International Conferences.
4. *Sponsor of Event:* AIC Conferences.
5. *Sponsor Address:* Attn: Ms. Emma Donnithorne, 2nd Floor, 100 Hatton Garden. London EGIN 8NX, UK.
6. *Location of Event:* London, England.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/17–19/96
9. *Travel Dates:* 06/15–18/96.
Type & Amount of Payment
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	$645.35	.....
2. Hotel room	.....	$302.00
3. Meals	.....	.....
4. Taxi	.....	.....
	645.35	302.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Karen F. Kornbluh.
Government Position: Assistant Bureau Chief, International Bureau.
3. *Event:* International Telecoms Pricing & Facilities Conference.
4. *Sponsor of Event:* AIC Conferences.
5. *Sponsor Address:* Attn: Piers Bearne, 2nd Floor, 100 Hatton Garden, London EC1N 8NX, UK.
6. *Location of Event:* London, England.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/03–04/96.
9. *Travel Dates:* 10/02–06/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$416.65
2. Hotel Room ...	.....	149.76
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	566.41

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Kenneth M. Ackerman.
Government Position: Chief, Accounting Systems Branch, Common Carrier Bureau.
3. *Event:* Cost Allocations & Business Process Re-Engineering for the Telecoms Industry Conference.
4. *Sponsor of Event:* AIC Conferences.
5. *Sponsor Address:* Attn: Christian Ernst Suarey, Nueva De Lyon 96, Of. 405, Providentia, Santiago, Chile.
6. *Location of Event:* Santiago, Chile.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/25–28/96.
9. *Travel Dates:* 11/24–30/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	$1388.00
2. Hotel room	.....	292.00
3. Meals	.....	30.00
4. Taxi	.....	25.00
	.....	1735.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Linda B. Blair.
Government Position: Chief, Audio Services Division, Mass Media Bureau.
3. *Event:* ABA Annual Convention.
4. *Sponsor of Event:* Alaska Broadcasters Association—ABA.
5. *Sponsor Address:* Attn: Robin Kornfield, P.O. Box 102424, Anchorage, AK 99510.
6. *Location of Event:* Fairbanks, Alaska.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/26–27/96.
9. *Travel Dates:* 09/24–30/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	$1252.00
2. Hotel room	.....	357.00
3. Meals	$14.23	.....
4. Taxi & Telephone	85.00	.....
	99.23	1609.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Charles W. Kelley.
Government Position: Chief, Enforcement Division, Mass Media Bureau.
3. *Event:* ABA Annual Convention.
4. *Sponsor of Event:* Alaska Broadcasters, Association—ABA.
5. *Sponsor Address:* Attn: Robin Kornfield, P.O. Box 102424, Anchorage, AK 99510.
6. *Location of Event:* Fairbanks, Alaska.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/26–27/96.
9. *Travel Dates:* 09/24–30/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	$1021.00
2. Hotel room	.....	357.00
3. Meals	$16.50	129.00
4. Taxi & Telephone	28.50	.....
	45.00	1507.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Rudolfo M. Baca.
Government Position: Legal Advisor to Commissioner James H. Quello
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, N.W., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Attendee.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	$211.50
2. Hotel room	.....	255.42
3. Meals	$81.00	113.50
4. Grd. Transportation	25.00	30.00
	106.00	610.42

(b) *Non-Fed Source: Same as No. 4.*
1. *Agency:* Federal Communications Commission.
2. *Employee:* James L. Casserly.
Government Position: Senior Legal Advisor to Commissioner Susan Ness.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, N.W., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	$630.00
2. Hotel room	.....	411.00
3. Meals	$147.00	.....
4. Grd. Transportation	25.00	.....
	172.00	1,041.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Rachelle B. Chong.
Government Position: Commissioner.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 320 19th Street, N.W., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/11–16/97.
9. Travel Dates: 01/11–14/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$332.00
2. Hotel Room ...	.....	244.20
3. Meals	.....	.....
4. Mileage & Parking	.....	.....
		$576.20

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
Government Position: Chief, Cable Services Bureau.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, NW., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/11–16/97.
9. Travel Dates: 01/11–13/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$182.00
2. Hotel Room ...	.....	319.20
3. Meals	.....	.....
4. Grd. Transportation	$40.50	.....
	40.50	501.20

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Barbara A. Kreisman.
Government Position: Chief, Video Sevices Division, Mas Media Bureau.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 320 19th Street NW., Suite 300, Washington, DC 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/14–15/97.
10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$166.00
2. Hotel Room ...	.....	70.00
3. Meals	$63.00	.....
4. Grd. Transportation	81.00	.....
	144.00	236.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Marsha MacBride.
Government Position: Legal Advisor to Commissioner, James H. Quello.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street NW., Suite 300, Washington, DC 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Attendee.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$211.50
2. Hotel Room ...	.....	255.42
3. Meals	$55.50	113.50
4. Grd. Transportation	10.00	30.00
	65.50	610.42

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Jane E. Mago.
Government Position: Senior Legal Advisor to Commissioner Rachelle B. Chong.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street NW., Suite 300, Washington, DC 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$332.00
2. Hotel Room ...	.....	244.20
3. Meals	.....	.....

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
4. Mileage & Parking	.....	.....
	.....	576.20

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James W. Olson.
Government Position: Chief, Competition Division, Office of the General Counsel.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, NW, Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	$313.09
2. Hotel room	222.00	
3. Meals	.....	.....
4. Grd. transportation	.....	.....
	.....	535.09

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert M. Pepper.
Government Position: Chief, Office of Plans & Policy.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, N.W., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	.....	.....
2. Hotel room	.....	$244.20
3. Meals	.....	126.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
4. Mileage & parking	.....	.....
		370.20

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James H. Quello.
Government Position: Commissioner.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, NW, Suite 300, Washington, DC 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation		$211.50
2. Hotel Room ...	$315.00	.....
3. Meals	72.00	.....
4. Telephone	28.68	.....
5. Grd. Transportation	59.50	.....
	475.18	211.50

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* David R. Siddall.
Government Position: Legal Advisor to Commissioner, Susan Ness.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, NW, Suite 300, Washington, DC 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/13/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip transportation	$360.00	.....
2. Hotel Room ...	.....	.....
3. Meals	31.50	.....
4. Parking	8.00	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
	399.50	.....

1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, NW., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Lousiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/11–14/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$166.00
2. Hotel Room ...	.....	198.00
3. Meals	$136.50	.....
4. Grd. Transportation	21.20	.....
	$157.70	$364.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Anita L. Wallgren.
Government Position: Legal Advisor to Commissioner, Susan Ness.
3. *Event:* ALTV/NATPE Convention.
4. *Sponsor of Event:* ALTV/NATPE.
5. *Sponsor Address:* Attn: David Donovan, 1320 19th Street, NW., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Lousiana.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 01/11–16/97.
9. *Travel Dates:* 01/12–14/97.
10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	.....	$630.00
2. Hotel Room ...	.....	274.00
3. Meals	$105.00	.....
4. Grd. Transportation	24.32	.....
	$129.32	$904.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.
2. *Employee:* Suzanne K. Toller.
Government Position: Attorney Advisor to Commissioner, Rachelle B. Chong.
3. *Event:* Wireless Workshop.
4. *Sponsor of Event:* Association of Bay Area Governments & Sprint Spectrum L.P.
5. *Sponsor Address:* Attn: Mr. Scott M. Akrie, 4683 Chabot Drive, Suite 100, Pleasanton, CA 94588.
6. *Location of Event:* Oakland, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/30/96.
9. *Travel Dates:* 05/29–06/02/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$597.00	.....
2. Hotel Room ...	114.00	.....
3. Meals	57.00	.....
4. Parking	32.00	.....
5. Car Rental & Gas	35.13	.....
	835.13	.....

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James W. Olson.
Government Position: Chief, Competition Division, General Counsel.
3. *Event:* ABA 1996 Annual Meeting.
4. *Sponsor of Event:* American Bar Association—ABA.
5. *Sponsor Address:* Attn: Jill Pena, Section Director, Section of Public Utility, Communications & Transportation Law, 750 North Lake Shore Drive, Chicago, IL 60611.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/05/96.
9. *Travel Dates:* 08/04–06/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$621.00
2. Hotel Room ...	.....	419.58
3. Meals	.....	.....
4. Parking	.....	.....
	.....	1,040.58

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Christopher J. Wright.
Government Position: Deputy General Counsel, Office of General Counsel.
3. *Event:* ABA 1996 Annual Meeting.
4. *Sponsor of Event:* American Bar Association—ABA.
5. *Sponsor Address:* Attn: Mr. Thomas S. Leatherbury, Vinson & Elkins L.L.P., 3700 Trammell Crow Center, 2001 Ross Avenue, Dallas, TX 75201–2975.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 08/05/96.
9. *Travel Dates:* 08/04–05/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$526.00
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	$526.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Catherine J. Kissee-Sandoval.
Government Position: Director, Office of Communications, Business Opportunities.
3. *Event:* ACTA XXIV.
4. *Sponsor of Event:* America's Carriers Telecommunication Association—ACTA.
5. *Sponsor Address:* Attn: Ms. Jennifer Durst-Jarrell, 950 South Winter Park Drive, Suite 325, Casselberry, FL 32707.
6. *Location of Event:* Hilton Head, South Carolina.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/10/96.
9. *Travel Dates:* 09/09–10/96.

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$360.00
2. Hotel Room ...	.....	125.00
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	$485.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Rachelle B. Chong.
Government Position: Commissioner.
3. *Event:* Eastern Conference & Expo.
4. *Sponsor of Event:* American Public Communications Council—APCC.
5. *Sponsor Address:* Attn: Mr. Vincent R. Sandusky, 10306 Eaton Place, Suite 520, Fairfax, VA 22030.
6. *Location of Event:* Nashville, Tennessee.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/09–11/96.
9. *Travel Dates:* 10/10–11/96.

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$444.00
2. Hotel Room ...	.....	156.03
3. Meals	$51.00	.....
4. Taxi & Mileage	3.00	.....
	54.00	600.03

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Daniel Gonzales.
Government Position: Legal Advisor to Commissioner, Rachelle B. Chong.
3. *Event:* Eastern Conference & Expo.
4. *Sponsor of Event:* American Public Communications Council—APCC.
5. *Sponsor Address:* Attn: Mr. Vincent R. Sandusky, 10306 Eaton Place, Suite 520, Fairfax, VA 22030.
6. *Location of Event:* Nashville, Tennessee.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/09–11/96.
9. *Travel Dates:* 10/10–11/96.

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$592.00
2. Hotel Room ...	.....	156.03
3. Meals	$42.50	.....
4. Taxi	.....	.....
	42.50	$748.03

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mary Beth Richards.
Government Position: Deputy Chief, Common Carrier, Bureau.
3. *Event:* Eastern Conference & Expo.
4. *Sponsor of Event:* American Public Communications Council—APCC.
5. *Sponsor Address:* Attn: Ms. Lesa Sawicki, 10306 Eaton Place, Suite 520, Fairfax, VA 22030.
6. *Location of Event:* Nashville, Tennessee.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/09–11/96.

9. *Travel Dates:* 10/10–11/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$741.31
2. Hotel Room ...	.....	156.03
3. Meals	.....	12.73
4. Taxi & Fax	50.80	1.75
	50.80	911.82

(b) Non-Fed Source: Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
3. *Event:* 44th Annual ABA Convention.
4. *Sponsor of Event:* Arizona Broadcasters Association—ABA.
5. *Sponsor Address:* Attn: Mr. Art Brooks, 3800 N. Central Avenue, Suite 1120, Phoenix, AZ 85012.
6. *Location of Event:* Phoenix, Arizona.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/14–15/96.
9. *Travel Dates:* 11/13–15/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$460.00	.....
2. Hotel Room ...	.....	134.00
3. Meals	65.00	.....
4. Taxi	37.40	.....
	562.40	134.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Barbara A. Kreisman.
Government Position: Chief, Video Services Division, Mass Media Bureau.
3. *Event:* ABA TV License Renewal/ Children's TV Seminar.
4. *Sponsor of Event:* Arkansas Broadcasters Association—ABA.
5. *Sponsor Address:* Attn: Pat Willcox, 2024 Arkansas Valley Drive, Suite 201, Little Rock, AR 72212.
6. *Location of Event:* Little Rock, Arkansas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 12/04/96.
9. *Travel Dates:* 12/04/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$204.00
2. Hotel Room ...	.....	.....
3. Meals	$22.50	.....
4. Taxi	76.00	.....
	98.50	204.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Michele Farquhar.
Government Position: Chief, Wireless, Telecommunications Bureau.
3. *Event:* AT&T Wireless Meeting.
4. *Sponsor of Event:* AT&T Wireless Services.
5. *Sponsor Address:* Attn: Ms. Cathleen A. Massey, 1150 Connecticut Avenue, N.W., Fourth Floor, Washington, D.C. 20036.
6. *Location of Event:* Kirkland, Washington.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/17–18/96.
9. Travel Dates: 09/17–18/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$746.25
2. Hotel Room ...	.....	199.80
3. Meals	.....	.....
4. Telephone	.....	.....
	.....	946.05

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Stephen Markendorff.
Government Position: Chief, Broadband Branch, Wireless Telecommunications Bureau.
3. *Event:* Touch the Future: A Forum on Wireless & Your Community.
4. *Sponsor of Event:* AT&T Wireless Services.
5. Sponsor Address: Attn: Ms. Mary Ann Noyer, 15 East Midland Avenue, Paramus, NJ 07652–2936.
6. *Location of Event:* Valley Forge, Pennsylvania.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 09/25/96.
9. *Travel Dates:* 09/25–26/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$119.00
2. Hotel Room ...	.....	98.00
3. Meals	$34.00	.....
4. Telephone	5.00	.....
	39.00	217.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Stephen Markendorff.
Government Position: Chief, Broadband Branch, Wireless Telecommunications Bureau.
3. *Event:* Touch the Future: A Forum on Wireless & Your Community.
4. *Sponsor of Event:* AT&T Wireless Services.
5. *Sponsor Address:* Attn: Sandy Tokarek, 2630 Liberty Avenue, Pittsburgh, PA 15222–4657.
6. *Location of Event:* Pittsburgh, Pennsylvania.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/22/96.
9. *Travel Dates:* 10/21–22/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$601.00
2. Hotel Room ...	.....	105.00
3. Meals	$66.50	.....
4. Telephone	3.00	.....
	69.50	706.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Kara Palamaras.
Government Position: Chief, Media Liaison Officer, Wireless Telecommunications Bureau.
3. *Event:* Touch the Future: A Forum on Wireless & Your Community.
4. *Sponsor of Event:* AT&T Wireless Services.
5. *Sponsor Address:* Attn: Sandy Tokarek, 2630 Liberty Avenue, Pittsburgh, PA 15222–4657.
6. *Location of Event:* Pittsburgh, Pennsylvania.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/22/96.
9. *Travel Dates:* 10/21–22/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$601.00
2. Hotel Room ...	.....	105.00
3. Meals	$66.50	.....
4. Taxi & Telephone	6.25	.....
	72.75	706.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Susan Ness.

Government Position: Commissioner.

3. *Event:* 45th Annual Convention of AWRT.

4. *Sponsor of Event:* American Women in Radio & Television -AWRT.

5. *Sponsor Address:* Attn: Ms. Terri Dickerson, 1650 Tysons Boulevard, Suite 200, Mclean, VA 22102.

6. *Location of Event:* Ft. Myers, Florida.

7. *Employee's Role:* Panelist.

8. Dates of Event: 06/27/96.

9. *Travel Dates:* 06/27–28/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$309.00	.....
2. Hotel Room ...	.....	$103.00
3. Meals	.....	.....
4. Telephone	.....	.....
	309.00	103.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Gregory L. Rosston.

Government Position: Deputy Chief Economist, Office of Plans & Policy.

3. *Event:* Media & Communications Conference.

4. *Sponsor of Event:* Bear, Stearns & Co.

5. *Sponsor Address:* Attn: Mr. Jonathan S. Barnett, 245 Park Avenue, New York, NY 10167.

6. *Location of Event:* Phoenix, Arizona.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/22–25/96.

9. *Travel Dates:* 10/23–25/96

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1504.00
2. Hotel Room ...	.....	124.00
3. Meals	.....	68.00
4. Taxi	.....	.....
	.....	1696.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Christopher J. Wright.

Government Position: Deputy General Counsel, Office of General Counsel.

3. *Event:* Coordinates for Tomorrow's Communications.

4. *Sponsor of Event:* Bertelsmann Stiftung.

5. *Sponsor Address:* Attn: Thorsten Grothe, Postanschrift Postfach, 37711 Gutersloh.

6. *Location of Event:* Frankfort, Germany.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 01/29/97.

9. *Travel Dates:* 01/27–30/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1388.00
2. Hotel Room ...	.....	236.00
3. Meals	.....	84.00
4. Grd. Transportation	.....	.....
	.....	1708.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Julius P. Knapp.

Government Position: Chief, Equipment Authorization, Division, Office of Engineering & Technology.

3. *Event:* International Seminar on EMC.

4. *Sponsor of Event:* Brazilian Association on Electromagnetic Compatibility—ABRICEM.

5. *Sponsor Address:* Attn: Mr. Benjamim Galvao, Sao Jose dos Campos, SP—Brazil.

6. *Location of Event:* Sao Paulo, Brazil.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 11/11–12/96.

9. *Travel Dates:* 11/10–15/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1794.00
2. Hotel Room ...	.....	*877.17
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	2671.17

*Amount includes meals.

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* S. Jenell Trigg.

Government Position: Telecommunications Policy Analyst, Office of Communications Business Opportunities.

3. *Event:* Eastern Cable Show.

4. *Sponsor of Event:* Cable Telecommunications Association—CATA.

5. *Sponsor Address:* Attn: Mr. Patrick J. Gushman, 3950 Chain Bridge Road, P.O. Box 1005, Fairfax, VA 22030–1005.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/23/96.

9. *Travel Dates:* 09/23/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	in kind
1. Roundtrip Transportation	.....	$362.00
2. Hotel Room ...	.....	2.58
3. Meals	.....	.....
4. Taxi	$41.70	.....
	41.70	364.58

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meredith J. Jones.

Government Position: Chief, Cable Services Bureau.

3. *Event:* CableLabs.

4. *Sponsor of Event:* Cable Television Laboratories Inc.

5. *Sponsor Address:* Attn: Mr. Mike Schwartz, 400 Centennial Parkway, Louisville, CO 60027–1266.

6. *Location of Event:* Louisville, Colorado.

7. *Employee's Role:* Invited Guest.

8. *Dates of Event:* 06/20–21/96.

9. *Travel Dates:* 06/19–22/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1255.82
2. Hotel Room ...	.....	283.97
3. Meals	$85.00	.....
4. Taxi & Parking	77.50	.....
5. Telephone	24.62	.....
6. Car Rental	.....	136.80
	187.12	1676.59

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Thomas P. Stanley.

Government Position: Chief Engineer, Office of Plans & Policy.

3. *Event:* Imaging Technology Seminar Series.

4. *Sponsor of Event:* Center for Advanced Electronic Imaging—CAEI.

5. *Sponsor Address:* Attn: Robert C. Shearer, 14755 Preston Road, No. 823, Dallas, TX 75240.

6. *Location of Event:* Richardson, Texas.

7. *Employee's Role:* Speaker.

8. *Date of Event: 07/26/95.*

9. *Travel Dates:* 07/25–26/95.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check In	kind
1. Roundtrip Transportation	$417.00	.....
2. Hotel Room ...	.....	111.87
3. Meals	.....	11.36
4. Taxi	40.00	.....
	457.00	123.36

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

Government Position: Chief, Mass Media Bureau.

3. *Event:* CBA Summer Convention.

4. *Sponsor of Event:* California Broadcasters Association—CBA.

5. *Sponsor Address:* Attn: Mr. Stan Statham, 1127 11th Street, Suite 730, Sacramento, CA 95814.

6. *Location of Event:* Carmel-Monterey, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/21–22/96.

9. Travel Dates: 07/21–23/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$404.00	.....
2. Hotel Room ...	.....	$166.00
3. Meals	85.00	.....
4. Taxi	10.00	.....
5. Mileage & Parking	42.40	.....
	541.40	166.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert L. Baker.

Government Position: Senior Attorney, Mass Media Bureau.

3. *Event:* CBA Summer Convention.

4. *Sponsor of Event:* California Broadcasters Association—CBA.

5. *Sponsor Address:* Attn: Mr. Stan Statham, 1127 11th Street, Suite 730, Sacramento, CA 95814.

6. *Location of Event:* Carmel-Monterey, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/21–22/96.

9. Travel Dates: 07/21–23/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$678.00	.....
2. Hotel Room ...	.....	$83.00
3. Meals	59.50	.....
4. Taxi	20.00	.....
5. Mileage	18.60	.....
	776.10	83.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James D. Schlichting.

Government Position: Chief, Policy & Planning Division Common Carrier Bureau.

3. *Event:* 1995 Western Show.

4. *Sponsor of Event:* California Cable Television Association—CCTA.

5. *Sponsor Address:* Attn: Toni Irwin, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.

6. *Location of Event:* Anaheim, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 11/29–12/95.

9. Travel Dates: 11/29–12/01/95.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1522.00
2. Hotel Room ...	.....	250.70
3. Meals	.....	9.16
4. Taxi	$54.20	35.00
	54.20	1816.86

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meryl Icove.

Government Position: Legal Advisor, Cable Services Bureau.

3. *Event:* Western Show.

4. *Sponsor of Event:* California Cable Television Association—CCTA.

5. *Sponsor Address:* Attn: Toni Irwin, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.

6. *Location of Event:* Anaheim, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/11–13/96.

9. Travel Dates: 12/10–16/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$559.00
2. Hotel Room ...	.....	665.88
3. Meals	$171.00	.....
4. Taxi	30.00	.....
	201.00	1224.88

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Johnson.

Government Position: Deputy Chief, Cable Services Bureau.

3. *Event:* Western Show.

4. *Sponsor of Event:* California Cable Television Association—CCTA.

5. *Sponsor Address:* Attn: Toni Irwin, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.

6. *Location of Event:* Anaheim, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/11–13/96.

9. *Travel Dates:* 12/10–13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1747.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	665.88
3. Meals	$142.50	.....
4. Grd. Transportation	35.50	.....
	178.00	2412.88

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* John E. Logan.
Government Position: Deputy Bureau Chief, Cable Services Bureau.
3. *Event:* Western Show.
4. *Sponsor of Event:* California Cable Television Association—CCTA.
5. *Sponsor Address:* Attn: Toni Irwin, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.
6. *Location of Event:* Anaheim, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 12/11–13/96.
9. *Travel Dates:* 12/11–12/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$146.00	$1611.00
2. Hotel Room ...	.....	184.48
3. Meals	57.00	.....
4. Grd. Transportation	30.20	70.00
	233.20	1865.48

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Anita L. Wallgren.
Government Position: Legal Advisor to Commissioner, Susan Ness.
3. *Event:* Western Show.
4. *Sponsor of Event:* California Cable Television Association—CCTA.
5. *Sponsor Address:* Attn: Toni Irwin, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.
6. *Location of Event:* Anaheim, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 12/11–13/96.
9. *Travel Dates:* 12/10–11/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$247.00	.....
2. Hotel Room ...	.....	$84.00
3. Meals	57.00	.....
4. Taxi	66.50	.....
	370.50	84.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Elliot Maxwell.
Government Position: Deputy chief, Office of Plans & Policy.
3. *Event:* Telco/Service Provider Forum.
4. *Sponsor of Event:* Cisco Systems Inc.
5. *Sponsor Address:* Attn: Kerrie L. Peck, P.O. Box 1716, Capitola, CA 95010.
6. *Location of Event:* Monterey, California.
7. *Employee's Role:* Keynote Speaker.
8. *Dates of Event:* 01/07–09/97.
9. *Travel Dates:* 01/07–09/97.
10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	.....	$903.00
2. Hotel Room ...	.....	158.00
3. Meals	.....	76.00
4. Taxi	.....	.....
	.....	1137.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Catherine J. Kissee-Sandoval.
Government Position: Director, Office of Communications Business Opportunities.
3. *Event:* First Latin Communications Conference.
4. *Sponsor of Event:* Communications Careers for Latinos.
5. *Sponsor Address:* Attn: Ms. Connie Wishner, 147 West 22nd Street, Suite 6S, New York, NY 10011–2455.
6. *Location of Event:* New York, New York.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 09/12/96.
9. *Travel Dates:* 09/12–13/96.
10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	.....	$291.00
2. Hotel Room ...	.....	230.00
3. Meals	.....	.....
4. Taxi	.....	.....
		521.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Keith Larsen.
Government Position: Assistant Chief Engineering, Mass Media Bureau.
3. *Event:* CBA Convention.
4. *Sponsor of Event:* Community Broadcasters Association—CBA.
5. *Sponsor Address:* Attn: Mr. Sherwin Grossman, 1520 Northwest 79th Avenue, Miami, FL 33126.
6. *Location of Event:* Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/25–27/96.
9. *Travel Dates:* 10/24–27/96.
10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	$237.00	.....
2. Hotel Room ...		222.00
3. Meals	119.00	.....
4. Taxi	38.92	.....
	394.92	222.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
Government Position: Chief, Office of Engineering & Technology.
3. *Event:* CONATEL in the 21st Century.
4. *Sponsor of Event:* CONATEL.
5. *Sponsor Address:* Attn: Mr. Jose Luis Avilez Neiro, CONATEL, Comision Nacional de Telecommunicaciones, Venezuela, Caracas, Venezuela.
6. *Location of Event:* Caracas, Venezuela.
7. *Employee's Role:* Consultant.
8. *Dates of Event:* 02/24–26/97.
9. *Travel Dates:* 02/23–27/97.
10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation		$691.95

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
2. Hotel Room ...		316.00
3. Meals	.....	.....
4. Grd. Transportation	.....	.....
		1007.95

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Patrick J. Donovan.

Government Position: Deputy Chief, Competitive Policy Division, Common Carrier Bureau.

3. *Event:* EBA/NEAT Summer Conference.

4. *Sponsor of Event:* Eastern Borrowers Association—EBA.

5. *Sponsor Address:* Attn: Mr. Ralph L. Frye, 115 12th, Room 310, Richmond, VA 23219.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/14–16/96.

9. *Travel Dates:* 08/14–15/96.

10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	422.00	.....
2. Hotel Room ...	133.50	.....
3. Meals	66.50	.....
4. Taxi	27.00	.....
	649.00	

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

Government Position: Chief, Office of Plans & Policy.

3. *Event:* 1997 Winter Consumer Electronics Show.

4. *Sponsor of Event:* Electronics Industries Association—EIA/Consumer Electronics Manufacturers Association—CEMA.

5. *Sponsor Address:* Attn: Mr. Joe Peck, 2500 Wilson Boulevard, Arlington, VA 22201–3834.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/09–12/97.

9. *Travel Dates:* 01/09–11/97.

10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$200.00
2. Hotel Room ...	.....	74.00
3. Meals	.....	38.00
4. Taxi	.....	.....
		312.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* David R. Siddall.

Government Position: Legal Advisor to Commissioner, Susan Ness.

3. *Event:* 1997 Winter Consumer Electronics Show.

4. *Sponsor of Event:* Electronics Industries Association—EIA/Consumer Electronics Manufacturers Association—CEMA.

5. *Sponsor Address:* Attn: Mr. Gary Shapiro, 2500 Wilson Boulevard, Arlington, VA 22201–3834.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/09–12/97.

9. *Travel Dates:* 01/09–11/97.

10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	$214.00	.....
2. Hotel Room ...	.....	$190.00
3. Meals	95.00	.....
4. Parking	11.00	.....
	320.00	190.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.

Government Position: Chief, Office of Engineering & Technology.

3. *Event:* 1997 Winter Consumer Electronics Show.

4. *Sponsor of Event:* Electronics Industries Association—EIA/Consumer Electronics Manufacturers Association—CEMA.

5. *Sponsor Address:* Attn: Mr. Gary Shapiro, 2500 Wilson Boulevard, Arlington, VA 22201–3834.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/09–12/97.

9. *Travel Dates:* 01/09–12/97.

10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$424.00
2. Hotel Room ...	.....	618.84
3. Meals	.....	116.00
4. Fax	.....	5.50
5. Mileage & Parking	$53.02	.....
	53.02	1164.34

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Troy F. Tanner.

Government Position: Chief, Policy & Facilities Branch, International Bureau.

3. *Event:* ENSPTT Conference.

4. *Sponsor of Event:* ENSPTT.

5. *Sponsor Address:* Attn: Mr. Jean-Pierre van Deth, 37–39 Rue Dareau, 75675 Paris, CEDLX 14.

6. *Location of Event:* Paris, France.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/30/96.

9. *Travel Dates:* 05/28–06/07/96.

10. (a)

Nature of benefit	(c) Type and amount of payment	
	Check	In kind
1. Roundtrip Transportation	$334.23	.....
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Taxi	.....	.....
	334.23	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michele Farquhar.

Government Position: Chief, Wireless Telecommunications Bureau.

3. *Event:* 1996 Annual Seminar.

4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.

5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.

6. *Location of Event:* Hot Springs, Virginia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/17–19/96.

9. *Travel Dates:* 05/17–19/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$126.00	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	$230.00
3. Meals	.....	.....
4. Taxi	.....	.....
	126	230.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Kennard.

Government Position: General Counsel, Office of General Counsel.

3. *Event:* New England Chapter of the FCBA Kick Off Meeting.

4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.

5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.

6. *Location of Event:* Boston, Massachusetts.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 11/13/96.

9. *Travel Dates:* 11/13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$546.50
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	546.50

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kenneth P. Moran.

Government Position: Chief, Accounting & Audits Division, Common Carrier Bureau.

3. *Event:* 1996 Frederick & Warinner Annual Seminar.

4. *Sponsor of Event:* Frederick & Warinner.

5. *Sponsor Address:* Attn: Ms. Mary Anne Cummings, 10901 W. 84th Terrace, Suite 101, Lenexa, KS 66214–1631.

6. *Location of Event:* San Antonio,Texas.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/05–06/96.

9. *Travel Dates:* 12/05–06/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$277.00
2. Hotel Room ...	.....	140.00
3. Meals	.....	10.00
4. Taxi & Telephone	.....	35.00
	.....	$462.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Thomas S. Dombrowsky.

Government Position: Electronics Engineer, Wireless Telecommunications Bureau.

3. *Event:* GTA Annual Convention.

4. *Sponsor of Event:* Georgia Telephone Association - GTA.

5. *Sponsor Address:* Attn: Mr. John Silk, 1900 Century Boulevard, Suite 8, Atlanta, GA 30345.

6. *Location of Event:* Hilton Head Island, South Carolina.

7. *Employee's Role:* Presenter.

8. *Dates of Event:* 06/22–25/96.

9. *Travel Dates:* 06/24–25/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$320.00
2. Hotel Room ...	160.00	
3. Meals	$66.50	.....
4. Parking & Telephone	12.00	.....
	$78.50	$480.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Thomas Stanley.

Government Position: Chief Engineer, Wireless Telecommunications Bureau.

3. *Event:* POWER '96 Conference.

4. *Sponsor of Event:* Giga Information Group.

5. *Sponsor Address:* Attn: Ms. Marlene A. Nusbaum.

6. *Location of Event:* San Francisco, California.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 10/14–16/96.

9. *Travel Dates:* 10/13–16/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1,183.00
2. Hotel Room ...	.....	360.00
3. Meals	.....	114.00
4. Taxi	.....	.....
	.....	1,657.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Elliot Maxwell.

Government Position: Deputy Chief, Office of Plans & Policy.

3. *Event:* Telemedicine West: Conference & Exhibition.

4. *Sponsor of Event:* Global Business Research.

5. *Sponsor Address:* Attn: Mr. Gary L. Matles, 151 West 19th Street, 8th Floor, New York NY 10011.

6. *Location of Event:* San Diego, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/11–13/96.

9. *Travel Dates:* 12/10–13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1,191.50
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	1,191.50

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mindel DeLaTorre.

Government Position: Deputy Chief, Telecom Division, International Bureau.

3. *Event:* CICOM '96.

4. *Sponsor of Event:* Grupo Planner.

5. *Sponsor Address:* Attn: Ms. Patricia L. de Luis, Plaza del Marques de Salamanca, 9–1 dcha, 28006 Madrid.

6. *Location of Event:* Madrid, Spain.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 11/20–21/96.

9. *Travel Dates:* 11/18–21/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1,668.95

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	423.00
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	2,091.95

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Karen Brinkman.

Government Position: Associate Bureau Chief, Wireless, Telecommunications Bureau.

3. *Event:* SOLUTIONS '96 Conference.

4. *Sponsor of Event:* GTE Telecommunication Services.

5. *Sponsor Address:* Attn: Mr. Joe Paz, One Tampa City Center, 7th Floor, 201 N. Franklin St., Tampa, FL 33602.

6. *Location of Event:* St. Petersburg, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/11–12/96.

9. *Travel Dates:* 09/10–11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$700.00
2. Hotel Room ...	.....	100.00
3. Meals	$39.00	.....
4. Taxi	11.00	.....
	50.00	800.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Todd F. Silbergeld.

Government Position: Legal Advisor to Commissioner, Andrew C. Barrett.

3. *Event:* New Frontiers in Utilities-Based Telecommunications.

4. *Sponsor of Event:* International Communications for Management—ICM.

5. *Sponsor Address:* Attn: Alexandra B. Early, 3 Illinois Center, 303 East Wacker Drive, Chicago, IL 60601

6. *Location of Event:* Atlanta, Georgia

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 02/14–15/96.

9. *Travel Dates:* 02/14–15/96.

10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	.....	$373.00
2. Hotel Room ...	.....	159.00
3. Meals	$42.48	.....
4. Taxi	102.30	.....
	144.78	532.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Catherine J. Kissee-Sandoval.

Government Position: Director, Office of Communications Business Opportunities.

3. *Event:* Building an Effective Network Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Ms. Deborah Johnson, 707 Third Avenue, 4th Floor, New York, NY 10017–4103.

6. *Location of Event:* Chicago, Illinois.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/14/96.

9. *Travel Dates:* 04/05–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$508.35
2. Hotel Room ...	.....	72.00
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	580.35

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Troy F. Tanner.

Government Position: Chief, Policy & Facilities Branch International Bureau.

3. *Event:* International Simple Resale & Callback Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Ms. Sharon Gregory, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/06/96.

9. *Travel Dates:* 05/28–06/07/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$334.23
2. Hotel Room ...	.....	291.08
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	625.31

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John Stern.

Government Position: Senior Legal Advisor, International Bureau.

3. *Event:* Satellite Summit '96.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Ms. Laura S. Cranham, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/24–26/96.

9. *Travel Dates:* 06/21–26/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$742.45	.....
2. Hotel Room ...	.....	$249.00
3. Meals	.....	.....
4. Taxi	.....	.....
	742.45	249.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Catherine J. Kissee-Sandoval.

Government Position: Director, Office of Communications, Business Opportunities.

3. *Event:* Telecongresso '96 Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Mr. Frank J. Pietrucha, 3 Connel Drive, West Orange, NJ.

6. *Location of Event:* Rio de Janeiro, Brazil.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/27–30/96.

9. *Travel Dates:* 08/27–09/01/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1565.00
2. Hotel Room ...	.....	510.00
3. Meals	.....	.....
4. Taxi	.....	.....
		2075.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James W. Olson.
Government Position: Chief, Competition Division, Office of General Counsel.
3. *Event:* Strategic Interconnection & Competitive Reselling.
4. *Sponsor of Event:* Institute for International Research—IIR.
5. *Sponsor Address:* Attn: Stacey Mankoff, 4th Floor, 708 Third Avenue, New York, NY 10017–4103.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/25–27/96.
9. *Travel Dates:* 09/24–26/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$230.20
2. Hotel Room ...	.....	270.00
3. Meals	.....	.....
4. Taxi	.....	.....
		500.20

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert M. Pepper.
Government Position: Chief, Office of Plans & Policy.
3. *Event:* Global Perspectives Forum.
4. *Sponsor of Event:* Institute for International Research—IIR.
5. *Sponsor Address:* Attn: Mr. Hugh Roberts, 29 Bressenden Place, London SW1E 5DR.
6. *Location of Event:* London, England.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/16–17/96.
9. *Travel Dates:* 10/17–20/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1013.00
2. Hotel Room ...	.....	330.00
3. Meals	.....	.....
4. Taxi & Telephone	.....	.....
	.....	1343.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Doron Fertig.
Government Position: Economist, Office of General Counsel.
3. *Event:* Competitive Costing Strategies for Local Exchange Services.
4. *Sponsor of Event:* Institute for International Research—IIR.
5. *Sponsor Address:* Attn: Mr. Aram Fuchs, 708 Third Avenue, 4th Floor, New York, NY 10017–4103.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/23–25/96.
9. *Travel Dates:* 10/24–25/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$332.00
2. Hotel Room ...	.....	*461.00
3. Meals	.....	.....
4. Taxi & Telephone	.....	.....
	.....	793.00

*Amount is for Lodging & Meals.

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Kevin Werbach.
Government Position: Attorney Advisor, Office of Plans & Policy.
3. *Event:* Telecoms @ The Internet II.
4. *Sponsor of Event:* Institute for International Research—IIR.
5. *Sponsor Address:* Attn: Izi Muraben, 6th Floor, 29 Bressenden Place, London, SW1E 5DR.
6. *Location of Event:* Geneva, Switzerland.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/28–31/96.
9. *Travel Dates:* 10/26–31/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$579.00
2. Hotel Room ...	.....	755.00
3. Meals	.....	341.00
4. Taxi	.....	.....
	.....	1,675.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Saul Shapiro.
Government Position: Assistant Chief, Technology Mass Media Bureau.
3. *Event:* Global Digital Television Strategies Conference.
4. *Sponsor of Event:* Institute for International Research—IIR.
5. *Sponsor Address:* Attn: Ms. Mandana Homayounnejad, 6th Floor, 29 Bressenden Place, London, SW1E 5DR.
6. *Location of Event:* London, England.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/28–30/96.
9. *Travel Dates:* 10/25–30/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1,294.00
2. Hotel Room ...	.....	664.00
3. Meals	.....	93.00
4. Taxi	.....	.....
	.....	2,051.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Thomas A. Boasberg.
Government Position: Senior Legal Advisor, International Bureau.
3. *Event:* China Cable & Satellite Television Summit '96.
4. *Sponsor of Event:* Institute for International Research—IIR.
5. *Sponsor Address:* Attn: Ms. Melissa Lefebvre, 20/F Siu Ou Centre, 188 Lockhort Road, Wanchai, Hong Kong.
6. *Location of Event:* Beijing, China.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/28–30/96.
9. *Travel Dates:* 10/25–30/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$3277.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	400.00
3. Meals	.....	.....
4. Grd. Transportation	.....	.....
	.....	3677.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

Government Position: Chief, Office of Plans & Policy.

3. *Event:* Global Telecoms '96 Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Izi Muraben, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 11/06–08/96.

9. *Travel Dates:* 11/05–06/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$3199.00
2. Hotel Room ...	.....	*246.00
3. Meals	.....	.....
4. Taxi & Telephone	.....	.....
	.....	3445.00

*Amount includes meals per note on voucher.

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

Government Position: Chief, Office of Plans & Policy.

3. *Event:* Internet Telephony Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Elizabeth James, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/03–05/96.

9. *Travel Dates:* 12/01–05/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$14,00.00
2. Hotel Room ...	.....	*738.00
3. Meals	.....	.....
4. Taxi & Telephone	.....	.....
	.....	2,138.00

*Amount includes meals per T. Simmons.

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

Government Position: Chief, Office of Plans & Policy.

3. *Event:* Pan-Asian PCS '97 Summit.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Rachel Marper, 20/F Siu On Centre, 188 Lockhart Road, Wanchai, Hong Kong.

6. *Location of Event:* Hong Kong.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/28–30/97.

9. *Travel Dates:* 01/25–29/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1,489.95
2. Hotel Room ...	.....	398.00
3. Meals	.....	224.00
4. Grd. Transportation	.....	.....
	.....	2,111.95

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Donald K. Stockdale.

Government Position: Deputy Chief, Policy & Program Planning Division, Common Carrier Bureau.

3. *Event:* Local Competition & Convergence.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Ms. Francesca Grosso, 60 Bloor Street West, Suite 1101, Toronto, Ontario M4W 3B8.

6. *Location of Event:* Toronto, Canada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/30–31/97.

9. *Travel Dates:* 01/30–31/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$289.60
2. Hotel Room ...	.....	180.00
3. Meals	.....	.....
4. Grd. Transportation	.....	.....
	.....	469.60

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lisa Gelb.

Government Position: Attorney, Common Carrier Bureau.

3. *Event:* Interconnection '97 Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Toni Pastor, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. Dates of Event: 02/10–13/97.

9. *Travel Dates:* 02/10–16/97.

. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$650.00
2. Hotel Room ...	.....	500.00
3. Meals	.....	25.00
4. Grd. Transportation	.....	65.00
	.....	1,240.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

Government Position: Chief, Office of Plans & Policy.

3. *Event:* 2nd Annual Research & Development in Communications Symposium.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Mr. Hugh Roberts, Telecoms & Technology, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 02/17/97.

9. *Travel Dates:* 02/15–19/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$881.36
2. Hotel Room ...	.....	728.00
3. Meals	.....	459.00
4. Grd. Trans-portation	.....	150.00
	.....	2218.36

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Cecily Holiday.

Government Position: Chief, Satellite & Radio Communication Division, International Bureau.

3. *Event:* IBA Conference.

4. *Sponsor of Event:* International Bar Association—IBA.

5. *Sponsor Address:* Attn: Rachel Youngman, 271 Regent Street, London W1R 7PA, England.

6. *Location of Event:* Berlin, Germany.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/24/96.

9. *Travel Dates:* 10/19–25/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$718.83	.....
2. Hotel Room ...	126.10	.....
3. Meals	.....	.....
4. Parking	.....	.....
	844.93	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Donald K. Stockdale.

Government Position: Deputy Chief, Policy & Planning, Division, Common Carrier Bureau.

3. *Event:* IBC's 26th Biennial Conference.

4. *Sponsor of Event:* International Bar Association—IBA.

5. *Sponsor Address:* Attn: Ms. Ruth Gibson, 2 Harewood Place, London W1R 9HB, England.

6. *Location of Event:* Berlin, Germany.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/20–25/96.

9. *Travel Dates:* 10/22–24/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$753.25	.....
2. Hotel Room ...	268.00	.....
3. Meals	222.75	.....
4. Grd. Trans-portation	53.68	.....
	1297.68	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kelly Cameron.

Government Position: Senior Attorney, International Bureau

3. *Event:* Telecommunications & EC Competition Law Conference.

4. *Sponsor of Event:* International Business Communications—IBC.

5. *Sponsor Address:* Attn: Mr. Anna D'Alton, Gilmoora House, 57–61 Mortimer Street, London W1N 8JX.

6. *Location of Event:* Brussels, Belgium.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/19–20/96.

9. *Travel Dates:* 09/19–20/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$776.05
2. Hotel Room ...	.....	758.26
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	1534.31

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Kennard.

Government Position: General Counsel, Office of General Counsel.

3. *Event:* Telecommunications Business Environment Conference.

4. *Sponsor of Event:* International Communications Group—ICG.

5. *Sponsor Address:* Attn: Laxmi Mrig, 5555 Preserve Drive, Greenwood Village, CO 80121.

6. *Location of Event:* Denver, Colorado.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/07–08/96.

9. *Travel Dates:* 01/06–07/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$483.64
2. Hotel Room ...	.....	130.00
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	613.64

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* David L. Sieradzki.

Government Position: Chief, Legal Branch, Common Carrier Bureau.

3. *Event:* Interconnection Conference.

4. *Sponsor of Event:* International Quality & Productivity Center—IQPC.

5. *Sponsor Address:* Attn: Mr. James M. Sullivan, 257 Park Avenue South, 12th Floor, New York, NY 10010–7304.

6. *Location of Event:* Rosemont, Illinois.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/18–20/96.

9. *Travel Dates:* 09/17–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$961.00
2. Hotel Room ...	.....	.....
3. Meals	$47.50	.....
4. Taxi	17.50	.....
	65.00	961.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee*: Richard L. Swanson.

Government Position: Electronic Engineer, International Bureau.

3. *Event*: Seminar on the Development of Maritime Radiocommunications Services in the Caribbean Countries.

4. *Sponsor of Event:* International Telecommunication Union—ITU.

5. *Sponsor Address*: Attn: Jose Leite Pereira-Filho, Place des Nations, CH–1211 Geneva 20, Switzerland.

6. *Location of Event:* Barbados.

7. *Employee's Role:* Lecturer.

8. *Dates of Event:* 11/11–20/96.

9. *Travel Dates:* 11/10–20/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1097.15

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	830.00
3. Meals	.....	15.15
4. Laundry	$10.00	.....
	.....	1952.30

(b) *Non-Fed Source: Same as No. 4.*
1. *Agency:* Federal Communications Commission.
2. *Employee:* William E. Kennard.
Government Position: General Counsel.
3. *Event:* Telecommunications Revolution Seminar.
4. *Sponsor of Event:* Law Seminars International.
5. *Sponsor Address:* Attn: Ms. H. Kate Johnson, 401 Second Avenue South, Suite 630, Seattle, WA 98104.
6. *Location of Event:* Bellevue, Washington.
7. *Employee's Role:* Speaker.
8. *Dates of Events:* 03/21–22/96.
9. *Travel Dates:* 03/21–23/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$658.00
2. Hotel Room ...	.....	177.84
3. Meals	.....	20.00
4. Taxi	$69.00	.....
	$69.00	855.84

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee*: Martin L. Stern.
Government Position: Deputy Chief, Competition Division, General Counsel.
3. *Event:* Telecommunications Revolution Seminar.
4. *Sponsor of Event:* Law Seminars International.
5. *Sponsor Address:* Attn: Ms. H. Kate Johnson, 401 Second Avenue South, Suite 630, Seattle, WA 98104.
6. *Location of Event:* Bellevue, Washington.
7. *Employee's Role: Panelist.*
8. *Dates of Event:* 3/21–22/96.
9. *Travel Dates:* 03/20–22/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	.....
2. Hotel Room ...	.....	$177.84
3. Meals.	.....	.....
4. Taxi, Telephone & Shuttle	$69.25	.....
5. Mileage & Parking	38.60	.....
	107.85	177.84

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee*: Gregory L. Rosston.
Government Position: Deputy Chief Economist, Office of Plans & Policy.
3. *Event:* Americas Telecom Conference.
4. *Sponsor of Event:* McKinsey & Company.
5. *Sponsor Address:* Attn: Mr. Stephen U. Stuut, 133 Peachtree Street, N.E., Suite 2300, Atlanta, GA 30303.
6. *Location of Event:* Coral Gables, Florida.
7. Employee's Role: Speaker.
8. *Dates of Event:* 11/06/96.
9. *Travel Dates:* 11/06–07/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$289.80
2. Hotel Room ...	.....	77.00
3. Meals.	.....	38.00
4. Taxi	.....	.....
	.....	404.80

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Charles W. Kelley.
Government Position: Chief, Enforcement Division, Mass Media Bureau.
3. *Event:* MAB Convention.
4. *Sponsor of Event:* Michigan Association of Broadcasters—MAB.
5. *Sponsor Address:* Attn: Chris Suever, 819 North Washington Avenue, Lansing, MI 48906.
6. *Location of Event:* Pellston, Michigan.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/19–21/96.
9. *Travel Dates:* 08/19–21/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$772.00
2. Hotel Room ...	.....	242.00
3. Meals	$104.50	.....
4. Taxi	12.00	.....
	116.50	1,014.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James. H. Quello.
Government Position: Commissioner.
3. *Event:* MAB Convention.
4. *Sponsor of Event:* Michigan Association of Broadcasters—MAB.
5. *Sponsor Address:* Attn: Chris Suever, 819 North Washington Avenue, Lansing, MI 48906.
6. *Location of Event:* Pellston, Michigan.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/19–21/96.
9. *Travel Dates:* 08/15–26/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$496.00	.....
2. Hotel Room ...	57.00	$750.00
3. Meals	124.25	.....
4. Taxi & Parking	27.50	.....
	704.75	750.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
3. *Event:* MAB Convention.
4. *Sponsor of Event:* Michigan Association of Broadcasters—MAB.
5. *Sponsor Address:* Attn: Chris Suever, 819 North Washington Avenue, Lansing, MI 48906.
6. *Location of Event:* Pellston, Michigan.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/19–21/96.
9. *Travel Dates:* 08/19–21/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$772.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	242.00
3. Meals	$104.50	
4. Taxi	42.40	.....
	146.90	1014.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* George R. Dillion.

Government Position: Engineering Advisor, Compliance & Information Bureau.

3. *Event:* 47th Annual Minnesota Convention.

4. *Sponsor of Event:* Minnesota Broadcasters Association—MBA.

5. *Sponsor Address:* Attn: Mr. Jim Wychor, 3517 Raleigh Avenue, P.O. Box 16030, St. Louis Park, MN 55416–0030.

6. *Location of Event:* Fairmont, Minnesota.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/03–05/96.

9. *Travel Dates:* 10/02–04/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$444.00	.....
2. Hotel Room ...	.....	$148.92
3. Meals	74.00	.....
4. Grd. Transportation	6.10	.....
5. Car Rental & Gas	99.72	.....
	$623.82	$148.92

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Saul Shapiro.

Government Position: Assistant Chief, Technology, Mass Media Bureau.

3. *Event:* 47th Annual Minnesota Convention.

4. *Sponsor of Event:* Minnesota Broadcasters Association—MBA.

5. *Sponsor Address:* Attn: Mr. Jim Wychor, 3517 Raleigh Avenue, P.O. Box 16030, St. Louis Park, MN 55416–0030.

6. *Location of Event:* Fairmont, Minnesota.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/03–05/96.

9. *Travel Dates:* 10/03–04/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$422.00	.....
2. Hotel Room ...	.....	$40.00
3. Meals	45.50	.....
4. Grd. Transportation	32.50	.....
5. Car Rental & Gas	81.43	.....
	581.43	40.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

Government Position: Chief, Mass Media Bureau.

3. *Event:* Midwest Broadcasters Conference.

4. *Sponsor of Event:* Minnesota Broadcasters Association—MBA.

5. *Sponsor Address:* Attn: Mr. Jim Wychor, 3517 Raleigh Avenue, P.O. Box 16030, St. Louis Park, MN 55416–0030.

6. *Location of Event:* Bloomington, Minnesota.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/27–28/96.

9. *Travel Dates:* 01/26–28/96.

10. (a)

Nature of benefit	(c) Type & amount of Payment	
	Check	In kind
1. Roundtrip Transportation	$404.00	.....
2. Hotel Room ...	.....	$100.00
3. Meals	75.00	.....
4. Grd. Transportation	37.20	.....
	$516.20	$100.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael J. Marcus.

Government Position: Assistance Chief, Technology, Office of Engineering & Technology.

3. *Event:* High Performance Hand-Held Radios Meeting.

4. *Sponsor of Event:* Microelectronics & Computer Technology Corporation—MCC.

5. *Sponsor Address:* Attn: Mr. Blair Leiner, 3500 West Balcones Center Drive, Austin, TX 78759–6505.

6. *Location of Event:* Sunnyvale, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/20/96.

9. *Travel Dates:* 09/19–20/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$304.00
2. Hotel Room ...	.....	293.46
3. Meals	.....	30.00
4. Parking & Mileage	63.80	.....
	63.80	627.46

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James W. Olson.

Government Position: Chief, Competition Division, Office of General Counsel.

3. *Event:* NAAG Antitrust Seminar.

4. *Sponsor of Event:* National Association of Attorneys General—NAAG.

5. *Sponsor Address:* Attn: Ms. Emily B. Myers, 444 North Capitol Street, Suite 339, Washington, D.C. 20001.

6. *Location of Event:* Seattle, Washington.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/18–20/96.

9. *Travel Dates:* 09/18–20/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$500.00
2. Hotel Room ...	.....	320.00
3. Meals	$29.50	.....
4. Taxi & Telephone	85.35	.....
	114.85	820.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Beverly G. Baker.

Government Position: Chief, Compliance & Information Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–20/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	in kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...	.....	$220.32
3. Meals	.....	9.90
4. Telephone & Other Charges	.....	3.75
5. Taxi	96.00	.....
	320.00	233.97

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert L. Baker.

Government Position: Attorney, Mass Media Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/12–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...	.....	$440.64
3. Meals	212.50	47.73
4. Other Charges	.....	23.45
5. Taxi	70.00	.....
	506.50	511.82

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rachelle B. Chong.

Government Position: Commissioner.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/13–17/96.

10. (a)

(a) Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$228.00	.....
2. Hotel Room ...	.....	293.76
3. Meals	161.50	.....
4. Taxi	18.00	.....
5. Telephone & Laundry	.....	58.88
	407.50	352.64

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert F. Cleveland.

Government Position: Physical Scientist, Office of Engineering & Technology.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–18/96.

10. (a)

(a) Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$228.00	.....
2. Hotel Room ...	.....	293.76
3. Meals	161.50	.....
4. Other Charges	.....	4.00
5. Taxi	52.00	.....
	441.50	297.76

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Julius Genachowski.

Government Position: Counsel to Chairman Reed E. Hundt.

3. *Event*: NAB '96.

4. *Sponsor of Event*: National Association of Broadcasters—NAB.

5. *Sponsor Address*: Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role*: Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates*: 04/15–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$226.00	.....
2. Hotel Room ...	.....	$220.32
3. Meals	119.00	37.98
4. Telephone & Other Charges	.....	390.79
5. Taxi	72.00	.....
	417.00	649.09

(b) *Non-Fed Source*: Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Jack W. Gravely.

Government Position: Director, Office Workplace Diversity.

3. *Event*: NAB '96.

4. *Sponsor of Event*: National Association of Broadcasters—NAB.

5. *Sponsor Address*: Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role*: Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates*: 04/15–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$225.00	.....
2. Hotel Room ...	.....	$183.60
3. Meals	68.00	6.15
4. Other Charges	.....	31.60
5. Taxi	39.00	.....
	332.00	221.35

(b) *Non-Fed Source*: Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert D. Greenberg.

Government Position: Electronics Engineer, Mass Media Bureau.

3. *Event*: NAB '96.

4. *Sponsor of Event*: National Association of Broadcasters—NAB.

5. *Sponsor Address*: Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role*: Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates*: 04/13–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$296.00	.....
2. Hotel Room ...	.....	$367.20
3. Meals	209.00	43.02
4. Other Charges	.....	14.04
5. Taxi	66.00	.....
	571.00	424.26

(b) *Non-Fed Source*: Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Scott B. Harris.

Government Position: Chief, International Bureau.

3. *Event*: NAB '96.

4. *Sponsor of Event*: National Association of Broadcasters—NAB.

5. *Sponsor Address*: Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role*: Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates*: 04/16–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...	.....	$146.88
3. Meals	85.00	9.64
4. Taxi, Parking & Mileage	71.60	.....
5. Fax & Telephone	.....	74.77
	380.60	231.29

(b) *Non-Fed Source*: Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Reed E. Hundt.

Government Position: Chairman.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/16–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$112.00	.....
2. Hotel Room ...		$73.44
3. Meals	51.00	
4. Taxi	36.00	.....
5. Other Charges	.....	67.95
	199.00	141.39

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Charles W. Kelley.

Government Position: Chief, Enforcement Division, Mass Media Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...		220.32
3. Meals	119.00	.....
4. Taxi	20.00	.....
	363.00	220.32

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Kennard.

Government Position: General Counsel.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$227.00	.....
2. Hotel Room ...	.....	$293.76
3. Meals	.....	.....
4. Taxi	95.00	2.00
	322.00	295.76

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Barbara A. Kreisman.

Government Position: Chief, Video Services Division, Mass Media Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/15–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$226.00	.....
2. Hotel Room ...	.....	$146.88
3. Meals	85.00	.....
4. Taxi	97.50	20.23
	408.50	167.11

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Renee Licht.

Government Position: Deputy Chief, Mass Media Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–16/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	$148.00
3. Meals	85.00	20.86
4. Taxi & Mileage	100.50	.....
5. Other Charges	.....	35.39
	409.50	204.25

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Frank M. Lucia.

Government Position: Chief, Emergency Communications Compliance & Information Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–16/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$290.00	.....
2. Hotel Room ...	.....	$370.00
3. Meals	195.00	.....
4. Parking & Mileage	87.60	.....
5. Taxi	17.00	.....
	590.10	370.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Jane E. Mago.

Government Position: Senior Legal Advisor to Commissioner Rachell B. Chong.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/13–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$228.00	.....
2. Hotel Room ...	.....	$293.76
3. Meals	161.50	.....
4. Taxi & Mileage	62.00	.....
5. Telephone	.....	32.68
	451.50	326.44

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Susan Ness.

Government Position: Commissioner.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...	.....	$220.32
3. Meals	110.50	42.80
4. Taxi	.....	.....
5. Other Charges	.....	8.50
	334.50	271.62

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Maureen A. O'Connell.

Government Position: Legal Advisor to Commissioner James H. Quello.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/15–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$293.00	.....
2. Hotel Room ...	.....	$146.88
3. Meals	76.50	.....
4. Taxi & Telephone	131.13	.....
5. Other Charges	.....	13.13
	500.63	160.01

(b) *Non-Fed Source:* Same as No. 4

1. *Agency:* Federal Communications Commission.

2. *Employee:* James H. Quello.

Government Position: Commissioner.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/13–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$228.00	.....
2. Hotel Room ...	.....	$902.88
3. Meals	153.00	30.25
4. Taxi	48.00	.....
5. Movie & Newspaper	.....	43.05
6. Telephone	19.24	23.12
	448.24	999.30

(b) *Non-Fed Source:* Same as No. 4

1. *Agency:* Federal Communications Commission.

2. *Employee:* Saul Shapiro.

Government Position: Assistant Chief, Technology Policy, Mass Media Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$233.00	.....
2. Hotel Room ...	.....	$220.32
3. Meals	119.00	26.76
4. Taxi	112.50	.....
5. Other Charges	.....	9.64
	464.50	256.92

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* David R. Siddall.

Government Position: Legal Advisor to Commissioner Susan Ness.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/13–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...	.....	$293.76
3. Meals	144.50	13.38
4. Taxi & Parking	52.00	.....
5. Other Charges	.....	26.00
	420.50	333.14

(b) *Non-Fed Source:* Same as No. 4.

1 *Agency:* Federal Communications Commission.

2. *Employee:* Lisa B. Smith.

Government Position: Senior Legal Advisor to Commissioner Andrew C. Barrett.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/13–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$232.00	.....
2. Hotel Room ...	.....	$293.76
3. Meals	.....	34.70
4. Other Charges	.....	11.50
5. Taxi	50.00	.....
	282.00	339.96

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.

Government Position: Chief, Office of Engineering & Technology.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/14–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$230.00	.....
2. Hotel Room ...	.....	$293.76
3. Meals	.....	161.50
4. Taxi	.....	.....
	230.00	455.26

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

Government Position: Chief, Mass Media Bureau.

3. *Event:* NAB '96.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/15–18/96.

9. *Travel Dates:* 04/13–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$224.00	.....
2. Hotel Room ...	.....	$293.76
3. Meals	153.00	11.77
4. Parking & Mileage	62.00	.....
5. Telephone	.....	12.35
	439.00	317.88

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Beverly G. Baker.

Government Position: Chief, Compliance & Information Bureau.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/10–11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$543.00	.....
2. Hotel Room ...	$90.06	.....
3. Meals	38.00	.....
4. Taxi	109.00	.....
	780.00	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Linda B. Blair.

Government Position: Chief, Audio Services Division, Mass Media Bureau.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W. Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/10–11/96

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In Kind
1. Roundtrip Transportation	$199.00	.....
2. Hotel Room ...	.....	$270.18
3. Meals	142.50	.....
4. Telephone	15.00	.....
5. Taxi	90.00	.....
	446.50	270.18

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Charles W. Kelley.

Government Position: Chief, Enforcement Division Mass Media Bureau.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W. Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/10–12/96

10. (a)

Nature of Benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$199.00	.....
2. Hotel Room ...	.....	$270.18
3. Meals	133.00	.....
4. Taxi	20.50	.....
	352.50	270.18

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Kennard.

Government Position: General Counsel.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/09–15/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$199.00	.....
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Taxi	91.00	.....
	290.00	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Susan Ness.

Government Position: Commissioner.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/10–11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$199.00	.....
2. Hotel Room ...	.....	$90.06
3. Meals	66.50	.....
4. Taxi	37.00	.....
	302.50	90.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James H. Quello.

Government Position: Commissioner.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/09–11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$199.00	.....
2. Hotel Room ...	194.00	.....
3. Meals	95.00	.....
4. Taxi & Telephone	133.09	.....
	621.09	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

Government Position: Chief, Mass Media Bureau.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/09–12/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$199.00	.....
2. Hotel Room ...	.....	$270.18
3. Meals	133.00	.....
4. Parking & Mileage	52.40	.....
	384.40	270.18

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Anita L. Wallgren.

Government Position: Legal Advisor to Commissioner Susan Ness.

3. *Event:* NAB Radio Show.

4. *Sponsor of Event:* National Association of Broadcasters—NAB.

5. *Sponsor Address:* Attn: Karen Fullum, 1771 N Street, N.W., Washington, D.C. 20036–2891.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–12/96.

9. *Travel Dates:* 10/10–11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$199.00	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	$90.06
3. Meals	66.50	.....
4. Taxi	44.00	.....
	309.50	90.06

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* George R. Dillon.

Government Position: Engineering Advisor, Compliance & Information Bureau.

3. *Event:* NMEA Northeast Regional Meeting.

4. *Sponsor of Event:* National Marine Electronics Association—NMEA.

5. *Sponsor Address:* Attn: Ms. Cindy Ensley, P.O. Box 3435, New Bern, NC 28564–3435.

6. *Location of Event:* Boston, Massachusetts.

7. *Employee's Role:* Participant.

8. *Dates of Event:* 10/18/96.

9. *Travel Dates:* 10/17–19/96.

10. (a)

Nature of benefit:	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$168.00	.....
2. Hotel Room ...	195.26	.....
3. Meals	63.75	.....
4. Grd. Transportation	38.40	.....
5. Telephone	11.00	.....
	476.41	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* George Dillon.

Government Position: Engineering Advisor, Compliance & Information Bureau.

3. *Event:* 1996 NMEA Annual Convention.

4. *Sponsor of Event:* National Marine Electronics Association—NMEA.

5. *Sponsor Address:* Attn: Ms. Cindy Ensley, P.O. Box 3435, New Bern, NC 28564–3435.

6. *Location of Event:* Fort Lauderdale, Florida.

7. *Employee's Role:* Participant.

8. *Dates of Event:* 11/06–09/96.

9. *Travel Dates:* 11/07–09/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$376.00	.....
2. Hotel Room ...	.....	$197.58
3. Meals	61.50	.....
4. Grd. Transportation	99.17	.....
	536.67	197.58

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roger S. Noel.

Government Position: Senior Engineer, Wireless Telecommunications Bureau.

3. *Event:* 1996 NMEA Annual Convention.

4. *Sponsor of Event:* National Marine Electronics Association—NMEA.

5. *Sponsor Address:* Attn: Ms. Cindy Ensley, P.O. Box 3435, New Bern, NC 28564–3435.

6. *Location of Event:* Fort Lauderdale, Florida.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 11/06–09/96.

9. *Travel Dates:* 11/07–09/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$447.00	.....
2. Hotel Room ...	.....	$197.58
3. Meals	58.50	.....
4. Grd. Transportation	17.10	.....
	522.60	197.58

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rachelle B. Chong.

Government Position: Commissioner.

3. *Event:* 1996 NAPABA Convention.

4. *Sponsor of Event:* National Asian Pacific American Bar Association—NAPABA.

5. *Sponsor Address:* Attn: Mr. Paul H. Chan, 1525 Sherman Street, 5th Floor, Denver, CO 80203.

6. *Location of Event:* Denver, Colorado.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 11/15/96.

9. *Travel Dates:* 11/14–15/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$363.00
2. Hotel Room ...	.....	123.40
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	486.40

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Elizabeth Lyle.

Government Position: Senior Legal Advisor, Wireless Telecommunications Bureau.

3. *Event:* 22nd Annual Conference.

4. *Sponsor of Event:* National Association of Radio Reading Services—NARRS.

5. *Sponsor Address:* Attn: David Andrews, Communication Center, State Services for the Blind, 2200 University Avenue West #240, St. Paul, MN 55114–1840.

6. *Location of Event:* Roanoke, Virginia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/06–08/96.

9. *Travel Dates:* 06/07/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$397.20
2. Hotel Room ...	.....	.....
3. Meals	.....	10.00
4. Taxi	$14.00	.....
	14.00	407.20

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Blair S. Levin.

Government Position: Chief of Staff to Chairman Reed E. Hundt.

3. *Event:* NATAS Board Meeting.

4. *Sponsor of Event:* National Academy of TV Arts & Sciences—NATAS.

5. *Sponsor Address:* 111 West 57th Street, Suite 1120, New York, NY 10019.

6. *Location of Event:* San Francisco, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 12/01/95.

9. *Travel Dates:* 12/01/95.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$417.00	.....
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Taxi	.....	.....
	417.00	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Catherine J. Kissee-Sandoval.

Government Position: Director, Office of Communications Business Opportunity.

3. *Event:* NAWI Roadshow.

4. *Sponsor of Event:* North American Wireless—NAWI.

5. *Sponsor Address:* Attn: Gabrielle Sherb, 1919 Gallows Road, Suite 950, Vienna, VA 22182.

6. *Location of Event:* San Francisco, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09/95.

9. *Travel Dates:* 11/06–10/95.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$336.00
2. Hotel Room ...	.....	513.00
3. Meals	$161.50	.....
4. Ground Transportation	56.00	.....
	217.50	849.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Charles W. Kelley.

Government Position: Chief, Enforcement Division, Mass Media Bureau.

3. *Event:* 1996 NBACA National Convention.

4. *Sponsor of Event:* National Broadcast Association for Community Affairs—NBACA.

5. *Sponsor Address:* Attn: Mr. Bob Armstrong, 1200 19th Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Houston, Texas.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/24/96.

9. *Travel Dates:* 10/23–24/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$459.00	.....
2. Hotel Room ...	.....	$79.00
3. Meals	59.50	.....
4. Taxi	33.50	.....
5. Mileage & Parking	40.74	.....
	592.74	79.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James Casserly.

Government Position: Senior Legal Advisor to Commissioner Susan Ness.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/30–05/01/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$217.00	.....
2. Hotel Room ...	.....	$97.00
3. Meals	.....	76.00
4. Grd. Transportation	28.60	.....
5. Telephone	22.00	.....
	267.60	173.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Jackie E. Chorney.

Government Position: Legal Advisor to Chairman Reed E. Hundt.

3. *Event*: NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event*: National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event*: 04/28–05/01/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$218.00	.....
2. Hotel Room ...	.....	$307.80
3. Meals	123.50	44.44
4. Grd. Transportation	28.00	.....
5. Telephone	.....	118.30
6. Miscellaneous	.....	23.60
	369.50	494.14

(b) *Non-Fed Source*: Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mary P. McManus.

Government Position: Legal Advisor to Commissioner Susan Ness.

3. *Event*: NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event*: National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Gina Thomerson, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event*: 04/28–05/01/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$217.00	.....
2. Hotel Room ...	.....	$291.00
3. Meals	.....	114.00
4. Parking	40.00	.....
	257.00	405.00

(b) *Non-Fed Source*: Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Susan Ness.

Government Position: Commissioner.

3. *Event*: NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event*: National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Gina Thomerson, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event*: 04/28–05/01/96.

9. *Travel Dates:* 04/28–30/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$217.00	.....
2. Hotel Room ...	.....	$194.00
3. Meals	.....	104.50
4. Parking	71.00	.....
	288.00	298.50

(b) *Non-Fed Source*: Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Linda B. Dubroof.
Government Position: Deputy Chief, Network Services Division, Common Carrier Bureau.
3. *Event*: Interstate TRS Advisory Council & NASRA Meeting.
4. *Sponsor of Event*: National Exchange Carrier Association—NECA.
5. *Sponsor Address:* Attn: Mr. Joseph A. Douglas, 100 South Jefferson Road, Whippany, NJ 07981.
6. *Location of Event:* Kansas City, Kansas.
7. *Employee's Role:* Speaker.
8. *Dates of Event*: 09/16–18/96.
9. *Travel Dates:* 09/16–18/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$356.00	.....
2. Hotel Room ...	260.00	.....
3. Meals	85.00	.....
4. Taxi & Telephone	88.75	.....
	789.75	.....

(b) *Non-Fed Source*: Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Andrew L. Firth.
Government Position: Attorney, Network Services Division, Common Carrier Bureau.
3. *Event:* Interstate TRS Advisory Council & NASRA Meeting.
4. *Sponsor of Event:* National Exchange Carrier Association—NECA.
5. *Sponsor Address:* Attn: Mr. Joseph A. Douglas, 100 South Jefferson Road, Whippany, NJ 07981.
6. *Location of Event:* Kansas City, Kansas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/16–18/96.
9. *Travel Dates:* 09/16–18/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$356.00	.....
2. Hotel Room ...	63.00	.....
3. Meals	85.00	.....
4. Taxi	12.00	.....
	516.00	.....

(b) *Non-Fed Source*: Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
Government position: Chief, Cable Services Bureau.
3. Event: NECTA Annual Meeting.
4. *Sponsor of Event:* New England Cable Television Association—NECTA.
5. *Sponsor Address:* Attn: Mr. William D. Durand, 100 Grandview Road, suite 201, Braintree, MA 02184.
6. *Location of Event:* Bethel, Maine.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 02/06–08/97.
9. *Travel Dates:* 02/06–08/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$330.00	.....
2. Hotel Room ...	.....	$650.00
3. Meals	.....	.....
4. Taxi	38.00	.....
	368.00	650.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Edythe Wise.
Government Position: Assistant Chief, Enforcement Mass Media Bureau.
3. *Event:* October Annual Meeting of the NJBA.
4. *Sponsor of Event:* New Jersey Broadcasters Association—NJBA.
5. *Sponsor Address:* Attn: Mr. Philip H. Roberts, 7 Centre Drive, Suite One, Jamesburg, NJ 08831–1565.
6. *Location of Event:* Newark, New Jersey.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/23/96.
9. *Travel Dates:* 10/23/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$384.00
2. Hotel Room ...	.....	.....
3. Meals	$28.50	.....
4. Taxi	42.00	.....
	70.50	384.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Susan McMaster.
Government Position: Industry Economist, Common Carrier Bureau.
3. *Event:* 1996 DMS Signaling Transfer Point User Forum.
4. *Sponsor of Event:* Northern Telecom—NORTEL.
5. *Sponsor Address:* Attn: Dan Kidd, 4001 E. Chapel Hill-Nelson Hwy., P.O. Box 13010, Research Triangle Park, NC 27709–3010.
6. *Location of Event:* Quebec, Canada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/08–11/96.
9. *Travel Dates:* 09/08–09/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$506.00
2. Hotel Room ...	.....	100.00
3. Meals	.....	50.00
4. Grd. Transportation	$45.00	.....
	45.00	656.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
Government Position: Chief, Mass Media Bureau.
3. *Event:* OAB Convention.
4. *Sponsor of Event:* Ohio Association of Broadcasters—OAB.
5. *Sponsor Address:* Attn: Dale V. Bring, 88 East Broad Street, Suite 1780, Columbus, OH 43215.
6. *Location of Event:* Columbus, Ohio.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/20/96.
9. *Travel Dates:* 11/19–20/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$510.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	69.00
3. Meals	$45.00	.....
4. Taxi	31.00	.....
	76.00	579.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Susan Ness.

Government Position: Commissioner.

3. *Event:* OAB Winter Convention '96.

4. *Sponsor of Event:* Oklahoma Association of Broadcasters—OAB.

5. *Sponsor Address:* 6520 N. Western, Suite 104, Oklahoma City, OK 73116.

6. *Location of Event:* Oklahoma City, Oklahoma.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 02/15–17/96.

9. *Travel Dates:* 02/15–17/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$407.00	.....
2. Hotel Room ...	.....	$76.16
3. Meals	39.00	7.73
4. Taxi	25.00	.....
	471.00	83.89

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John B. Muleta.

Government Position: Chief, Enforcement Common Carrier Bureau.

3. *Event:* Operator Services: Turning Point '96 Conference.

4. *Sponsor of Event:* The Pelorus Group.

5. *Sponsor Address:* Attn: Mr. Michael J. Sullivan, Fallone Professional Center, 33 Second Street, Suite J, Raritan, NJ 08869.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/29–30/96.

9. *Travel Dates:* 10/29–30/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$101.00
2. Hotel Room ...	.....	120.50
3. Meals	$34.00	30.00
4. Grd. Transportation	28.40	.....
5. Telephone	3.00	.....
	65.40	251.50

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

Government Position: Chief, Office of Plans & Policy.

3. *Event:* Talking Net Conference.

4. *Sponsor of Event:* Pulver Company Inc.

5. *Sponsor Address:* Attn: Mr. Tim Jackson, 63 Artesian Road, London W2 5DB.

6. *Location of Event:* New York, New York.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/10–11/96.

9. *Travel Dates:* 09/11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$352.00
2. Hotel Room ...	.....	.....
3. Meals	.....	.....
4. Parking	.....	.....
	.....	352.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Donald H. Gips.

Government Position: Chief, International Bureau.

3. *Event:* SBCA's National Convention.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* Attn: Mr. Andrew R. Paul, 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 08/15–17/96.

9. *Travel Dates:* 08/15–16/96.

10. (a)

Nature of benefit	(c) Type & Amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$431.60
2. Hotel Room ...	.....	139.19
3. Meals	$51.00	.....
4. Taxi	74.00	.....
	125.00	570.79

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* R. Alan Stillwell.

Government Position: Industry Economist, Office of Engineering & Technology.

3. *Event:* SBCA's National Convention.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* Attn: Mr. Andrew R. Paul, 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/15–17/96.

9. *Travel Dates:* 08/15–18/96.

10. (a)

Nature of benefit	(c) Type & Amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$273.90
2. Hotel Room ...	.....	417.57
3. Meals	$110.50	.....
4. Taxi	26.00	.....
5. Telephone	4.75	.....
	141.25	691.47

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mark L. Keam.

Government position: Attorney, Enforcement Division, Wireless Telecommunications Bureau.

3. *Event:* Wireless Buildout Conference.

4. *Sponsor of Event:* Shorecliff, Communications International.

5. *Sponsor Address:* Attn: Ms. Susan S. Pepe, 34127 Pacific Coast Highway, Suite C, Dana Point, CA 92629.

6. *Location of Event:* Chicago, Illinois.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/14–15/96.

9. *Travel Dates:* 10/14–16/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
10. (a)		
1. Roundtrip Transportation	.....	$299.00
2. Hotel Room ...	.....	208.00
3. Meals	.....	114.00
4. Taxi	.....	.....
	.....	621.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Stephen Markendorff.

Government position: Chief Broadband Branch, Wireless Telecommunications Bureau.

3. *Event:* Wireless Buildout Conference.

4. *Sponsor of Event:* Shorecliff, Communications International.

5. *Sponsor Address:* Attn: Ms. Susan S. Pepe, 34127 Pacific Coast Highway, Suite C, Dana Point, CA 92629.

6. *Location of Event:* Colorado Springs, Colorado.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 10/28–29/96.

9. *Travel Dates:* 10/28–29/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$207.00
2. Hotel Room ...	.....	185.00
3. Meals	$45.50	.....
4. Grd. Transportation	43.00	.....
5. Telephone	5.00	.....
	93.50	392.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Stephen Markendorff.

Government Position: Chief, Broadband Branch, Wireless Telecommunications Bureau.

3. *Event:* Wireless Buildout Conference.

Sponsor of Event: Shorecliff Communications International.

5. *Sponsor Address:* Attn: Ms. Susan S. Pepe, 34127 Pacific Coast Highway, Suite C, Dana Point, CA 92629.

6. *Location of Event:* San Francisco, California.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 12/02–03/96.

9. *Travel Dates:* 12/02–04/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1,266.00
2. Hotel Room ...	.....	294.00
3. Meals	$76.00	.....
4. Grd. Transportation	65.60	.....
5. Telephone	5.00	.....
	146.60	1,560.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Stephen Markendorff.

Government Position: Chief, Broadband Branch, Wireless Telecommunications Bureau.

3. *Event:* Wireless Buildout Conference.

4. *Sponsor of Event:* Shorecliff Communications International.

5. *Sponsor Address: Attn: Ms. Susan S. Pepe, 34127 Pacific Coast Highway, Suite C, Dana Point, CA 92629.*

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 01/22–23/97.

9. *Travel Dates:* 01/22–23/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$159.00
2. Hotel Room ...	.....	185.00
3. Meals	$51.00	.....
4. Grd. Transportation	44.00	.....
5. Telephone	3.00	.....
	98.00	344.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael L. Lance.

Government Position: Senior Engineer, Engineering & Technical Services Division, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '96.

4. *Sponsor of Event:* Society Cable Telecommunications Engineers—SCTE.

5. *Sponsor Address:* Attn: Mr. William W. Riker, 140 Philips Road, Exton, PA 19341–1318.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/11–12/96.

9. *Travel Dates:* 06/09–13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$151.00	.....
2. Hotel Room ...	.....	$396.00
3. Meals	144.50	.....
4. Grd. Transportation	82.40	.....
	377.90	396.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Priya Shrinivasan.

Government Position: Staff Engineer, Engineering & Technical Services Division, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '96.

4. *Sponsor of Event:* Society Cable Telecommunications Engineers—SCTE.

5. *Sponsor Address:* Attn: Mr. William W. Riker, 140 Philips Road, Exton, PA 19341–1318.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/11–12/96.

9. *Travel Dates:* 06/09–13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$151.00	.....
2. Hotel Room ...	.....	$396.00
3. Meals	153.00	.....
4. Grd. Transportation	57.16	.....
	361.16	396.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John P. Wong.

Government Position: Chief, Engineering & Technical Services Division, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '96.

4. *Sponsor of Event:* Society Cable Telecommunications Engineers—SCTE.

5. *Sponsor Address:* Attn: Mr. William W. Riker, 140 Philips Road, Exton, PA 19341–1318.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/11–12/96.

9. *Travel Dates:* 06/09–13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$151.00	.....
2. Hotel Room ...	.....	$396.00
3. Meals	144.50	.....
4. Grd. Trans-portation	82.40	.....
	377.90	396.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Priscilla M. Wu.

Government Position: Staff Engineer, Engineering & Technical Services Division, Cable Services Bureau.

3. *Event:* Cable-Tec Expo '96.

4. *Sponsor of Event:* Society Cable Telecommunications Engineers—SCTE.

5. *Sponsor Address:* Attn: Mr. William W. Riker, 140 Philips Road, Exton, PA 19341–1318.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/11–12/96.

9. *Travel Dates:* 06/09–13/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$151.00	.....
2. Hotel Room ...	.....	$396.00
3. Meals	144.50	.....
4. Grd. Trans-portation	76.20	.....
	371.70	396.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Julius Genachowski.

Government Position: Counsel to Chairman Reed H. Hundt.

3. *Event:* Internet Voice & Video Services.

4. *Sponsor of Event:* StepToe & Johnson.

5. *Sponsor Address:* Attn: Mr. Alfred M. Mamlet, 1990 Connecticut Avenue, N.W., Washington, D.C. 20036.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/04–05/96.

9. *Travel Dates:* 08/01–04/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$356.00	.....
2. Hotel Room ...	529.47	.....
3. Meals	127.50	.....
4. Taxi	122.00	.....
	1,134.97	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kelly Cameron.

Government Position: Senior Attorney Advisor, International Bureau.

3. *Event:* Privatization & Liberalization of International Telecommunications.

4. *Sponsor of Event:* Geneva, Switzerland.

5. *Sponsor Address:* Attn: Ms. Danielle Cooper, Conference Division, 11–13 Charterhouse Buildings, London, EC1M 7AN, England.

6. *Location of Event:* Geneva, Switzerland.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/22–23/96.

9. *Travel Dates:* 01/20–27/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	.....
2. Hotel Room ...	$279.64	.....
3. Meals	.....	.....
4. Taxi	.....	.....
	279.64	.....

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Karen Brinkman.

Government Position: Associate Bureau Chief, Wireless Telecommunications Bureau.

3. *Event:* 1997 Regulatory & Law Forum on Competition in Wireless Markets Conference.

4. *Sponsor of Event:* Strategic Research Institute.

5. *Sponsor Address:* Attn: Mr. Carrington Williams, 500 Fifth Avenue, 11th Floor, New York, NY 10110–0192.

6. *Location of Event:* San Francisco, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/26–28/97.

9. *Travel Dates:* 01/26–29/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$400.00
2. Hotel Room ...	.....	114.00
3. Meals	.....	.....
4. Grd. Trans-portation	.....	.....
	.....	514.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Steve E. Weingarten, Attorney, Common Carrier Bureau.

Government Position: Attorney, Common Carrier Bureau.

3. *Event:* Annual Regulatory Conference.

4. *Sponsor of Event:* TDS Telecom.

5. *Sponsor Address:* Attn: Mr. Matt Loch, 301 S. Westfield Rd, P.O. Box 5158, Madison, WI 53705.

6. *Location of Event:* Madison, Wisconsin.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/09/96.

9. *Travel Dates:* 09/09/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$500.00
2. Hotel Room ...	.....	.....
3. Meals	$30.00	.....
4. Parking	10.00	.....
	40.00	500.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Diane J. Cornell.

Government Position: Chief, Telecommunications Division International Bureau.

3. *Event:* Third Latin American Telecommunications Summit.

4. *Sponsor of Event:* Telecommunications Industry Association—TIA.

5. *Sponsor Address:* Attn: Ms. Karen Ventimiglia, IM2, 1812 Calvert St., N.W., Unit D, Washington, D.C. 20009.

6. *Location of Event:* Cancun, Mexico.

7. *Employee's Role:* Participant.

8. *Dates of Event:* 09/09–12/96.

9. *Travel Dates:* 09/08–11/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$566.54
2. Hotel Room ...	.....	76.02
3. Meals	.....	.....
4. Taxi	88.70	.....
	88.70	642.56

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James H. Quello.

Government position: Commissioner.

3. *Event:* TAB's 43rd Annual Convention.

4. *Sponsor of Event:* Texas Association of Broadcasters—TAB.

5. *Sponsor Address:* Attn: Ms. Ann Arnold, 1907 N. Lamar, Suite 300, Austin, TX 78705.

6. *Location of Event:* San Antonio, Texas.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/04–06/96.

9. *Travel Dates:* 09/04–06/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$261.00	.....
2. Hotel Room ...	.....	$266.00
3. Meals	82.50	.....
4. Taxi	36.00	.....
5. Telephone	26.73	.....
	406.23	266.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

Government Position: Chief, Mass Media Bureau.

3. *Event:* TAB's 43rd Annual Convention.

4. *Sponsor of Event:* Texas Association of Broadcasters—TAB.

5. *Sponsor Address:* Attn: Ms. Ann Arnold, 1907 N. Lamar, Suite 300, Austin, TX 78705.

6. *Location of Event:* San Antonio, Texas.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/04–06/96.

9. *Travel Dates:* 09/04–06/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$331.00	.....
2. Hotel Room ...	.....	$182.00
3. Meals	75.00	.....
4. Parking & Mileage	42.40	.....
	448.00	182.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.

Government Position: Chief, Office of Engineering & Technology.

3. *Event:* 20th Montreux International Television Symposium.

4. *Sponsor of Event:* TV Montreux.

5. *Sponsor Address:* Attn: Ms. Renee Crawford, Rue du Theatre 5, P.O. Box 1451, CH–1820 Montreux (Switzerland)

6. *Location of Event:* Geneva, Switzerland..

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/25–26/97.

9. *Travel Dates:* 01/24–27/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	.....
2. Hotel Room ...	.....	$1200.00
3. Meals	.....	384.00
4. Grd. Trans-portation	.....	540.00
	.....	2124.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.

Government Position: Chief, Office of Engineering & Technology.

3. *Event:* First UWC Conference: Global Regulatory Issues.

4. *Sponsor of Event:* Universal Wireless Communications—UWC.

5. *Sponsor Address:* Attn: Mr. Leo Nikkari, 14520 NE 87th Street, Redmond, WA 98052.

6. *Location of Event:* Barcelona, Spain.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/28–30/96.

9. *Travel Dates:* 10/27–31/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1261.45
2. Hotel Room ...	.....	492.00
3. Meals	.....	20.00
4. Taxi	.....	
	.....	1773.45

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.

Government position: Chief, Office of Engineering & Technology.

3. *Event:* First UWC Global Summit.

4. *Sponsor of Event:* Universal Wireless Communications—UWC.

5. *Sponsor Address:* Attn: Mr. Leo Nikkari, 8302 159th Place NE, Redmond, WA 98052.

6. *Location of Event:* Orlando, Florida.

7. *Employee's Role:* Keynote Speaker.

8. *Dates of Event:* 02/10–12/97.

9. *Travel Dates:* 02/07–11/97.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$537.82
2. Hotel Room ...	.....	532.80
3. Meals	.....	68.00
4. Taxi	.....	
	.....	1138.62

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Howard C Davenport.

Government Position: Chief, Enforcement Division, Wireless Telecommunications Bureau.

3. *Event:* USTA Billing Issues Conference.

4. *Sponsor of Event:* United States Telephone Association—USTA.

5. *Sponsor Address:* Attn: Mr. Porter E. Childers, 1401 H Street, N.W., Suite 600, Washington, D.C. 20005–2164.

6. *Location of Event:* Phoenix, Arizona.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/09–11/96.

9. *Travel Dates:* 10/08–10/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1536.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	$288.00	.....
3. Meals	76.50	.....
4. Grd. Transportation	63.74	.....
	428.24	1536.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert H. McNamara.
Government Position: Division Chief, Wireless Telecommunications Bureau.
3. *Event:* UTC's 1996 Annual Conference.
4. *Sponsor of Event:* UTC.
5. *Sponsor Address:* Attn: Mr. Coleman J. Kane, 1140 Connecticut Avenue, N.W., Suite 1140, Washington, D.C. 20036.
6. *Location of Event:* Kansas City, Missouri.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/20/96.
9. *Travel Dates:* 06/19–20/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$717.00
2. Hotel Room ...	.....	69.00
3. Meals	.....	35.58
4. Taxi	$33.30	.....
	33.30	821.58

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James W. Olson.
Government Position: Chief, Competition Division, Office of General Counsel.
3. *Event:* UTC Business Development Section Meeting.
4. *Sponsor of Event:* UTC.
5. *Sponsor Address:* Attn: Mr. Charles M. Meehan, 1140 Connecticut Avenue, N.W., Suite 1140, Washington, D.C. 20036.
6. *Location of Event:* Houston, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 01/15/97.
9. *Travel Dates:* 01/14–15/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$639.09

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	109.00
3. Meals	.....	.....
4. Taxi	.....	.....
	.....	748.09

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* George R. Dillon.
Government Position: Engineering Advisor, Compliance & Information Bureau.
3. *Event:* WVBA's Winter Conference.
4. *Sponsor of Event:* West Virginia Broadcasters Association—WVBA.
5. *Sponsor Address:* Attn: Ms. Marilyn Fletcher, 140 Seventh Avenue, S. Charleston, WV 25303–1452.
6. *Location of Event:* Charleston, West Virginia.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 01/26–27/97.
9. *Travel Dates:* 01/26–27/97.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$233.74	.....
2. Hotel Room ...	.....	$84.00
3. Meals	45.00	.....
4. Parking	3.50	.....
	282.24	84.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Renee Licht.
Government Position: Deputy Chief, Mass Media Bureau.
3. *Event:* WVBA Annual Convention.
4. *Sponsor of Event:* West Virginia Broadcasters Association—WVBA.
5. *Sponsor Address:* Attn: Ms. Marilyn Fletcher, 40 Seventh Avenue, S. Charleston, WV 25303–1452.
6. *Location of Event:* Greenbrier Resort, West Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/15–17/96.
9. *Travel Dates:* 08/15–17/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$77.50	.....

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	$112.00
3. Meals	65.00	.....
4. Taxi	.....	.....
	142.50	$112.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mary Ellen Burns
Government Position: Chief, Consumer Protection Division, Mass Media Bureau.
3. *Event:* 1996 WCAI Convention & Exposition.
4. *Sponsor of Event:* Wireless Cable Association International—WCAI.
5. *Sponsor Address:* Attn: Mr. Andrew Kreig, 1140 Connecticut Avenue, N.W., Suite 810, Washington, D.C. 20036.
6. *Location of Event:* Denver, Colorado.
7. *Employee's Role:* Speaker
8. *Dates of Event:* 07/10–12/96.
9. *Travel Dates:* 07/09–11/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$267.00	.....
2. Hotel Room ...	.....	$184.00
3. Meals	93.50	.....
4. Ground Transportation	50.00	.....
	410.50	184.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Charles Dzeidizc.
Government Position: Assistant Chief, Video Services Division, Mass Media Bureau.
3. *Event:* 1996 WCAI Convention & Exposition.
4. *Sponsor of Event:* Wireless Cable Association International—WCAI.
5. *Sponsor Address:* Attn: Mr. Andrew Kreig, 1140 Connecticut Avenue, N.W., Suite 810, Washington, D.C. 20036.
6. *Location of Event:* Denver, Colorado.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/10–12/96.
9. *Travel Dates:* 07/09–12/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$170.00	.....
2. Hotel Room ...	.....	$276.00
3. Meals	127.50	.....
4. Ground Transportation	100.80	.....
	398.30	276.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
Government Position: Chief, Cable Services Bureau.
3. *Event:* 1996 WCAI Convention & Exposition.
4. *Sponsor of Event:* Wireless Cable Association International—WCAI.
5. *Sponsor Address:* Attn: Mr. Andrew Kreig, 1140 Connecticut Avenue, N.W., Suite 810, Washington, D.C. 20036.
6. *Location of Event:* Denver, Colorado.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 07/10–12/96.
9. *Travel Dates:* 07/08–11/96.
10. (a)

Nature of Benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$576.82	.....
2. Hotel Room ...	.....	$297.50
3. Meals	102.00	.....
4. Car Rental	44.51	.....
5. Telephone	77.69	.....
	801.02	297.50

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Keith Larsen.
Government Position: Assistant Chief, Engineering, Mass Media Bureau.
3. *Event:* 1996 WCAI Convention & Exposition.
4. *Sponsor of Event:* Wireless Cable Association International—WCAI.
5. *Sponsor Address:* Attn: Mr. Andrew Kreig, 1140 Connecticut Avenue, N.W., Suite 810, Washington, D.C. 20036.
6. *Location of Event: Denver, Colorado.*
7. *Employee's Role: Speaker.*
8. *Dates of Event:* 07/10–12/96.
9. *Travel Dates:* 07/09–12/96.
10. (a)

Nature of benefit	(c) Type & Amount of payment	
	Check	In kind
1. Roundtrip Transportation	$364.00	.....
2. Hotel Room ...	.....	$276.00
3. Meals	119.00	.....
4. Ground Transportion ..	38.16	.....
5. Supplies	8.00	.....
	529.16	276.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* David F. Sturdivant.
Government Position: Electronics Engineer, Compliance & Information.
3. *Event:* WSAB Annual Conference.
4. *Sponsor of Event:* Washington State Association of Broadcasters—WSAB.
5. *Sponsor Address:* Attn: Mr. Mark Allen, Olympia Trade Center, 924 Capitol Way South, Suite, 104, Olympia, WA 98501–1210.
6. *Location of Event:* Bellevue, Washington.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/18–19/95.
9. *Travel Dates:* 10/17–20/95.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$322.00	.....
2. Hotel Room ...	.....	$171.00
3. Meals	144.00	.....
4. Mileage & Parking	28.00	.....
	494.00	171.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Renee Licht.
Government Position: Deputy Chief, Mass Media Bureau.
3. *Event:* WSAB 1996 Annual Conference.
4. *Sponsor of Event:* Washington State Association of Broadcasters—WSAB.
5. *Sponsor Address:* Attn: Mr. Mark Allen, Olympia Trade Center, 924 Capitol Way South, Suite 104, Olympia, WA 98501–1210.
6. *Location of Event:* Bellevue, Washington.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/22–23/96.
9. *Travel Dates:* 10/21–24/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	$306.00	.....
2. Hotel Room ...	.....	$249.00
3. Meals	144.00	.....
4. Taxi	40.00	.....
	490,000	249.00

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Karl A. Kensinger.
Government Position: Attorney, International Bureau.
3. *Event:* Latin Media & Communications Summit.
4. *Sponsor of Event:* World Research Group.
5. *Sponsor Address:* Attn: Ms. Rachel Weissbard, 12 East 49th Street, 17th Floor, New York, NY 10017.
6. *Location of Event:* Miami, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/15–16/96.
9. *Travel Dates:* 05/14–15/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$495.85
2. Hotel Room ...	.....	104.00
3. Meals	.....	100.00
4. Taxi	.....	.....
	.....	699.85

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
Government Position: Chief, Cable Services Bureau.
3. *Event:* Broadband for Residential Customers Conference.
4. *Sponsor of Event:* World Research Group.
5. *Sponsor Address:* Attn: Jamie Salzano, 12 East 49th Street, 17th Floor, New York, NY 10017.
6. *Location of Event:* Atlanta, Georgia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/17–18/96.
9. *Travel Dates:* 09/18/96.
10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$711.00

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
2. Hotel Room ...	.....	.....
3. Meals	$25.50	.....
4. Taxi	75.50	.....
	101.00	711.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James Olson.

Government Position: Chief, Competition Division, Office of General Counsel.

3. *Event:* Broadband for Residential Customers Conference.

4. *Sponsor of Event:* World Research Group.

5. *Sponsor Address:* Attn: Jamie Salzano, 12 East 49th Street, 17th Floor, New York, NY 10017.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/17–18/96.

9. *Travel Dates:* 09/16–18/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$259.00
2. Hotel Room ...	.....	290.00
3. Meals	$18.50	.....
4. Taxi	89.00	.....
	107.50	549.00

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michele Farquhar.

Government Position: Chief, Wireless Telecommunications Bureau.

3. *Event:* Local Exchange Regulatory Retreat.

4. *Sponsor of Event:* X-Change Magazine.

5. *Sponsor Address:* Attn: Mr. Geof Petch, 3300 North Central Avenue, Phoenix, AZ 85012.

6. *Location of Event:* Phoenix, Arizona.

7. *Employee's Role:* Participant.

8. *Dates of Event:* 10/20–22/96.

9. *Travel Dates:* 10/20–22/96.

10. (a)

Nature of benefit	(c) Type & amount of payment	
	Check	In kind
1. Roundtrip Transportation	.....	$1484.00
2. Hotel Room ...	.....	192.00
3. Meals	.....	102.00
4. Taxi	.....	.....
	.....	1778.00

(b) *Non-Fed Source:* Same as No. 4.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15390 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

June 13, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0760.

Expiration Date: 12/31/97.

Title: Access Charge Reform, CC Docket No. 96–272 (First Report and Order).

Form No.: N/A.

Estimated Annual Burden: 13 respondents; 138,714 hours per response (avg.); 1,803,282 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $31,200.

Frequency of Response: On occasion.

Description: In the Access Charge Reform First Report and Order, the Commission adopts, that, consistent with principles of cost-causation and economic efficiency, non-traffic sensitive (NTS) costs associated with local switching should be recovered on an NTS basis, through flat-rated, per month charges. The information collections resulting from this Report and Order are as follows. The information collected would be submitted to the FCC by incumbent LECs for use in determining whether the incumbent LECs should receive the regulatory relief proposed in the Order. Compliance is mandatory.

a. Showings under the Market-Based Approach. As competition develops in the market, the FCC will gradually relax and ultimately remove existing Part 69 federal access rate structure requirements and Part 61 price cap restrictions on rate level changes. Regulatory reform will take place in two phases. The first phase of regulatory reform will take place when an incumbent LEC network has been opened to competition for interstate access services. Detariffing will take place when substantial competition has developed for the access charge elements. We proposed that in order for LECs to meet this standard, they have to demonstrate that: (1) Unbundled network element prices are based on geographically deaveraged, forward-looking economic costs in a manner that reflects the way costs are incurred; (2) transport and termination charges are based on the additional cost of transporting and terminating another carrier's traffic; (3) wholesale prices for retail services are based on reasonably avoidable costs; (4) network elements and services are capable of being provisioned rapidly and consistent with a significant level of demand; (5) dialing parity is provided by the incumbent LEC to competitors; (6) number portability is provided by the incumbent LEC to competitors; (7) access to incumbent LEC rights-of-way is provided to competitors; and (8) open and non-discriminatory network standards and protocols are put into effect. The second phase of rate structure reforms will take place when an actual competitive presence has developed in the marketplace. We propose that the second phase of rate structure reforms would take place when an actual competitive presence has developed in the marketplace. LECs would have to show the following to indicate that actual competition has developed in the marketplace by: (1) Demonstrated presence of competition; (2) full implementation of competitively neutral universal service support mechanisms; and (3) credible and timely enforcement of pro-competitive rules. (Number of respondents: 13; annual hour burden per respondent: 137,986; total annual burden 1,793,818).

b. Cost Study of Local Switching Costs: The FCC does not establish a fixed percentage of local switching costs that incumbent LECs must reassign to the Common Line basket or newly created Trunk Cards and Ports service category as NTS costs. In light of the

widely varying estimates in the record, we conclude that the portion of costs that is NTS costs likely varies among LEC switches. Accordingly, we require each price cap LEC to conduct a cost study to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports, as defined above, and to dedicated trunk side cards and ports. These amounts, including cost support, should be reflected in the access charge elements filed in the LEC's access tariff effective January 1, 1998. (Number of respondents: 13; annual hour burden per respondent: 400 hours; total annual hours: 5200).

c. Cost Study of Interstate Access Service that Remain Subject to Price Cap Regulation: The 1996 Act has created an unprecedented opportunity for competition to develop in local telephone markets. We recognize, however, that competition is unlikely to develop at the same rate in different locations, and that some services will be subject to increasing competition more rapidly than others. We also recognize, however, that there will be areas and services for which competition may not develop. We will adopt a prescriptive ''backstop'' to our market-based approach that will serve to ensure that all interstate access customers receive the benefits of more efficient prices, even in those places and for those services where competition does not develop quickly. To implement our backstop to market-based access charge reform, we require each incumbent price cap LEC to file a cost study no later than February 8, 2001, demonstrating the cost of providing those interstate access services that remain subject to price cap regulation because they do not face substantial competition. (Number of respondents: 13; annual hour burden per respondent: 8 hours; total annual burden: 104 hours).

d. Tariff Filings. The Commission also adopts several information collections relating to tariff filings. Specifically, the Commission adopts its proposals to require the filing of various tariffs, with modifications. For example, the FCC directs incumbent LECs to establish separate rate elements for the multiplexing equipment on each side of the tandem switch. LECs must establish a flat-rated charge for the multiplexers on the SWC side of the tandem, imposed pro-rate on the purchasers of the dedicated trunks on the SWC side of the tandem. Multiplexing equipment on the EO side of the tandem shall be charged to users of common EO-to-tandem transport on a per-minute of use basis. These multiplexer rate elements must be included in the LEC access tariff filings to be effective January 1, 1998. Tariff to be filed on December 16, 1997. Other tariff filings dates required by Report and Order are as follows: June 16, 1997, Filing which includes: Downward Exogenous Adjustment to the Traffic Sensitive Basket. December 16, 1998, Filing which includes: Inflation adjustments and the TIC. December 16, 1999, Filing which includes: Inflation adjustments and the TIC. (Number of respondents: 13; annual hour burden per respondent: 320 hours; total annual burden: 4160 hours).

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16030 Filed 6–13–97; 3:59 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2204]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

June 12, 1997.

Petition for reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed July 2, 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: Toll Free Service Access Codes. (CC Docket No. 95–155).

Number of Petitions Filed: 8.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15814 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2203]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

June 12, 1997.

Petition for reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor. ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed July 2, 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: Implementation of the AM Expanded Band allotment Plan. (MM Docket No. 87–267).

Number of Petition Filed: 1.

Subject: Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band. To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services. (CC Docket No. 92–297).

Number of Petitions Filed: 3.

Subject: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996. (CC Docket No. 96–128).

Number of Petitions Filed: 3.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15816 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal

Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 2, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Roy Ferguson, Tulsa, Oklahoma, to acquire a total of 25.5 percent; Michael S. Leonard, Muskogee, Oklahoma, directly and indirectly, to acquire an additional 64.5 percent; and Beverly Carter Jackson, Q-TIP Trust, and Michael S. Leonard, Trustee, both of Stigler, Oklahoma, to acquire a total of 39.0 percent, of the voting shares of Stigler Bancorporation, Inc., Stigler, Oklahoma, and thereby indirectly acquire First National Bank of Stigler, Stigler, Oklahoma.

Board of Governors of the Federal Reserve System, June 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–15835 Filed 6–16–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 11, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Cabot Bankshares, Inc., Cabot, Arkansas; to acquire 10 percent of the voting shares of The Capital Bank, Cabot, Arkansas, a *de novo* bank.

Board of Governors of the Federal Reserve System, June 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–15834 Filed 6–16–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Nominations for Membership

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board is inviting the public to nominate qualified individuals for appointment to its Consumer Advisory Council, whose membership represents consumer and community interests and the financial services industry. Thirteen new members will be selected for three-year terms that will begin in January 1998. The Board expects to announce the selection of new members by year-end 1997.

DATES: Nominations should be received by August 15, 1997.

ADDRESSES: Nominations should be submitted in writing and mailed (not by facsimile) to Dolores S. Smith, Associate Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: Deanna Aday-Keller, Secretary to the Council, Division of Consumer and Community Affairs, (202) 452–6470. For Telecommunications Device for the Deaf (TDD) users only: Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Consumer Advisory Council was established in 1976 at the direction of the Congress to advise the Federal Reserve Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Council by law represents the interests both of consumers and of the financial services industry (15 U.S.C. 1691(b)). Under the Rules of Organization and Procedure of the Consumer Advisory Council (12 CFR 267.3), members serve three-year terms that are staggered to provide the Council with continuity.

New members will be selected for terms beginning January 1, 1998, to replace members whose terms expire in December 1997; the Board expects to announce its appointment of new members by year-end. Nomination letters should include information about past and present positions held by the nominee; a description of special knowledge, interests or experience related to community reinvestment, consumer credit, or other consumer financial services; and the address and telephone number of both the nominee and the nominator. Individuals may nominate themselves.

The Board is interested in candidates who have some familiarity with consumer financial services or community reinvestment, and who are willing to express their viewpoints. Candidates do not have to be experts on all levels of consumer financial services or community reinvestment, but they should possess some basic knowledge of the area. They must be able and willing to make the necessary time commitment to prepare for and attend meetings three times a year (usually for two days, including committee meetings).

In making the appointments, the Board will seek to complement the background of continuing Council members in terms of affiliation and geographic representation, and to ensure the representation of women and minority groups. The Board may consider prior years' nominees and does not limit consideration to individuals nominated by the public when making its selection.

Council members whose terms end as of December 31, 1997, are:

Julia W. Seward, Vice President and Corporate, Community Reinvestment Officer, Signet Bank, Richmond, Virginia

Thomas R. Butler, President and Chief Operating Officer, NOVUS Services, Inc., Riverwoods, Illinois

Robert A. Cook, Partner, Hudson Cook, LLP, Crofton, Maryland

Emanuel Freeman, President, Greater Germantown Housing, Development Corporation, Philadelphia, Pennsylvania

David C. Fynn, Regulatory Risk Manager, National City Corporation, Senior Vice President, National City Bank, Cleveland, Ohio
Robert G. Greer, Chairman of the Board, Bank of Tanglewood, Houston, Texas
Kenneth R. Harney, Journalist, Washington Post Writers Group, Chevy Chase, Maryland
Gail K. Hillebrand, Litigation Counsel, West Coast Regional Office, Consumers Union of U.S., Inc., San Francisco, California
Terry Jorde, President and CEO, Towner County State Bank, Cando, North Dakota,
Eugene I. Lehrmann, Immediate Past President, American Association of Retired Persons, Madison, Wisconsin
Ronald A. Prill, Vice President, Credit, Dayton Hudson Corporation, Minneapolis, Minnesota
Lisa Rice, Executive Director, Fair Housing Center, Toledo, Ohio
John R. Rines, President, General Motors Acceptance Corporation, Detroit, Michigan

Council members whose terms continue through 1998 and 1999 are:
William N. Lund, Director, Office of Consumer Credit Regulation, State of Maine, Augusta, Maine
Richard S. Amador, President and Chief Executive Officer, CHARO Community Development Corporation, Los Angeles, California
Wayne-Kent A. Bradshaw, President and Chief Executive Officer, Family Savings Bank, FSB, Los Angeles, California
Heriberto Flores, President and Chief Executive Officer, Brightwood Development Corporation, Springfield, Massachusetts
Francine C. Justa, Executive Director, Neighborhood Housing Services of New York, New York, New York
Janet C. Koehler, Senior Manager of Electronic Commerce, AT & T Universal Card Services, Jacksonville, Florida
Errol T. Louis, Treasurer, Manager, Central Brooklyn Federal Credit Union, Brooklyn, New York
Paul E. Mullings, President and Chief Executive Officer, Mortgage Electronic Registration, Systems, Inc., McLean, Virginia
Carol Parry, Executive Vice President, Chase Manhattan Bank, New York, New York,
Philip Price, Jr., Executive Director, The Philadelphia Plan, Philadelphia, Pennsylvania
Marilyn Ross, Executive Director, Holy Name Housing Corporation, Omaha, Nebraska
Margot Saunders, Managing Attorney, National Consumer Law Center, Washington, D.C.
Gail Small, Executive Director, Native Action, Lame Deer, Montana
Yvonne S. Sparks, Executive Director, Neighborhood Housing Services of St. Louis, Inc., St. Louis, Missouri
Gregory D. Squires, Professor, Department of Sociology, University of Wisconsin-Milwaukee, Milwaukee, Wisconsin
George P. Surgeon, Chief Financial Officer and Executive Vice President, Shorebank Corporation, Chicago, Illinois
Theodore J. Wysocki, Jr., Executive Director, CANDO, Chicago, Illinois.

By the Board of Governors of the Federal Reserve System, June 11, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–15813 Filed 6–16–97; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, June 23, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 13, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16006 Filed 6–13–97; 2:55 pm]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)
OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

1. Report title: Report of Repurchase Agreements (RPs) on U.S. Government and Federal Agency Securities with Specified Holders
Agency form number: FR 2415
OMB Control number: 7100-0074
Effective Date: reporting week ending June 30, 1997
Frequency: weekly, quarterly, or annually
Reporters: U.S.-chartered commercial banks, U.S. branches and agencies of foreign banks, and thrift institutions
Annual reporting hours: 4,037
Estimated average hours per response: 0.5
Number of respondents: 120 weekly, 208 quarterly, and 1,002 annually
Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: Since 1980, the Federal Reserve has collected two reports providing detailed data on nonreservable borrowings (primarily federal funds and repurchase agreement (RP) transactions) from large commercial banks for construction of

the RP components of the monetary aggregates and for other analytical purposes. Over time, three other sample reports have been added to this reporting framework to provide RP data from other depository institutions for the construction of the monetary aggregates. The Federal Reserve is instituting a complete overhaul of this reporting framework, resulting in a simplified reporting system and significant reductions in item coverage. The revised framework will be implemented as of the end of June 1997.

Under the revised reporting system, the Federal Reserve will collect a single report containing a single item: RPs in denominations of $100,000 or more, in immediately-available funds, on U.S. government and federal agency securities, transacted with specified holders. Respondents submit the report weekly, quarterly, or annually based on the level of their RP activity as measured by the RP reports themselves or from more broadly defined items on quarterly reports of condition that are used as indicators of possible RP activity. The Federal Reserve estimates that revised reporting system will reduce annual respondent burden by 16,890 hours and annual respondent costs by approximately $338 thousand.

On March 25, 1997, the Board granted initial approval to the proposed restructuring of the RP reports. Notice of the proposal was published in the **Federal Register**; the comment period expired on May 30, 1997. The Board received one comment letter, from a large bank holding company. The commenter recommended first that the proposed FR 2415 collect information on RPs of all sizes, not just those of $100,000 or more, noting that programming would be required to break out large RPs. Second, the commenter recommended that the FR 2415 collect RPs net of sales of securities under agreements to repurchase, as now allowed by GAAP on the quarterly condition report.

The Board made no changes to the proposed item definition in response to the comment letter because such changes would require redefining the monetary aggregates. The FR 2415 data are collected for the purpose of constructing the RP component of M3. The definition of the non-M2 portion of M3 includes RPs issued by depository institutions without any netting of RP investments of those institutions, and it excludes RPs of less than $100,000 (which are included in the small time deposit component of M2). In contrast, the condition reports use GAAP reporting treatment because they focus on the balance sheet, rather than the monetary aggregates.

At the same time, the final panel selection criteria differ slightly from the original proposal. As a result of further study, the Federal Reserve has refined the panel selection criteria with respect to cutoffs applied to quarterly condition report data. The Federal Reserve will evaluate over the course of the next year the efficacy of the panel selection criteria.

Board of Governors of the Federal Reserve System, June 11, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–15812 Filed 6–16–97; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0021]

Submission for OMB Review; Profit and Loss Statement—Operating Statement

AGENCY: Regional Support Division (PMR), GSA.

ACTION: Notice of request for a reinstatement to an existing OMB clearance (3090–0021).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Profit and Loss Statement-Operating Statement. A request for public comments was published at 62 FR 14910, March 28, 1997. No comments were received.

DATES: Comment Due Date: July 17, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Deborah Purdie, (202) 501–4226.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0021, Profit and Loss Statement—Operating Statement. This form is used by offerors submitting proposals to perform GSA food service contracts.

B. Annual Reporting Burden

Respondents: 250; annual responses: 250; *average hours per response:* 1; *burden hours:* 250.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: June 11, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97–15811 Filed 6–17–97; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–120]

Availability of the Child Health Workgroup Report, Healthy Children—Toxic Environments

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of the report, Healthy Children-Toxic Environments, by the ATSDR Board of Scientific Counselors' Child Health Workgroup. The public is invited to comment on this report.

DATES: Comments must be received within 35 days from the date of publication of this notice.

ADDRESSES: The report is available through Dr. Robert Amler, MD, Chief Medical Officer, Office of the Assistant Administrator, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–29, Atlanta, Georgia 30333, E-mail address rwal.cdc.gov and telephone (404) 639–0700.

Submit written comments relating to the report to the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Amler, Chief Medical Officer, ATSDR; telephone (404) 639-0700.

SUPPLEMENTARY INFORMATION: In 1996, the Agency for Toxic Substances and Disease Registry (ATSDR), an operating division of the U.S. Department of Health and Human Services, launched a Child Health Initiative. A Child Health Workgroup was appointed by ATSDR's external Board of Scientific Counselors. Members of the workgroup were selected for their knowledge of children's environmental health. The workgroup assessed ATSDR's activities as they pertain to individuals during prenatal life, infancy, children, and adolescence. The workgroup reviewed the four divisions of ATSDR separately. This effort included the review of published goals and objectives for each division, recent annual reports, and many other publications from each division. For each division, a meeting was held between members of the workgroup and the leadership of the division.

The workgroup members determined that, although key information gaps could be identified, the most important activity was to offer a critique of current processes and suggestions for change that would improve the quality of the data, the pediatric impact of prevention, and the future benefit of the ATSDR's activities for the children being served. The report documenting this effort, Healthy Children-Toxic Environments, and its availability for public comment are being announced through this **Federal Register** notice.

Dated: June 11, 1997.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–15808 Filed 6–16–97; 8:45 am]

BILLING CODE 4163–70–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement Number 742]

National Institute for Occupational Safety and Health: Implementing Hazardous Substance Training for Emergency Responders; Notice of Availability of Funds for Fiscal Year 1997; Amendment

A notice announcing the availability of Fiscal Year 1997 funds for a cooperative agreement for Implementing Hazardous Substance Training for Emergency Responders was published in the **Federal Register** on May 9, 1997 [62 FR 25629].

On page 25632, first column, under the heading ''Application Submission and Deadlines,'' in paragraph one, line eleven, the application due date has been changed to July 31, 1997.

All other information and requirements of the May 9, 1997, **Federal Register** notice remain the same.

Dated: June 10, 1997.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–15765 Filed 6–16–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement Number 765]

National Programs to Prevent HIV Infection and Other Priority Health Problems Among Large Populations of Youths in High-Risk Situations

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 1997 funds for cooperative agreements to strengthen the capacity of national non-governmental organizations to assist national, State, and local efforts to prevent HIV infection and other priority health problems among large populations of youths in high-risk situations.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section WHERE TO OBTAIN ADDITIONAL INFORMATION)

Authority

This program is authorized under sections 317(k)(2) (42 U.S.C. 247b(k)(2)) of the Public Health Service Act, as amended. Regulations are set forth in 42 CFR part 51b.

Eligible Applicants

Eligible applicants must meet all five criteria listed below, and provide evidence of eligibility in a cover letter to the CDC Grants Management Officer. Supportive documentation should be attached to the cover letter.

- Eligible applicant(s) must be a national organization that is private, non-profit, professional or voluntary, and whose focus is education, health, or social service in nature. (Documentation of the applicant organization's mission, focus, and private/non-profit status could be provided in the form of an annual report or other relevant documents.)
- The grantee, as the direct and primary recipient of grant/cooperative funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or to provide funds to an ineligible party.
- Eligible applicants must have affiliate offices, organizations, or constituencies in a minimum of 10 States and territories.
- The organization must have a documented history of serving youths in high-risk situations and experience in developing and implementing effective HIV prevention strategies for this population for at least 24 months prior to submission of the application to CDC.
- Eligible applicants must demonstrate access to large populations (1,000 or more) of youths in high-risk situations. To demonstrate such access, applicants should provide documentation of the numbers of youth in high-risk situations served by the organization's affiliate or constituent agencies, and the total number of such youth this represents nationwide.

Smoke Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Availability of Funds

Approximately $1.4 million will be available in FY 1997 to fund approximately 6 awards. It is expected that the average award will be $230,000, ranging from $200,000 to $300,000. It is expected that awards will begin on or about September 30, 1997, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards for new budget periods will be based on satisfactory performance and the availability of funds.

Use of Funds

Funds must be used for activities to prevent HIV infection among youths, and can be used to integrate such activities into a more comprehensive program to improve the health and quality of life of youths in high-risk situations. These funds may not be used to conduct research.

Lobbying

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 U.S.C. 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. 104–208 (September 30, 1996).

Background

HIV constitutes a significant and growing threat to the health of all people in the United States. Through December 1996, 581,429 cases of AIDS as defined by the CDC surveillance case definition had been reported to CDC. From April 1987 through December 1996, the cumulative number of AIDS cases in the United States increased from 139 to 2,754 among persons aged 13 to 19 years of age and from 7,029 to 102,904 among persons aged 20 to 29 years of age. Because the median incubation period between infection with HIV and onset of AIDS is nearly 10 years, many persons aged 20–29 years with AIDS could have been infected during adolescence. AIDS is ranked the 6th leading cause of death among persons aged 15–24. Blacks and Hispanics are disproportionally represented among young people with AIDS. Of the AIDS cases reported among 13- to 19-year-olds in 1995, 54 percent were among Blacks (vs. 15 percent of the U.S. population in 1994) and 17 percent were among Hispanics (vs. 12 percent of the U.S. population in 1994).

Several national reports have included specific recommendations for increasing and improving efforts to prevent HIV infection among youths in high-risk situations, including: (1) The DHHS-OIG's Report on HIV Infection Among Street Youth; (2) the National Commission on AIDS Report on Preventing HIV/AIDS in Adolescents; (3) the External Review of CDC's HIV Prevention Strategies by the CDC Advisory Committee on the Prevention of HIV Infection; (4) The National Youth Summit on HIV Prevention and Education: Summary Report and Recommendations; and (5) the Office of National AIDS Policy report on Youth and HIV/AIDS: An American Agenda. Implementing efforts to address these recommendations will contribute to achieving Healthy People 2000: The National Health Promotion and Disease Prevention Objectives 18.3, to ''Reduce the proportion of adolescents who have engaged in sexual intercourse to no more than 15 percent by age 15 and no more than 40 percent by age 17''; and Objective 18.4, to ''Increase to at least 50 percent the proportion of sexually active, unmarried people who used a condom at last sexual intercourse.'' (To order copies of the reports cited above, see the section WHERE TO OBTAIN ADDITIONAL INFORMATION)

Data from serosurveillance studies indicate that HIV prevalence varies among different sub-populations of youth in high-risk situations. Relatively speaking, seroprevalence is low among adolescent applicants to the military (.03 percent), and moderate among youth attending adolescent medicine clinics (median clinic-specific prevalence of 0.2 percent, ranging from 0 percent—1.4 percent), STD clinics (median clinic-specific prevalence of 0.5 percent, ranging from 0 percent—3.5 percent), juvenile detention center clinics (median clinic-specific prevalence of 0.3 percent, ranging from 0 percent—6–8 percent), and socially and economically disadvantaged youth entering the Job Corps (0.3 percent). Seroprevalence is substantial among homeless and runaway youth attending homeless youth clinics (median clinic-specific prevalence of 1 percent, ranging from 1 percent—12 percent), and alarmingly high among young men who have sex with men (median sample prevalence of 7 percent, ranging from 5 percent—9 percent).

Substantial morbidity and social problems also result from the approximately 1 million pregnancies that occur among adolescents, and of approximately 12 million persons who acquire sexually transmitted diseases (STD) annually, two-thirds are less than 25 years of age. Sexually active adolescents have high rates of chlamydia infection, and rates of gonorrhea in 10 to 19 year old adolescents increased between 1993 and 1994, representing the first increase in gonorrhea among adolescents since 1985–1986. Rates of teenage pregnancy and STD are a marker of risky sexual behaviors, such as unprotected intercourse, among adolescents. Furthermore, genital ulcer diseases may facilitate acquisition and transmission of HIV infection.

Youth in high-risk situations are more likely to engage in behaviors that cause HIV infection and related priority health problems. In the 1992 National Health Interview Survey (NHIS), out-of-school adolescents were significantly more likely than in-school adolescents to have reported ever having had sexual intercourse (70.1 percent versus 45.4 percent) and to have had four or more sexual partners (36.4 percent versus 14.0 percent). Out-of-school adolescents were also significantly more likely than in-school adolescents to have ever smoked cigarettes or used alcohol, marijuana, or cocaine.

The following is the CDC definition of youth in high-risk situations. (From CDC, Report of the Fourth Meeting of the CDC Advisory Committee on the Prevention of HIV Infection, November 7–8, 1990.) Young people between the ages of 10 and 24 who fit at least one of the following categories are

considered at high risk for HIV infection:

- Homeless youth.
- Runaway youth.
- Youth not in school and unemployed.
- Youth requiring drug or alcohol rehabilitation.
- Youth who interface with the juvenile corrections system.
- Medically indigent youth.
- Youth requiring mental health services.
- Youth in foster homes.
- Migrant farmworker youth.
- Gay or lesbian youth.
- Youth with STDs, especially genital ulcer disease.
- Sexually abused youth.
- Sexually active youth.
- Pregnant youth.
- Youth seeking counseling and testing for HIV infection.
- Youth with signs and symptoms of HIV infection or AIDS without alternative diagnosis.
- Youth who barter or sell sex.
- Youth who use illegal injected drugs (including crack cocaine).

Some characteristics of youth who fit the definition of youth at high risk for HIV infection pose barriers to effective intervention. Those characteristics include:

- Feeling invulnerable to disease;
- Having little adult supervision, whether at home having run away from home, or having been asked to leave home;
- A history of emotional, sexual, and/or physical abuse;
- Distrust of adults;
- Serious emotional and personal problems;
- Disenfranchised from institutions that normally provide structure and support; and
- Difficulty filling basic human needs for food, shelter, money, and safety—consequently placing prevention of HIV infection a low priority.

Establishing effective programs to prevent HIV infection and other priority health problems among youth in high-risk situations is difficult because they are often inaccessible to and disenfranchised from traditional education and health systems. However, there are other systems which may be in a position to serve large populations of youth in high-risk situations, including social service agencies, community-based organizations, juvenile justice systems, job training programs, the military, and other agencies and systems with access to these populations of young people. While these systems may not have health as their priority focus, they do provide access and an opportunity to integrate health promotion and disease prevention activities, including HIV prevention, into their delivery systems.

The effectiveness of HIV prevention efforts targeting youth in high-risk situations is likely to be influenced by the extent to which programs are integrated into existing, complementary services provided by agencies that address the needs of these youth. Also, at the local level, HIV prevention community planning groups develop an HIV prevention plan for their respective communities. It is important to coordinate HIV prevention activities with these planning groups. CDC is seeking to fund national organizations which have the potential to exercise considerable leverage through their affiliates and constituents which have access to large numbers of youth in high-risk situations. With limited resources, such national organizations are in a position to identify the most promising prevention interventions and influence dissemination and implementation of such strategies at the local level by providing materials, training (including training of trainer approaches), and technical assistance to local affiliate and constituent agencies. CDC is especially interested in funding national organizations which can work effectively and collaboratively with other relevant systems of the Federal government to gain access to hard to reach large populations of youth in high-risk situations.

Purpose

These awards are intended to strengthen the capacity of national non-governmental organizations to assist national, State, and local efforts to prevent HIV infection and other priority health problems among large populations of youths in high-risk situations.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

1. Collaborate with affiliates or constituents, other national, State, and local organizations that serve youths in high-risk situations, Community Planning Groups, CDC, and when possible other agencies of the Federal government to achieve the purpose of this program announcement.

2. Implement the operational plan that includes reaching large numbers of youth in high-risk situations with appropriate, sustainable, and effectively targeted prevention activities through effective collaboration with affiliates, constituents, and other organizations (including other Federal agencies).

3. Monitor and evaluate the program to provide useful information on an ongoing basis for program decision making, changes, and improvements.

4. Disseminate programmatic information to other interested recipients through appropriate methods that include: (a) Identifying and submitting pertinent programmatic information for incorporation into computerized databases of health information and health promotion resources, such as the Combined Health Information Database (CHID) and the Chronic Disease Prevention (CDP) file, and (b) sharing information through electronic bulletin boards, such as the Comprehensive Health Education Network (CHEN).

5. Participate with other appropriate agencies as well as CDC in planning and convening meetings that support the purpose of this program announcement.

B. CDC Activities

1. Provide and periodically update information related to the purposes or activities of this program announcement.

2. Collaborate with national, State, and local organizations and other relevant Federal agencies in planning and conducting national strategies designed to strengthen programs for preventing HIV infection and other serious health problems among youths in high-risk situations.

3. Provide programmatic consultation and guidance related to program planning, implementing, and evaluating; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

4. Assist in planning meetings of national, State, and local organizations and other relevant Federal agencies to address issues and program activities related to preventing HIV infection and other serious health problems among youths in high-risk situations.

5. Assist in the evaluation of program activities.

Technical Reporting Requirements

An original and two copies of an annual progress report and Financial Status Report (FSR) are required no later than 90 days after the end of each budget period. Final FSR and performance reports are required no

later than 90 days after the end of the project period. All reports are submitted to the Grants Management Officer, Procurement and Grants Office, CDC.

Progress reports must include the following for each program, function, or activity involved: (1) A comparison of actual accomplishments to the objectives established for the period; (2) the reasons for slippage if established objectives were not met; and (3) other pertinent information including, when appropriate, analysis and explanation of unexpectedly high costs for performance. The progress report must also reflect the program review panel's report indicating all materials have been reviewed and approved.

Application

1. Pre-application Letter of Intent

Applicants must provide evidence of eligibility in a cover letter to the CDC Grants Management Officer (see Eligible Applicants section), and should attach to this cover letter copies of any supportive documentation.

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 Branch, Procurement and Grants Office, CDC. (See Application Submission and Deadline Section for the address.) It should be postmarked no later than July 15, 1997. The letter should identify the announcement number, name of principal investigator, and specify the priority area to be addressed by the proposed project. The letter-of-intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently.

2. Application Content

Applicants are required to submit an original and two copies of the application, including an executive summary of not more than two pages. The executive summary should be placed at the beginning of the application.

All application pages must be clearly numbered, and a complete table of contents for the application and its appendixes must be included. Begin each separate section on a new page. The original and each copy of the application must be submitted unstapled and unbound. All application materials must be typewritten, single-spaced, with unreduced type (12 point font) on 8½″×11″ paper, with at least a 1″ margin including headers and footers, and printed on one side only.

All applications must be developed in accordance with Form PHS–5161–1 (Revised 7/92), information contained in this program announcement, and the instructions outlined in the following section headings:

A. Background and Need (not more than 5 pages): Describe the need for the proposed activities, to include: (1) the specific targeted group(s) of youths in high-risk situations to be reached and their special needs, to include evidence of health risk behaviors, and (2) the need for the particular strategies and activities planned.

B. Capacity (not more than 5 pages): 1. Describe the applicant's capacity and ability to address the identified needs and implement the proposed activities, including current and past experience in addressing the needs of youths in high-risk situations, and current and past experience in developing and implementing effective HIV prevention strategies for this population.

2. Describe the applicant's capacity and experience in developing and implementing large scale projects which have a national impact on large populations of youths in high-risk situations.

3. Describe the applicant's existing organizational structure (include an organizational chart, which may be placed in an appendix) and how that structure will support the proposed program activities.

4. Describe the applicant's affiliates or constituents, including: (a) type of affiliates or constituents, and (b) number of affiliates or constituents.

5. Demonstrate how applicant will perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or to provide funds to an ineligible party.

C. Goals, Objectives, and Operational Plan (not more than 12 pages). *Goals:* List realistic goals that indicate where the program will be at the end of the projected five-year project period. Goals should reflect the overall scale of the project and include quantifiable measures of the numbers of youths in high-risk situations expected to be reached by the project.

Objectives: List objectives that are specific, measurable, and feasible to be accomplished during the first 12-month budget period.

The objectives should relate directly to the project goals.

Operational Plan: 1. Describe how the applicant's affiliates or constituents across the nation will be involved to achieve the purpose of this program announcement. Describe specific activities that are proposed to achieve each of the applicant's objectives during the first budget period. The plan should clearly describe how the project will reach large numbers of youth in high-risk situations, including the specific linkages to and activities conducted in collaboration with its affiliates, constituents, and other organizations. If the applicant proposes to test and implement a model or concept in a limited number of sites during the first project year, the applicant must submit a plan that describes their capacity and intention to replicate these activities nationwide in subsequently funded years.

Where meaningful and relevant, youths should be involved in program planning and implementation. Interventions directly impacting youths should be based on current health behavior change theory and research. In addition, the recipient must have a clear plan of action for reaching these youths through the recipient's affiliates, constituents, and other organizations. Linkages and collaborative activities between the recipient and intermediate affiliates, constituents, and other organizations must be fully described and consistent with an effective diffusion strategy; the recipient should also describe how it will encourage local affiliate and constituent agencies to coordinate with their respective HIV prevention community planning group. A coherent theory of action should make known the expected outcomes at each level and stage of the project, and result in direct HIV prevention interventions that reach large populations of youths in high-risk situations.

2. Provide a chart that includes a time line for completing the proposed activities.

3. Identify staff responsible for completing each activity.

4. Provide a brief description of the activities anticipated beyond the first year of funding (e.g. years 2–5 of the project).

D. Project Management and Staffing Plan (not more than 3 pages): 1. Describe how the proposed program will be managed and staffed, including the location of the program within the organization and the proposed staffing for the project. Provide job descriptions for existing and proposed positions. Staffing should include the commitment of at least one full-time staff member to manage the project and provide direction for proposed activities. Demonstrate that staff have the professional background and experience needed to fulfill the proposed responsibilities by including the curriculum vitae for each named staff member and a job description for staff not yet identified. Curriculum vitae

should be limited to two pages per person and can be placed in the appendix.

2. For collaborating organizations participating substantially in proposed activities, provide the name(s) of the organization(s), and the applicant's staff person who will coordinate or supervise the activity. For each organization listed, provide a current letter of support indicating their intention to participate and their specific activities and responsibilities in the program.

E. Sharing experiences (not more than 1 page): Indicate how materials that are developed or activities that are successful will be shared with others. Examples of such activities could include, but are not limited to:

1. Sharing materials through electronic databases such as the Comprehensive School Health Database of the Combined Health Information Database (CHID), and the Chronic Disease Prevention (CDP) file.

2. Sharing news through electronic bulletin boards such as Comprehensive Health Education Network (CHEN).

3. Disseminating materials to affiliates, constituents, other national, state, and local organizations, and CDC.

F. Collaborating (not more than 2 pages): Describe how the applicant will collaborate with its affiliates or constituents, other key organizations, and CDC to accomplish the proposed program activities. Such collaboration should include an intention to work closely with CDC staff, especially at major decision points and program milestones. Describe also how the applicant intends to encourage collaboration between local youth-serving agencies and their respective HIV prevention community planning groups.

G. Evaluation (not more than 3 pages): Describe how the applicant will monitor progress in meeting program objectives and collect additional evaluative data to inform program decisions and improvement. Identify key evaluation questions and how the data will be collected, analyzed, and used to improve the program.

H. Budget and Accompanying Justification (no page limitation): Provide a detailed budget and line-item justification for all operating expenses that are consistent with the stated objectives and planned activities of the project. (Sample budget enclosed with application package.)

The budget request should include the cost of a five-day trip to Atlanta for two individuals to attend a CDC annual conference and a two-day trip to Atlanta for two individuals to attend one additional meeting.

Content of Non-Competing Continuation Application

In compliance with 45 CFR 74.121(d) and 92.10(b)(4), as applicable, non-competing continuation applications submitted within the project period need only include:

A. A brief progress report describing the accomplishments of the previous budget period.

B. Any new or *significantly* revised items or information (objectives, scope of activities, operational methods, evaluation, etc.) not included in the 01 Year application.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need re-justification. Simply list the items in the budget and indicate that they are continuation items.

Note: If indirect costs are requested on a new or continuation application, a copy of the organization's current negotiated Federal indirect cost rate agreement or cost allocation plan must be provided.

Special Guidelines for Technical Assistance Workshop

A one-day technical assistance workshop will be held in Washington, DC, approximately two weeks after this Program Announcement publication date in the **Federal Register**. The purpose of this meeting will be to help potential applicants to understand the scope and intent of Announcement 765 and the Public Health Service grants policies, applications, and review procedures.

Attendance at this workshop is not mandatory. Applicants who are currently funded by CDC may not use project funds to attend this workshop. Each potential applicant may send no more than two representatives to this meeting. Please provide the names of the persons that are planning to attend this meeting to Mary Vernon, Acting Chief, Special Populations Section, Division of Adolescent and School Health; National Center for Chronic Disease and Health Promotion, 4770 Buford Highway, NE., Atlanta, GA 30341–3724 telephone (770) 488–5362; no later than June 25, 1997.

Evaluation Criteria

Each application will be allocated a total of 100 points, and will be reviewed and evaluated according to the following criteria:

A. Background and Need (15 points): The extent to which the applicant justifies the need for the proposed activities, including identifying the needs of the specific targeted group(s) to be reached (including evidence of risk behaviors among youths), and describes the need for the particular strategies and activities planned.

B. Capacity (20 points): 1. The extent to which the applicant demonstrates the capacity and ability to address the identified needs of the targeted group(s) and implement the proposed activities, including current and past experience in addressing the needs of youths in high-risk situations, and current and past experience in developing and implementing effective HIV prevention strategies for this population.

2. The extent to which the applicant demonstrates capacity and experience in developing and implementing large scale projects which have a national impact on large populations of youths in high-risk situations.

3. The extent to which the applicant describes its existing organizational structure and how that structure will support the proposed program activities.

4. The extent to which the applicant describes its affiliates or constituents, including: (a) Type of affiliates or constituencies, and (b) number of affiliates or constituents.

5. The extent to which the applicant demonstrates that it will perform a substantive role in carrying out project activities, and not merely serve as a conduit for an award to another party or to provide funds to an ineligible party.

C. Goals, Objectives, and Operational Plan (25 points). *Goals:* The extent to which the applicant has submitted realistic goals for the projected five-year project period which include quantifiable measures of an intention to reach large numbers of youths in high-risk situations with effective HIV prevention activities.

Objectives: The extent to which 12-month objectives are specific, measurable, and feasible and directly relate to the applicant's goals.

Operational Plan: 1. The extent to which proposed activities involve the applicant's affiliates or constituents nationwide, and are likely to impact large numbers of youths in high-risk situations with effective and well-targeted HIV prevention interventions.

2. The extent to which the proposed activities are linked to and designed to achieve the stated objectives within the first budget period, and are likely to reduce HIV infection and other priority health problems among large numbers of youths in high-risk situations.

3. The extent to which the applicant includes a reasonable timeline for conducting proposed activities, and identifies staff responsible for completing each activity.

4. The extent to which the applicant provides a description of the activities

anticipated beyond the first year of funding (e.g. years 2–5 of the project).

D. Project Management and Staffing (20 points): 1. The extent to which the applicant describes how the program will be managed and staffed, including the location of the program within the organization and the proposed staffing for the project, including job descriptions for existing and proposed positions.

2. The commitment of at least one full-time staff member to manage the project and provide direction for proposed activities.

3. The extent to which the applicant demonstrates that staff have the professional background and experience needed to fulfill the proposed responsibilities by including the curriculum vitae for each named staff member and a job description for staff not yet identified.

4. The extent to which the applicant provides the name(s) of the organization(s) participating substantially in proposed activities, a staff person to coordinate or supervise activities, and letters of support for each organization that indicates their intention to participate in specific ways.

E. Sharing Experiences and Resources (5 points): The extent to which the applicant indicates how it will share effective materials and activities.

F. Collaborating (5 points): The extent to which the applicant describes how it will collaborate with its affiliates or constituents, other key organizations, and CDC; and the extent to which the applicant describes how it will encourage local youth-serving agencies to coordinate activities with their respective HIV prevention community planning groups.

G. Evaluation (10 points): The extent to which the applicant describes procedures to monitor progress in meeting program objectives, and identifies additional evaluative data to be collected and how that data will be collected and used.

H. Budget and Accompanying Justification: (Not Scored) The extent to which the applicant provides a detailed and clear budget narrative consistent with the stated objectives and planned activities of the project.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health Systems Reporting Requirements

This program is not subject to the Public Health Systems Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.938.

Other Requirements

HIV/AIDS Requirements

Recipients must comply with the document entitled: ''Interim Revision of Requirements of the Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control and Prevention Assistance Programs'' (June 15, 1992), a copy of which is included in the application kit. The names and affiliations of the review panel members must be listed on the Assurance of Compliance form CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved. (See TECHNICAL REPORTING REQUIREMENTS section.)

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review and 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 DHHS Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Application Submission and Deadline

The original and two copies of the application Form PHS–5161–1 (Revised 7/92) (OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, on or before Friday, August 1, 1997. (Facsimile copies will not be accepted.)

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.

2. *Late Applications:* Applications that do not meet the criteria in 1. (a) or 2. (b) above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 765. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, Georgia 30305, telephone: (404) 842–6546, facsimile: (404) 842–6513, E-mail: oxb3@cdc.gov.

Programmatic technical assistance may be obtained from Mary Vernon, Acting Chief, Special Populations Program Section, Program Development and Services Branch, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K31, Atlanta, GA 30341–3724; telephone (770) 488–5356, facsimile (770) 488–5972, or via Internet <eamo@cdc.gov>.

Please refer to Announcement 765 when requesting information or submitting an application.

Potential applicants may obtain copies of the following publications:

1. Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office,

Washington, DC 20402–9325, telephone (202) 512–1800.

2. HIV Infection Among Street Youth (Document No. OEI–01–90–00500) from the Office of the Inspector General, Public Affairs, Room 5246, Cohen Building, 330 Independence Ave. SW, Washington, DC 20201; telephone (202) 619–1142.

3. Preventing HIV/AIDS in Adolescents, and Youth and HIV/AIDS: An American Agenda from the National AIDS Information Clearinghouse, P.O. Box 6003, Rockville, MD, 20850; telephone (800) 458–5231, select option 2.

4. The External Review of CDC's HIV Prevention Strategies from the Centers for Disease Control and Prevention, National Center for HIV, STD, and TB Prevention, (name of Center pending), Division of HIV/AIDS Prevention, 1600 Clifton Road., NE., Mailstop D–21, Atlanta, GA 30333; telephone (404) 639–0900.

5. The National Youth Summit on HIV Prevention and Education: Summary Report and Recommendations from the National Association of State Boards of Education, 1012 Cameron Street, Alexandria, VA, 22314; telephone (800) 220–5183 ($10 each + $2 shipping and handling).

6. Additional information about HIV Prevention Community Planning Groups by contacting Mary Willingham, Centers for Disease Control and Prevention, National Center for HIV, STD and TB Prevention, Division of HIV/AIDS Prevention, 1600 Clifton Rd., Mailstop D–21, Atlanta, GA 30333; telephone (404) 639–0965.

7. The Second Annual National School Health Conference Proceedings, from the Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Adolescent and School Health, 4770 Buford Highway, NE., Mailstop K–31, Atlanta, GA 30041–3724; telephone (770) 488–5324.

Dated: June 10, 1997.

Jack Jackson,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–15806 Filed 6–16–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics; ICD–9–CM E Code Revisions

AGENCY: National Center for Health Statistics, Centers for Disease Control and Prevention (CDC), DHHS.

ACTION: Notice.

SUMMARY: The National Center for Health Statistics has approved the following expansion to the External Cause Codes in the International Classification of Diseases, Ninth-Revision, Clinical Modification (ICD–9–CM). These ICD–9–CM E code revisions will become effective October 1, 1997. The official government version of the ICD–9-CM that will include all of the ICD–9–CM code revisions effective October 1, 1997, can be found on the ICD–9-CM CD-ROM available through the Government Printing Office.

E922.4 Accident caused by air gun
E955.6 Suicide and self-inflicted injury by air gun
E968.6 Assault by air gun
E985.6 Injury of undetermined intent by air gun

FOR FURTHER INFORMATION CONTACT: Donna Pickett, R.R.A., Co-chair, ICD–9–CM Coordination and Maintenance Committee, National Center for Health Statistics, CDC, telephone (301) 436–7050.

Dated: June 10, 1997.

Jack Jackson,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–15809 Filed 6–16–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–05283 01]

Public Land Order No. 7267; Partial Revocation of Public Land Order No. 2377; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects 560.39 acres of National Forest System lands withdrawn by the Forest Service for the Bluff Creek Timber Access Road. The lands are no longer needed for the purpose for which they were withdrawn, and the revocation is needed to transfer the lands by exchange. This action will open the lands to surface entry and mining. All of the lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 93709, 208–373–3864.

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 (1994), it is ordered as follows:

1. Public Land Order No. 2377, which withdrew National Forest System lands for a variety of administrative, resource, and recreational purposes, is hereby revoked insofar as it affects the following described lands.

Boise Meridian

T. 43 N., R. 7 E.,
Sec. 2, lot 4.
T. 44 N., R. 7 E.,
Sec. 24, E½NE¼, S½SW¼, W½SE¼ and NE¼SE¼;
Sec. 26, E½NE¼, W½SE¼ and NE¼SE¼;
Sec. 34, SE¼SE¼.

The areas described aggregate 560.39 acres in Shoshone County.

2. At 9:00 a.m., on July 17, 1997, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 6, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–15779 Filed 6–16–97; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(CA–067–1430–00); CACA–22644]

Notice of Realty Action; Classification of Public Lands for Conveyance Under the Recreation and Public Purposes (R&PP) Act; and Notice of Public Scoping Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A preliminary examination of the following described lands in Imperial County, California, has found the lands suitable for conveyance under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*).

San Bernardino Meridian

T. 11 S., R. 9 E.
Secs. 2,4,6,10;
Sec. 12, S½;
Secs. 14,22,24,26;
T. 11 S., R. 10 E.
Secs. 6,8,18,20,28,30,32,34;
Secs. 22 and 26; portions lying west of Hwy 86
T. 12 S., R. 9 E.
Secs. 2,4,6,8,10,12;
Secs. 14 and 18; portions lying north of Hwy 78
T. 12 S., R. 10 E.
Secs. 2,4,6,8,10,12;
Sec. 9, E½NW¼NE¼;
Secs. 14 and 18; portions lying north of Hwy 78
T. 12 S., R. 11 E.
Sec. 6; portion lying west of Hwy 86
Sec. 18; portion lying north of Hwy 78 and west of Hwy 86

Containing 21,000 acres, more or less.

This classification action is in response to an application filed by the California Department of Parks and Recreation, Ocotillo Wells State Vehicular Recreation Area (SVRA). California State Parks proposes to use the lands to expand the Ocotillo Wells SVRA, a facility for off-highway vehicle recreational use and activities. Off-highway vehicle (OHV) recreation activity is presently taking place on the subject lands. The intent of California State Parks is to allow the existing OHV recreation activity to continue as it presently occurs on the same existing roads and trails. Although California State Parks intends to only develop a minimum number of new trails and routes of travel, new connecting roads and trails would be constructed to facilitate circulation and emergency access. California State Parks would improve the existing operation of the subject lands by providing sanitary facilities, which include toilets, and trash bins. Additional improvements would include signage and protection of resources. A small service yard may be necessary to meet maintenance needs.

The lands are in a checkerboard area of ownership, restricting BLM's ability to effectively manage the lands and protect the resources. Conveyance is consistent with current BLM land use planning and would be in the public interest. The lands are not needed for Federal purposes.

Conveyance of the lands will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches and canals constructed by the authority of the United States (26 Stat. 391; 43 U.S.C. 945).
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. All valid existing rights documented on the official public land records at the time of patent issuance.
5. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested parties may submit comments regarding the proposed classification of the lands to the Area Manager, Bureau of Land Management, 1616 South 4th Street, El Centro, CA 92243. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the lands, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Comments are also being requested to help identify significant issues or concerns related to the specific use proposed in the application and plan of development, and to determine the scope of the issues that need to be analyzed in the environmental assessment.

A public scoping meeting will be held on Tuesday, June 24, 1997, 7:00 pm to 9:00 pm at the BLM, El Centro Resource Area Office, 1661 South 4th St., El Centro, CA, 92243.

FOR FURTHER INFORMATION CONTACT: Lynda Kastoll, Realty Specialist, at the above address, or telephone (760) 337–4421.

Dated: June 10, 1997.

Thomas F. Zale,

Acting Area Manager.

[FR Doc. 97–15917 Filed 6–6–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–54046]

Termination of Recreation and Public Purposes (R&PP) Classification; Nevada

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice.

SUMMARY: This notice terminates R&PP Classification N–54046. The termination of this classification is for record-clearing purposes. The subject lands will remain segregated from all forms of appropriation under the public land laws, including the general mining laws, due to an overlapping segregation for disposal by exchange.

EFFECTIVE DATE: Termination of the classification is effective upon publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sharon DiPinto, BLM Las Vegas District Office, 4765 Vegas Drive, NV 89108, 702–647–5062.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

SUPPLEMENTARY INFORMATION: On December 13, 1990, the Clark County School District filed an application with BLM for a middle school site pursuant to the R&PP Act. On May 10, 1992, the lands requested were classified suitable for lease/conveyance under the act. The school was not constructed and the applicant withdrew their application by letter dated October 1, 1996. Pursuant to the R&PP Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), the regulation contained in 43 CFR 2091.7–1, and the authority delegated by Appendix 1 of the Bureau of Land Management Manual 1203, R&PP Classification N–54046 is hereby terminated in its entirety for the following described land:

Mount Diablo Meridian, Nevada

T. 23 S., R. 62 E.,
Sec. 6, Lot 1.
Containing 10 acres.
Dated: June 6, 1997.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 97–15773 Filed 6–16–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Tallgrass Prairie National Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of intent.

SUMMARY: The National Park Service (NPS) will prepare a General Management Plan (GMP) and an Environmental Impact Statement (EIS) for the Tallgrass Prairie National Preserve (hereafter, ''the Preserve''), Kansas, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) and Public Law 104–333. This notice is being furnished as required by NEPA Regulations 40 CFR 1501.7.

To facilitate sound planning and environmental assessment, the NPS intends to gather information necessary for the preparation of the EIS, and to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are invited.

A series of public meetings and open houses will be held during the development of the GMP and the preparation of the EIS. Notices of the dates, times, and locations of these public sessions will be advertised in local media outlets prior to the events. Information regarding public sessions and the GMP/EIS will also be provided through periodic newsletters and through a World Wide Web page.

DATES: Public open houses will be held on Tuesday, July 15 and Thursday, July 17, 1997. The July 15 open house will be held between 4:00 and 8:00 p.m. at the office of the Tallgrass Prairie National Preserve, 226 Broadway, Cottonwood Falls, Kansas. The July 17 open house will be held between 4:00 p.m. and 7:30 p.m. at the City of Topeka, City Council Office, Topeka Performing Arts Center (2nd Floor), 214 SE 8th Street, Topeka, Kansas.

ADDRESSES: Written comments and information concerning preparation of the GMP/EIS should be received no later than September 15, 1997. These comments are to be directed to the Superintendent, Tallgrass Prairie National Preserve, P.O. Box 585, 226 Broadway, Cottonwood Falls, Kansas 66845.

FOR FURTHER INFORMATION CONTACT: The Superintendent at the above address or telephone 316–273–6034.

SUPPLEMENTARY INFORMATION: As established, the Preserve shall consist of lands and interests in lands defined by the boundary of the Z Bar (Spring Hill) Ranch in Chase County Kansas. This 10,894 acre ranch is located north of Strong City, in the Flint Hills area of east-central Kansas. The ranch contains a vast expanse of tallgrass prairie. The rolling hills and rocky soils of this area are today the most extensive remnant of tallgrass prairie in North America.

Congress established the Preserve (1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and (2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch. The 1996 legislation also established the Tallgrass Prairie National Preserve Advisory Committee to serve as advisors to the Secretary of the Interior (hereafter, ''the Secretary'') and the NPS in the development, management, and interpretation of the Preserve.

In accordance with NPS Management Policies, the GMP will set forth a management concept for the Preserve; establish a role for the Preserve within the context of regional trends and plans for conservation, recreation, transportation, economic development, and other regional issues; and identify strategies for resolving issues and achieving management objectives.

In accordance with Public Law 104–333, the GMP for the Preserve will include provisions for:

(1) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(2) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(3) Interpretive and education programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(4) Requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve.

(5) Requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(6) Requiring compliance with applicable State water laws and Federal and State waste disposal laws.

(7) Requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve.

(8) Requiring the Secretary to offer to enter into an agreement with each individual who, as of November 12, 1996, holds rights for cattle grazing within the boundaries of the Preserve.

In addition, a financial analysis will be prepared that indicates how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

The environmental review of the GMP for the Tallgrass Prairie National Preserve will be conducted in accordance with requirements of the NEPA (42 U.S.C. § 4371 et seq.), NEPA regulations (40 CFR 1500–1508), other appropriate Federal regulations, and NPS procedures and policies for compliance with those regulations.

The NPS estimates the draft GMP and draft EIS will be available to the public by May 1999.

Dated: June 10, 1997.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 97–15824 Filed 6–16–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 7, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 2, 1997.

Carol D. Shull,

Keeper of the National Register.

Alabama

Autauga County, Lassiter House, Antauga County 15. 0.5 mi. N of jct. of AL 14 and Co. Rd. 15., Autaugaville vicinity, 97000651

Baldwin County, Johnson, Axil, House, 751 Edwards St., Fairhope, 97000649

Jefferson County, South East Lake Historic District, Roughly Bounded by 78th, and 8th Sts., and Division, First,

Second, and Fifth Aves., Birmingham, 97000652
Lauderdale County, Cherry Street Historic District, Cherry St., between Hermitage Dr. and E. Tombigbee St., Florence, 97000648.
Wood Avenue Historic District (Boundary Increase II), Roughly, along Kendrick Ave., and 633 Hermitage Dr., Florence, 97000656
Russell County, Uchee Methodist Church, Russell County 22. 1.8 mi. W of jct. of Co. Rds. 65 and 22., Hatchechubbee vicinity, 97000654
St. Clair County, Springville Historic District, Roughly bounded by Academy, Wilson, and Cross Sts.,the Norfork-Southern RR tracks, Industrial Dr., and Sarusce St., Springville, 97000653
Talladega County, Hightower Brothers Livery Stable, 413 Norton Ave., Sylacauga, 97000650
Washington County, Washington County Courthouse, Washington County 34. 0.5 mi. SE of jct. of Washington County 34 and Old Stephens Rd., St. Stephens, 97000655

Colorado

Boulder County, Gold Miner Hotel, 601 Klondyke Ave., Eldora, 97000657
Denver County, Smith, Milo A., House, 1360 Birch St., Denver, 97000658

Florida

Escambia County, US Customs House and Post Office, 223 Palafox Pl., Pensacola, 97000659

Georgia

Glynn County, Strachan House Garage, 414 ½ Butler Ave., Glynn, 97000660

Kentucky

Anderson County, Confederate Monument in Lawrenceburg (Civil War Monuments of Kentucky MPS), Courthouse Lawn, 0.5 mi. S of US 127 and KY 44, Lawrenceburg, 97000716
Barren County, Confederate Monument in Glasgow (Civil War Monuments of Kentucky MPS), Jct. of Main and Green Sts., Glasgow, 97000717
Bath County, Confederate Monument in Owingsville (Civil War Monuments of Kentucky MPS), E of Owingsville, 1.5 mi. S of US 60, Owingsville, 97000718
Bourbon County, Bourbon County Confederate Monument (Civil War Monuments of Kentucky MPS), 0.5 mi. NE of jct. of US 460 and KY 1678, Paris, 97000719
Boyle County, Confederate Monument in Danville (Civil War Monuments of Kentucky MPS), Jct. of Main and College Sts., Danville, 97000720
Confederate Monument in Perryville (Civil War Monuments of Kentucky MPS) Perryville State Historic Site. 2.5 mi NW of Perryville, Perryville vicinity, 97000722
Union Monument in Perryville (Civil War Monuments of Kentucky MPS), Perryville Battlefield State Historic Site. 2.5 mi. NW of Perryville, Perryville vicinity, 97000723
Unknown Confederate Dead Monument in Perryville (Civil War Monuments of Kentucky MPS), Address Restricted, Perryville vicinity, 97000721
Bracken County, Confederate Monument in Augusta (Civil War Monuments of Kentucky MPS), Payne Cemetery, N of KY 8, Augusta, 97000715
Breckinridge County, Holt, Joseph, Monument (Civil War Monuments of Kentucky MPS), N of Holt, between Louisville and Nashville RR tracks and KY 144, Addison vicinity, 97000714
Butler County, Confederate—Union Veterans' Monument in Morgantown (Civil War Monuments of Kentucky MPS), 1 blk. N of jct of US 231 and KY 403, Morgantown, 97000713
Caldwell County, Confederate Soldier Monument in Caldwell (Civil War Monuments of Kentucky MPS), Jct. of KY 91 and N. Jefferson St., Princeton, 97000712
Calloway County, Confederate Monument in Murray (Civil War Monuments of Kentucky MPS), Jct. of KY 94 and Ky 121, Murray, 97000711
Christian County, Confederate Memorial Fountain in Hopkinsville (Civil War Monuments of Kentucky MPS), 3 blks. N of jct. of US 41 and Main St., Hopkinsville, 97000710
Latham Confederate Monument (Civil War Monuments of Kentucky MPS), Riverside Cemetery. W of Hopkinsville between US 41 and Louisville and Nashville RR tracks., Hopkinsville, 97000709
Daviess County, Confederate Monument in Owensboro (Civil War Monuments of Kentucky MPS), 1 blk N of jct. of US 60 and US 431, Owensboro, 97000708
Thompson and Powell Martyrs Monument (Civil War Monuments of Kentucky MPS), Jct. of KY 56 and Ky 500, St. Joseph, 97000707
Fayette County, Breckinridge, John C., Memorial (Civil War Monuments of Kentucky MPS), Courthouse Lawn. Jct. of N. Upper and E. Main Sts., Lexington, 97000705
Confederate Soldier Monument in Lexington (Civil War Monuments of Kentucky MPS), 833 W. Main St., Lexington, 97000703
Ladies' Confederate Memorial, The (Civil War Monuments of Kentucky MPS), 833 W. Main St., Lexington, 97000706
Morgan, John Hunt, Memorial (Civil War Monuments of Kentucky MPS), Courthouse Lawn. Jct. of N. Upper and E. Main St., Lexington, 97000704
Franklin County Colored Soldiers Monument in Frankfort (Civil War Monuments of Kentucky MPS), Greenhill Cemetery. 0.1 mi. SE of jct. of E. Main St. and Myrtle Ave., Frankfort, 97000701
Confederate Monument in Frankfort (Civil War Monuments of Kentucky MPS), 215 E. Main St., Frankfort, 97000702
Fulton County, Confederate Memorial in Fulton (Civil War Monuments of Kentucky MPS), Fairview Cemetery. 2 blks. N of jct. of College and 5th Sts., Fulton vicinity, 97000699
Confederate Memorial Gateway in Hickman (Civil War Monuments of Kentucky MPS), Hickman City Cemetery. 0.5 mi. S of jct of Ky 125 and KY 1099, Hickman, 97000700
Graves County, Camp Beauregard Memorial in Water Valley (Civil War Monuments of Kentucky MPS), Camp Beauregard Cemetery. 0.5 mi S of jct. of Roy Lawrence and Cuba Rds., Water Valley vicinity, 97000698
Confederate Memorial Gates in Mayfield (Civil War Monuments of Kentucky MPS), Maplewood Cemetery. 1 blk. S of jct. of KY 121 and KY 80, Mayfield, 97000696
Confederate Memorial in Mayfield (Civil War Monuments of Kentucky MPS), 2 blks. N of jct. 5th and Lee Sts., Mayfield, 97000697
Harrison County, Confederate Monument in Cynthiana (Civil War Monuments of Kentucky MPS), Battlegrove Cemetery. 0.75 mi. E of jct. of S. Elmarch Ave. and E. Pike St., Cynthiana vicinity, 97000695
Hart County, Smith, Col. Robert A., Monument (Civil War Monuments of Kentucky MPS), Along CSX RR tracks. 0.25 mi. W of Woodsonville, Munfordville vicinity, 97000693
Unknown Confederate Soldier Monument in Horse Cave (Civil War Monuments of Kentucky MPS), Old Dixie Hwy. 1 mi. S of jct. of Old Dixie Hwy and I–65, Horse Cave vicinity, 97000694
Henry County, Confederate Soldiers Martyrs Monument in Eminence (Civil War Monuments of Kentucky MPS), Eminence Cemetery. 2 mi. S of jct. of KY 22 and KY 55, Eminence, 97000692
Jefferson County, Bloettner, Adolph, Monument (Civil War Monuments of Kentucky MPS), Cave Hill Cemetery. Jct. of Payne St. and Lexington Rd., Louisville, 97000688

Castleman, John B., Monument (Civil War Monuments of Kentucky MPS), Jct. of Cherokee Rd. and Willow Ave., Louisville, 97000690
Confederate Martyrs Monument in Jeffersontown (Civil War Monuments of Kentucky MPS), City Cemetery. 0.1 mi. S of jct. of Billtown and Maple Rds., Jeffersontown, 97000691
Confederate Monument in Louisville (Civil War Monuments of Kentucky MPS), Jct. of 2nd and 3rd Sts., Louisville, 97000689
Smoketown Historic District, Roughly bounded by Preston, Caldwell, and Jacob Sts., and alley E of Shelby St., Louisville, 97000661
Union Monument in Louisville (Civil War Monuments of Kentucky MPS), Cave Hill Cemetery. Jct. of Payne St. and Lexington Rd., Louisville, 97000687
Jessamine County, Confederate Memorial in Nicholasville (Civil War Monuments of Kentucky MPS), Courthouse Lawn. Jct. of US 27 and KY 29, Nicholasville, 97000686
Kenton County, GAR Monument in Covington (Civil War Monuments of Kentucky MPS), 1413 Holman St., Covington, 97000684
Veteran's Monument in Covington (Civil War Monuments of Kentucky MPS), 1413 Holman St., Covington, 97000685
Lewis County, Union Monument in Vanceburg (Civil War Monuments of Kentucky MPS), Courthouse Lawn. 0.3 mi. E of jct. of KY 8 and KY 10., Vanceburg, 97000683
Lincoln County, Confederate Monument at Crab Orchard (Civil War Monuments of Kentucky MPS), Crab Orchard Cemetery. 0.5 mi E of jct. of KY 39 and KY 643, Crab Orchard, 97000682
Logan County, Confederate Monument in Russellville (Civil War Monuments of Kentucky MPS), Town Square. Jct. of US 431 and US 68, Russellville, 97000681
McCracken County, Confederate Monument in Paducah (Civil War Monuments of Kentucky MPS), Oak Grove Cemetery. W of jct. of Park Ave. and 13th St., Paducah, 97000678
Tilghman, Lloyd, Memorial (Civil War Monuments of Kentucky MPS), Lange Park. Madison St. betweetn 16th and 19th Sts., Paducah, 97000679
Marion County, Offutt, Capt. Andrew, Monument (Civil War Monuments of Kentucky MPS), Ryder Cemetery. E of Lebanon, off US 68, Lebanon, 97000680
Mercer County, Confederate Monument in Harrodsburg (Civil War Monuments of Kentucky MPS), Springhill Cemetery. 0.5 mi. SE of jct. of US 127 and KY 1989, Harrodsburg, 97000677
Magoffin, Beriah, Monument (Civil War Monuments of Kentucky MPS), Springhill Cemetery. 0.5 mi. SE of jct. of US 127 and KY 1989, Harrodsburg, 97000676
Montgomery County, Confederate Monument of Mt. Sterling (Civil War Monuments of Kentucky MPS), Machpelan Cemetery. 1.5 mi. E of jct. of US 460 and KY 713, Mt. Sterling, 97000675
Nelson County, Confederate Monument of Bardstown (Civil War Monuments of Kentucky MPS), North Bardstown Cemetery. 0.3 mi. S of jct. of US 31e and US 208, Bardstown, 97000674
Oldham County, Confederate Memorial in Peewee Valley (Civil War Monuments of Kentucky MPS), Confederate Cemetery. Jct. of Maple Ave. and Old Floydsburg Rd., Peewee Valley vicinity, 97000673
Pulaski County, Battle of Dutton's Hill Monument (Civil War Monuments of Kentucky MPS), Old Crab Orchard Rd. 1 mi. N of Jct. of KY 39 and KY 80, Somerset, 97000670
Confederate Mass Grave Monument in Somerset (Civil War Monuments of Kentucky MPS), Zollicoffer Park Cemeterty. 0.3 mi. S of jct. of KY 761 and KY 235, Somerset vicinity, 97000671
Zollicoffer, Gen. Felix K., Monument (Civil War Monuments of Kentucky MPS), Zollicoffer Park Cemetery. 0.3 mi. S of jct. of KY 761 and KY 235, Nancy vicinity, 97000672
Scott County, Confederate Monument in Georgetown (Civil War Monuments of Kentucky MPS), Georgetown Cemetery. 0.5 mi. S of jct. of US 25 and KY 1962, Georgetown, 97000669
Taylor County, Battle of Tebb's Bend Monument (Civil War Monuments of Kentucky MPS), Romine Loop Rd. 0.5 mi. N of jct. of Romine Loop Rd. and KY 55, Campbellsville vicinity, 97000668
Trigg County, Confederate Monument of Cadiz (Civil War Monuments of Kentucky MPS), Courthouse Lawn. 0.5 mi. E of jct. of KY 139, and KY 1175, Cadiz, 97000667
Union County, Confederate Monument of Morganfield (Civil War Monuments of Kentucky MPS), City Cemetery. Jct. of W. Bannon and S. Townsend Sts., Morganfield, 97000666
Warren County, Confederate Monument of Bowling Green (Civil War Monuments of Kentucky MPS), Fairview Cemetery. N of jct. of KY 234 and Collette Ln., Bowling Green, 97000665
Perry, William F., Monument (Civil War Monuments of Kentucky MPS), Fairview Cemetery. N of jct of KY 234, and Collette Ln., Bowling Green, 97000664
Woodford County, Confederate Monument in Versailles (Civil War Monuments of Kentucky MPS), City Cemetery. SE of jct. of Clifton Rd. and KY 33, Versailles, 97000662
Martyrs Monument in Midway (Civil War Monuments of Kentucky MPS), City Cemetery. SW of jct. of Louis & Nashville RR tracks, and US 62, Midway, 97000663

Massachusetts

Bristol County, Dighton Wharves Historic District, 2298—2328 Pleasant St., Dighton, 97000725
Hampshire County, Bradstreet Historic District, Roughly bounded by Connecticut R., King St. and Stratis Rd., Hatfield, 97000724

Nebraska

Kimball County, Gridley—Howe—Faden—Atkins Farmstead, 1 mi. N of jct. of NE 71 and State St., Kimball vicinity, 97000727
Scotts Bluff County, Midwest Theater, 1707 Broadway, Scottsbluff, 97000728

New Jersey

Morris County, St. Mary's Church, Jct. of S. Main St. and US 46, Wharton, 97000729

New Mexico

Bernalillo County, Rio Puero Bridge (Historic Highway Bridges of New Mexico MPS), I–40 over the Rio Puerco, Albuquerque vicinity, 97000735
Chaves County, Rio Felix Bridge At Hagerman (Historic Highway Bridges of New Mexico MPS), US 285 over Rio Felix, Hagerman, 97000737
Dona Ana County, Rio Grande Bridge at Radium Springs (Historic Highway Bridges of New Mexico MPS), NM 185 over Rio Grande, Radium Springs, 97000734
Rio Arriba County, Rio Grande Bridge at San Juan Pueblo (Historic Highway Bridges of New Mexico MPS), NM 74 over Rio Grande, Alcalde vicinity, 97000738
San Juan County, San Juan River Bridge at Shiprock (Historic Highway Bridges of New Mexico MPS), US 666 over San Juan R., Shiprock, 97000740
San Miguel County, Pecos River Bridge at Terrero (Historic Highway Bridges of New Mexico MPS), NM 63 over Pecos R., Terrero, 97000739
Variadero Bridge (Historic Highway Bridges of New Mexico MPS), NM 104 over Rio Conchas, Variadero, 97000736
Santa Fe County, Otowi Suspension Bridge (Historic Highway Bridges of

New Mexico MPS), NM 4 over Rio Grande, San Ildefonso vicinity, 97000730
Sierra County, Percha Creek Bridge (Historic Highway Bridges of New Mexico MPS), NM 90 over Percha Cr., Hillsboro, 97000731
Taos County, Rio Grande Gorge Bridge (Historic Highway Bridges of New Mexico MPS), NM 111 over Rio Grande Gorge, Taos vicinity, 97000733

North Carolina

Pitt County, Greenville Tobacco Warehouse Historic District, Roughly bounded by Twelfth, Clark, Ficklen, and Washington Sts., Greenville, 97000726

South Carolina

Anderson County, Boone—Douthit House, 1000 Milwee Creek Rd., Pendleton vicinity, 97000742
Greenville County, Carolina Supply Company, 35 W Court St., Greenville, 97000743
Sumter County, Lenoir Store, 3240 Horatio Rd., Horatio, 97000744
Mason, Charles T., House, 111 Mason Croft, Sumter, 97000745

Tennessee

Giles County, Pulaski Courthouse Square Historic District (Boundary Increase), 114 E. Jefferson St., Pulaski, 97000746

Vermont

Windsor County, Quechee Historic Mill District, Roughly along High, Quechee Main, River, and School Sts., and River, Waterman Hill, Deweys Mill, and Cemetery Rds., Hartford, 97000747

[FR Doc. 97–15763 Filed 6–16–97; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33 of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 13, 1997, Damocles10, 3529 Lincoln Highway, Thorndale, Pennsylvania 19372, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Heroin (9200)	I
Codeine (9050)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II

The firm plans to manufacture the listed controlled substances for the purpose of deuterium labeled internal standards for distribution to analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, (CCR), and must be filed no later than August 18, 1997.

Dated: June 9, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–15843 Filed 6–16–97; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33 of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 16, 1997, Dupont Pharmaceuticals, The Dupont Merck Pharmaceutical Co., 1000 Steward Avenue, Garden City, New York 11530, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

The firm plans to manufacture the listed controlled substances to make finished products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 18, 1997.

Dated: June 9, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–15844 Filed 6–16–97; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 19, 1997, Wildlife Laboratories, Inc., 1401 Duff Drive, Suite 600, Ft. Collins, Colorado 80524, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Etorphien Hydrochloride (9059)	II
Carfentanil (9743)	II

The firm plans to import the listed controlled substances to produce finished products for distribution to its customers. There is no domestic source of etorphein hydrochloride or carfentanil.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in

accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or request for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42,(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 5, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–15842 Filed 6–16–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ)–1135]

RIN 1121–ZA81

Solicitation for Research and Evaluation on Sentencing Reforms and Their Effects on Corrections (1997)

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice ''Solicitation for Research and Evaluation on Sentencing Reforms and Their Effects on Corrections (1997).''

DATES: The deadline for receipt of proposals is close of business on August 1, 1997.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice calls for proposals for research and evaluation of the Violent Offenders Incarceration and Truth-in-Sentencing Acts (Title II, Subtitle A) of the Violent Crime Control and Law Enforcement Act of 1994, as amended. Requested areas of research are broken down into three main categories: sentencing impact evaluations, topical research and evaluation, and practitioner-research partnerships.

Section A, Sentencing Impact Evaluations, is divided into three topic areas: impact on length of stay in correctional facilities, impact on management and operations of facilities, and the impact of privatization.

Section B calls for proposals on topics of interest to NIJ, including: victim issues and concerns, the sentenced offender, unintended consequences of sentencing, court-related issues, and public opinion on sentencing. These topics are only illustrative of the research and evaluations that NIJ encourages under this solicitation. In developing other topics applicants should explain their likely contribution to the understanding of sentencing policies.

Section C calls for applications for the development of practitioner-researcher partnerships to explore how State sentencing policies and practices are best implemented in State or local agencies. Both sentencing and corrections partnerships can be formed. These partnerships may be newly formed in response to this solicitation or they may build on an existing relationship between researchers and practitioners. The applicant may be either the practitioner agency or the research agency or academic institution. Applications from jurisdictions of all sizes are encouraged.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Solicitation for Research and Evaluation on Sentencing Reforms and Their Effects on Corrections'' (refer to document no. SL000229). The solicitation is available electronically via the NCJRS Bulletin Board, which can be accessed via the Internet. Telnet to ncjrsbbs.ncjrs.org, or gopher to ncjrs.org:71. For World Wide Web access, connect to the NCJRS Justice Information Center at http://www.ncjrs.org. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set the modem at 9600 baud, 8–N–1.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 97–15825 Filed 6–16–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Department of Labor is soliciting comments concerning the proposed new collection, the ''Applicant Background Questionnaire''. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 18, 1997. The Department of Labor 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 clarify 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.

ADDRESSEE: Anderson Glasgow, U.S. Department of Labor, Human Resource Services Center, 200 Constitution Ave. N.W. Room C–5516, Washington, D.C. 20210; Phone: 202–219–6555 ext. 115; fax. 202–219–5820; internet: aglasgow@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor (DOL) is charged with providing a wide range of services for the diverse workforce which exists in the United State. In order to better serve this diverse national workforce, the agency needs a diverse internal workforce which reflects and has knowledge of the various cultural dimensions of the nation as a whole. DOL is interested in seeking internal diversity in order to bring a wider variety of perspectives to bear on the range of issues with which the Department deals.

To achieve internal diversity, DOL employment offices have targeted recruitment outreach to a variety of sources, including educational institutions, professional organizations, newspapers and magazines. DOL has also participated in career fairs and conferences, that reach high concentrations of Hispanics, African Americans, Native Americans, and persons with disabilities.

At the present, DOL does not have the ability to evaluate the effectiveness of any of these targeted recruiting strategies because collection of racial and national origin information only occurs at the point of hiring. DOL needs to collect data on the pools of applicants which result from the various targeted recruitment strategies listed above. With the information from this new collection, DOL can adjust and redirect its targeted recruitment to achieve the best result.

II. Current Actions

This new collection will consist of a series of questions to be answered by all job applicants external to DOL, and submitted together with the job application. The collection will request the applicant's name, social security number, sex, race and/or national origin, whether or not disabled, and the source of information about the vacancy applied for (eg., newspaper, school recruitment, internet, etc.).

Type of Review: New.

Agency: U.S. Department of Labor.

Title: Applicant Background Questionnaire.

Agency Number: 1225–0000.

Affected Public: Applicants for positions in the Department of Labor who are not current DOL employees.

Total Respondents: 5000 per year (estimate).

Frequency: One time per respondent.

Total Responses: 5000 per year (estimate).

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 417 hours.

Total Burden Cost (capital/startup): $2285.

Total Burden Cost (operating/maintaining): $3472.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of pubic record.

Dated: June 2, 1997.

Larry K. Goodwin,

Director of Human Resources.

[FR Doc. 97–15877 Filed 6–16–97; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Consumer Price Index Housing Survey.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 18, 1997. The Bureau of Labor Statistics 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.

ADDRESSEE: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC. 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Price Index (CPI) is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is most widely used as a measure of inflation, and serves as an indicator of the effectiveness of Government economic policy. It is also used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars.

II. Current Actions

This request is for a one-year revision of the collection of housing information based on 1980 Census data. In order to facilitate a smooth transition and continuity of the housing indexes into the CPI Revision Housing Survey, the

current survey will be collected through Calendar Year 1998.

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index Housing Survey.

OMB Number: 1220–0034.

Affected Public: Individuals or Households; Business or other for-profit institutions.

Total Respondents: 38,000.

Frequency: Semi-annually.

Total Responses: 76,000.

Average Time Per Response: 6 minutes.

Estimated Total Burden Hours: 7,600 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC., this 10th day of June, 1997.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 97–15876 Filed 6–16–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Main Fan Operation and Inspection

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed reinstatement of the information collection related to Main Fan Operation and Inspection. (Applies to underground metal and nonmetal mines which have been categorized as ''gassy''.)

MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Submit comments on or before August 18, 1997.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30, CFR 57.22204, which is applicable only to specific underground mines that are categorized as gassy, requires main fans to have pressure-recording systems. Main fans are to be inspected daily while operating if persons are underground, and certification of the inspection is to be made by signature and date. When accumulations of explosive gases such as methane are not swept from the mine by the main fans, they may reasonably be expected to contact an ignition source. The results are usually disastrous and multiple fatalities may be expected to occur. The main fan requirements of this standard are significantly more stringent than those imposed on nongassy mines.

II. Current Actions

Information collected through the pressure recordings is used by the mine operator and MSHA for maintaining a constant vigil on mine ventilation, and to ensure that unsafe conditions are identified early and corrected. Technical consultants may occasionally review the information when solving problems.

Type of Review: Reinstatement (without change).

Agency: Mine Safety and Health Administration.

Title: Main Fan Operation and Inspection.

OMB Number: 1219–0030.

Recordkeeping: One year.

Affected Public: Business or other for-profit institutions.

Cite/Reference/Form/etc: 30 CFR 57.22204.

Total Respondents: 7.

Frequency: Daily.

Total Responses: 2,625.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 1,313.

Estimated Total Burden Hour Cost: $47,268.

Estimated Total Burden Cost (capital/startup): $735.

Estimated Total Burden Cost (operating/maintaining: $735.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 10, 1997.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 97–15874 Filed 6–16–97; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Explosive Materials and Blasting Units

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed reinstatement of the information collection related to Explosive Materials and Blasting Units used in gassy underground metal and nonmetal mines. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

A copy of the proposed information collection request can be obtained by contacting the person listed in the For Further Information Contact section of this notice.

DATES: Submit comments on or before August 18, 1997.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, U.S. Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

MSHA evaluates and approves explosive materials and blasting units as permissible for use in the mining industry. However, since there are no permissible explosives or blasting units available that have adequate blasting capacity for some metal and nonmetal gassy mines, Standard 57.22606 was promulgated to provide procedures for mine operators to follow for the use of non-approved explosive materials and blasting units. Mine operators must notify MSHA in writing, of all non-approved explosive materials and blasting units to be used prior to their use. MASH evaluates the non-approved explosive materials and determines if they are safe for blasting in a potentially gassy environment.

II. Current Actions

MSHA uses the information to determine that the explosives and procedures to be used are safe for blasting in a gassy underground mine. Federal inspectors use the notification to ensure that safe procedures are followed.

Type of Review: Reinstatement without change.

Agency: Mine Safety and Health Administration.

Title: Explosive Materials and Blasting Units.

OMB Number: 1219–0095.

Affected Public: Businesses or other for-profit.

Total Respondents: 7.

Frequency: On occasion.

Total Responses: 7.

Average Time per Response: 1 hour.

Estimated Total Burden Hours: 7.

Estimated Total Burden Hour Cost: $252.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Dated: June 10, 1997

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 97–15875 Filed 6–16–97; 8:45 am]

BILLING CODE 4510–43–M

LEGAL SERVICES CORPORATION

1997 Interim Grant Agreement To Recipient for Funds To Provide Civil Legal Services To Eligible Low-Income Clients in Blair County, Pennsylvania

AGENCY: Legal Services Corporation.

ACTION: Announcement of 1997 Interim Grant Agreements.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces its intention to award an interim contract to provide economical and effective delivery of high quality civil legal services to eligible low-income clients in service area PA–16 for Blair County, Pennsylvania. The anticipated grant term is July 1, 1997 through December 31, 1997. The tentative grant amount is $69,812.

DATES: All comments and recommendations must be received on or before the close of business on July 17, 1997.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Merceria Ludgood, Deputy Director, Office of Program Operations, (202) 336–8848.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1007(f) of the LSC Act, with a request for comments and recommendations within a period of thirty (30) day from the date of publication, LSC will award funds to the following organization to provide civil legal services in the indicated service area.

Service area	Applicant name
PA–16	Keystone Legal Services, Inc.

Date Issued: June 11, 1997.

Kathleen A. Welch,

Managing Program Counsel, Office of Program Operations.

[FR Doc. 97–15733 Filed 6–16–97; 8:45 am]

BILLING CODE 7050–01–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96–5 CARP DSTRA]

Determination of Statutory License Rates and Terms for Certain Digital Subscription Transmissions of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Announcement of the schedule for the proceeding.

SUMMARY: The Copyright Office of the Library of Congress is announcing the schedule for the 180 day arbitration period for determining the rates and terms for certain digital subscription transmissions of sound recordings, as required by the regulations governing this proceeding.

EFFECTIVE DATE: June 17, 1997.

ADDRESSES: All hearings and meetings for the determination of the royalty fees for certain digital subscription transmissions of sound recordings shall take place in the James Madison Building, Room 414, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Nanette Petruzzelli, Acting General Counsel, or Tanya Sandros, Attorney Advisor, at: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 251.11(b) of the regulations governing the Copyright Arbitration Royalty Panels, 37 CFR subchapter B, provides that:

> At the beginning of each proceeding, the CARP shall develop the original schedule of the proceeding which shall be published in the **Federal Register** at least seven calendar days in advance of the first meeting. Such announcement shall state the times, dates, and places of the meetings, the testimony to be heard, whether any of the meetings, or any portion of a meeting, is to be closed, and if so, which ones, and the name and telephone number of the person to contact for further information.

This notice fulfills the requirements of § 251.11(b) for the proceeding to determine the rates and terms for transmissions of sound recordings by certain digital subscription services.

On August 2, 1996, the Library announced the precontroversy discovery period for this docket and requested interested parties to file Notices of Intent to Participate. 61 FR 40464 (August 2, 1996). On October 11, 1996, Digital Cable Radio Associates and Muzak, L.P. filed a motion to suspend the proceeding, which DMX, Inc. joined on October 15, 1996. These three parties are collectively referred to as the ''Subscription Services'' throughout this notice. The Subscription Services requested the suspension pending the resolution of their motion to compel document production. On November 27, 1996, the Office denied the motion to suspend the proceeding, but in recognition that the precontroversy schedule was already in a *de facto* state of suspension due to the Subscription Services' refusal to exchange documents, the Office adopted a new schedule. *See* Order in Docket No. 96–5 CARP DSTRA (November 27, 1996). In a subsequent order, the Office notified the parties that the 180 day arbitration period would commence on June 2, 1997. *See* Order in Docket No. 96–5 CARP DSTRA (March 28, 1997). Then on June 2, 1997, the Office published a **Federal Register** notice announcing the names of the arbitrators and the initiation of the 180 day period. 62 FR 29742 (June 2, 1997).

On June 3, 1997, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule for this proceeding. At that meeting, the parties agreed to present their cases in two phases. Phase I will address the proposed royalty rates and phase II will address the terms associated with those rates. The schedule for the proceeding is as follows:

Opening Remarks for all parties	June 9, 1997.	
Presentation of Direct Cases (Phase I):		
Recording Industry Association of America (RIAA)	June 9, 1997.	Jay Berman, Hilary Rosen.
RIAA	June 10, 1997	Zachary Horowitz, Gary Morris, James Trautman.
RIAA	June 11	Barry Massarsky, Larry Gerbrandt.
RIAA	June 12	David Wilkofsky.
Subscription Services:		
• Digital Cable Radio Associates	June 16, 1997.	David J. Beccaro, W. Barry McCarthy, Jr.
	June 17, 1997.	Lou Simon.
• DMX, Inc.	June 17, 1997	Jerold H. Rubinstein, Douglas G. Talley.
• Muzak	June 18, 1997	Bruce B. Funkhouser.
• Joint witness	June 19, 1997	John R. Woodbury, Ph.D.
Presentation of Direct Cases (Phase II):	June 30, 1997	(witness list is not available for Phase II at this time).
	July 1, 1997	
	July 3, 1997	
Presentation of Rebuttal Cases:	July 26–31, 1997.	
Close of 180 day period	November 28, 1997.	

During this proceeding, the Subscription Services plan to present evidence submitted under a protective order issued by the Librarian of Congress. *See* Recommendation and Order in Docket No. 96–5 CARP DSTRA (September 18, 1996). In anticipation of the need to close portions of these meetings, the Subscription Services filed a motion on June 6, 1997, requesting the CARP to close the meetings scheduled for June 9, 11, 12, and June 16–20, 1997, because various expert witnesses and representatives of the Subscription Services expect to discuss substantial amounts of confidential and trade secret information on these days. The arbitrators considered the motion on June 9, 1997, before hearing the opening statements, and voted to close the meetings pursuant to their authority under 37 CFR 251.13(d). This provision allows a CARP to close its meetings ''[i]f the matter involves privileged or confidential trade secrets or financial information.'' The record of the vote to close the meetings is as follows:

The Hon. Lenore Ehrig, Chairperson—Yes

The Hon. Thomas A. Fortkort—Yes

The Hon. Sharon T. Nelson—Yes

The regulations require that the Copyright Office publish the original schedule for the CARP proceeding in

the **Federal Register** at least seven calendar days in advance of the first meeting. 37 CFR 251.11(b). Pursuant to 37 CFR 251.11(d), however, the arbitrators voted to publish the schedule on shorter notice than the required seven days in order to maximize the allotted time to hear the evidence and write their report. The results of the vote on the question, whether the requirement for a seven calendar day notice should be waived, are:

The Hon. Lenore Ehrig, Chairperson—Yes
The Hon. Thomas A. Fortkort—Yes
The Hon. Sharon T. Nelson—Yes

At this time, the Office does not have a list of any additional persons expected to attend the closed meetings, but the Office will provide this information to any party, upon request, when it becomes available. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties participating in the proceeding. All changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

Dated: June 11, 1997.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 97–15826 Filed 6–16–97; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Institute of Museum and Library Services; Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, is providing the general public and Federal agencies with an opportunity to comment on draft proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Institute of Museum and Library Services is soliciting comments concerning a new program, National Leadership Grants, authorized by the Museum and Library Services Act of 1996, Title VII of the Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act, as enacted by Sec. 101(e) of Divisions A. Public Law 104–208, enacted September 30, 1996.

A copy of the draft proposed information collection can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments on the information collection requested for this new program must be submitted to the office listed in the addressee section below on or before (60 days from publication).

IMLS 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.
- IMLS welcomes all comments regarding the proposed guidelines and their impact on the ability of museums and libraries to improve service to the public.

ADDRESSES: Dr. Rebecca Danvers, Institute of Museum and Library Services, 1100 Pennsylvania Ave., N.W., Washington, DC 20506. Telephone (202) 606–8539. e-mail Imsinfo@ims.fed.us.

SUPPLEMENTARY INFORMATION:

Background

The Museum and Library Services Act of 1996 describes National Leadership Grants or Contracts in Sec. 262. The statute directs the Director to establish and carry out a new program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

(1) Education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) Research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

(3) Preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) Model programs demonstrating cooperative efforts between libraries and museums.

The statute further authorizes the Director to carry out these activities by awarding grants to, or entering into contract, on a competitive basis with, libraries, agencies, institutions of higher education, or museums, where appropriate.

The Institute began the process of developing these guidelines in March 1997 by convening a group of renowned museum and library professionals, together with several National Commission for Library and Information Science Commissioners and Members of the National Museum Services Board, for two days of discussion. On the first day they heard from panels representing museums, libraries, other funders and Federal policy makers. On the second day they discussed what they had heard and what issues they see as most important for the Institute to address in the coming years.

Drawing from these discussions, agency staff drafted guidelines for these projects which were reviewed at the first joint meeting of the National Museum Services Board and the National Commission for Library and Information Sciences on May 8, 1997. The Institute received policy guidance from these advisory bodies and used this to further revise the draft guidelines.

Comments submitted in response to this notice will be used by the agency in further developing its National Leadership Grants guidelines and in the request for the Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Mamie Bittner, Director of Legislative

and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

Dated: June 11, 1997.

Mamie Bittner,

Director of Legislative and Public Affairs, Institute of Museum and Library Services.

[FR Doc. 97–15796 Filed 6–16–97; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413, 50–414, 50–369 and 50–370]

Duke Power Company (Catawba Nuclear Station, Units 1 and 2) and (McGuire Nuclear Station, Units 1 and 2); Exemption

I

Duke Power Company (the licensee) is the holder of Facility Operating License Nos. NPF–35 and NPF–52, for the Catawba Nuclear Station (CNS), Units 1 and 2; and NPF–9 and NPF–17 for the McGuire Nuclear Station (MNS), Units 1 and 2. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

These facilities consist of two pressurized water reactors located at each of the licensee's site in York County, South Carolina, and Mecklenburg County, North Carolina.

II

Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.71 ''Maintenance of records, making of reports,'' paragraph (e)(4) states, in part, that ''Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months.'' The CNS and MNS two-unit sites share a common UFSAR; therefore, this rule requires the licensee to update the same document within 6 months after a refueling outage for either unit.

III

Section 50.12(a) of 10 CFR, ''Specific exemptions,'' states that

The Commission may, upon application by any interested person, or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) of 10 CFR states that special circumstances are present when ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *.'' As noted in the staff's Safety Evaluation, the licensee's proposed schedule for UFSAR updates will ensure that the CNS and MNS UFSARs will be maintained current within 24 months of the last revision and the interval for submission of the 10 CFR 50.59 design change report will not exceed 24 months. The proposed schedule fits within the 24-month duration specified by 10 CFR 50.71(e)(4). Literal application of 10 CFR 50.71(e)(4) would require the licensee to update the same document within 6 months after a refueling outage for either unit, a more burdensome requirement than intended. Accordingly, the Commission has determined that special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii). The Commission has further determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety and is consistent with the common defense and security, and is otherwise in the public interest. The Commission hereby grants the licensee an exemption from the requirement of 10 CFR 50.71(e)(4) to submit updates to the CNS and MNS UFSARs within 6 months of each unit's refueling outage. The licensee will be required to submit updates to the Catawba UFSAR and McGuire UFSAR within six months after each station's Unit 2 refueling outage. With the current length of fuel cycles, UFSAR updates would be submitted every 18 months, but not to exceed 24 months from the last submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant effect on the quality of the human environment (62 FR 28906).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 10th day of June 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–15833 Filed 6–16–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of June 16, 23, 30, and July 7, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 16

There are no meetings scheduled for the week of June 16.

Week of June 23—Tentative

Wednesday, June 25

10:00 a.m.
Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: William Dean, 301–415–1726)

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

2:00 p.m.
Briefing on Salem (Public Meeting) (Contact: John Zwolinski, 301–415–1453)

Week of June 30—Tentative

Thursday, July 3

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of July 7—Tentative

Tuesday, July 8

3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an

electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: June 13, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–15988 Filed 6–13–97; 2:14 pm]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee scheduled for Thursday, June 19, 1997, has been canceled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: June 11, 1997.

Phyllis G. Foley,

Chair, Federal Prevailing Rate, Advisory Committee.

[FR Doc. 97–15822 Filed 6–16–97; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Order No. 1184; Docket Nos. MC97–4 and C97–1]

Bulk Parcel Return Service and Shipper-Paid Forwarding Classifications and Fees; and Complaint of the Advertising Mail Marketing Association Regarding Charges for Standard (A) Merchandise Returns; Notice of Request for Changes in Domestic Mail Classification Schedule Provisions and Rates Affecting Forwarding and Return of Standard (A) Parcels and Order Instituting Proceedings

Issued June 11, 1997.

Before Commissioners: Edward J. Gleiman, Chairman; H. Edward Quick, Jr., Vice Chairman; George W. Haley; W.H. ''Trey'' LeBlanc III.

Notice is hereby given that on June 6, 1997, the United States Postal Service filed a Request with the Postal Rate Commission pursuant to section 3623 of the Postal Reorganization Act, 39 U.S.C. 101 et seq., for a recommended decision on proposed changes in the Domestic Mail Classification Schedule (DMCS). The proposed revisions also include proposed new rates and fees. The Request includes attachments and is supported by the testimony of two witnesses and two library references. It is on file in the Commission Docket Room and is available for inspection during the Commission's regular business hours.

Contents of the filing. The Postal Service requests that the Commission consider two changes affecting the forwarding and return of Standard (A) parcels that were initially considered in Docket No. MC97–2. It requests that Bulk Parcel Return Service (BPRS) and Shipper Paid Forwarding (SPF) be established. Under current practice, forwarding and return of bulk Standard (A) parcels is obtained by endorsing mailpieces ''Forwarding and Return Postage Guaranteed'' or ''Forwarding and Return Postage Guaranteed, Address Correction Requested.'' At the time that a parcel is returned, postage is paid for return service and indirectly paid for forwarding service, through a weighted fee that is 2.472 times the applicable single piece rate. The 2.472 weighting factor is the sum of one and 1.472. One, multiplied by the single piece rate, is intended to directly cover the cost of return service. 1.472 is the average number of pieces that are forwarded for every piece that is returned. Multiplying 1.472 times the single piece rate is intended to cover the cost of return service. This weighted fee can result in a charge for forwarding and return that is prohibitively high, according to the Postal Service. To provide continuity mailers other options, the Postal Service proposes to establish SPF and BPRS.

SPF would allow mailers to pay forwarding fees (the applicable single piece rate) directly, through the use of the tracking capabilities of the existing electronic Address Change Service (ACS). Only machinable parcels with the required endorsements would be eligible. An advance deposit would be required.

BPRS, through bulk handling of returned parcels, would lower the average cost of return service. BPRS mailers would arrange to pick up their returned parcels at a specified frequency, at a designated postal facility, or would have their returned parcels delivered to them in bulk by the Postal Service. Only machinable parcels weighing less than one pound, with the required endorsements, would be eligible for BPRS. A minimum of 50,000 returned parcels per year would be required. BPRS mailers would be required to document their returned parcel volume, and to maintain an advance deposit account. A flat $1.75 per-piece fee and an annual permit fee of $85 is proposed. SPF and BPRS service could be combined.

The Postal Service's request is supported by the testimony of Postal Service witness Pham (USPS–T–1), which analyzes the costs of BPRS, and the testimony of Postal Service witness Adra (USPS–T–2), which addresses the consistency of the proposed changes in classifications and fees for SPF and BPRS with the applicable standards of the Postal Reorganization Act. The Postal Service asserts that neither SPF nor BPRS would alter existing forwarding or return services or rates for Standard (A) parcels. It also asserts that establishing BPRS would have little financial impact on postal costs and revenues. It contends that it would reduce overall postal costs by approximately $4 million, and Standard (A) mail's contribution to institutional costs by less that $1 million. See USPS–T–2, Exhibit USPS–2A.

The Postal Service's request is accompanied by two library references. The first (USPS–LR–1/MC97–4) is the FY 1996 Cost & Revenue Analysis Report. The second (USPS–LR–2/MC97–4) is a mailer survey designed to estimate the volume impact of BPRS.

Proposed DMCS provisions. The Postal Service's Request proposes changes in the current Domestic Mail Classification Schedule (DMCS). It proposes establishing separate Special Service Schedules SS–21, for Bulk Parcel Return Service, and SS–22, for Shipper-Paid Forwarding. The DMCS is codified at 39 CFR part 3001, subpart C, Appendix A. In Attachment A to its Request, the Postal Service displays the changes it proposes in the version of the DMCS currently in effect. These proposed revisions accompany this Notice as Attachment A.

Proposed rate and fee schedules. In Attachment B to its Request, the Postal Service displays changes it proposes to the various rate and fee schedules currently in effect. It proposes to establish Schedule SS–21, which would specify a flat fee for BPRS of $1.75 per piece; and to specify a BPRS permit fee of $85, under existing Schedule 1000. The Postal Service's requested changes in rates and fees accompany this Notice as Attachment B.

Procedural proposals. The Postal Service's Request is accompanied by a Motion of the United States Postal Service to Establish Procedural Mechanisms Concerning Settlement. In it, the Postal Service observes that the SPF and BPRS proposals in this docket

are identical to those that were included in the Postal Service's Request in Docket No. MC97–2. It notes that before that docket was withdrawn, intervenors had approximately seven weeks in which to conduct discovery. It expresses a hope that any additional discovery will be begun quickly after intervention, limited in duration and scope, and designed to determine whether intervenors can join, in whole or in part, in the proposed Stipulation and Agreement that accompanies its Request.

The proposed Stipulation and Agreement recites that Advertising Mail Marketing Association (AMMA) filed a section 3662 complaint in October of 1996 alleging that the Standard (A) single piece rate charged to the recipients of returned Standard (A) parcels violates the policies of the Postal Reorganization Act, that AMMA withdrew its complaint in anticipation that MC97–2 would address this issue, that AMMA asked that the Commission revive its complaint after the Postal Service withdrew its Request in MC97–2, and that the Postal Service filed its Request in this docket, again proposing SPF and BPRS.

The proposed Stipulation and Agreement would stipulate that the Request, attachments, and accompanying testimony and exhibits constitute substantial and sufficient evidence in support of the SPF and BPRS proposals, and that those proposals are consistent with the policies of 39 U.S.C. 3622 and 3623. It provides that the methods of classification or ratemaking, or determination of cost of service, are stipulated to only for purposes of this docket. The proposed Stipulation and Agreement is signed by the Postal Service and AMMA.

The Postal Service proposes that the Order that institutes this proceeding enter the proffered testimony and the Stipulation and Agreement in the record. It also proposes that the Order allow intervention until June 27, 1997, require statements of intent to contest specific issues from intervenors by July 8, 1997, require that any discovery undertaken be completed by July 18, 1997, that any testimony or pleadings opposing the Stipulation and Agreement be filed by August 4, 1997, and that any responses be required by August 11, 1997.

The Postal Service accompanies its Request by a motion for waiver of many of the filing requirements of Rules 64 and 54, on the ground that these proposals are narrow in scope and limited in their effect on other classes and services. The Postal Service also includes a motion for consolidation of this docket with Docket No. C97–1.

Ruling on motion to establish settlement procedures. It is Commission policy to facilitate settlement of issues. In view of the very limited scope and effect of these proposals, and the willingness of the complainant in Docket No. C97–1 to settle, the Commission recognizes the potential for expeditious settlement of this docket. In view of the active litigation of these proposals in Docket No. MC97–2 by others, however, it appears that the optimal approach is one that will accommodate either settlement, or such litigation as the intervenors choose to pursue, with the utmost expedition. The Commission, therefore, will adopt a two-track approach, designed to simultaneously encourage settlement, and speed any litigation that intervenors deem necessary. The Commission will schedule a settlement conference for Monday, July 14, 1997, in the Commission hearing room at 1333 H Street, NW, Washington, DC beginning at 9:30 a.m. The Postal Service will serve as settlement coordinator.

Participants will have until July 1, 1997, to intervene. Intervenors may commence any desired discovery immediately upon filing a Notice of Intervention. The Commission will schedule a prehearing conference for the afternoon of July 14, 1997, at 1:30 p.m., following the morning settlement conference. At the prehearing conference, the Postal Service will be asked to report on the results of the settlement conference. At that time, if intervenors believe that there are legal or factual issues that are an obstacle to settlement, they will be asked to identify them, and indicate whether they wish to present evidence on those issues. Further procedural scheduling will depend on the results of the prehearing conference.

Rulings on remaining motions. In its Motion of United States Postal Service for Waiver of Certain Filing Requirements Incorporated in the Commission's Rules of Practice and Procedure, accompanying its Request, the Postal Service seeks waiver of the requirement to provide the information specified in Rules 64(b)(3), 64(d), and 64(h), and Rules 54(b)(3), 54(f)-(h), 54(j), and 54(l), to the extent that they apply, and a blanket waiver of other filing requirements that its Request does not fully satisfy. Rule 64(h)(3) provides that these requirements may be waived if the Commission determines that it has been demonstrated that the proposed changes in the classification schedule do not significantly change rates and fees or cost-revenue relationships referred to in the rule.

The SPF and BPRS proposals would not change current rates and fees for any existing category of mail or special service, including Standard (A) mail. Because they would alter total costs by only about $4 million out of more than $55 billion, and reduce the Standard (A) single-piece contribution to institutional costs by less than one percent, these proposals would not appear to have a significant impact on cost and revenue relationships of the various subclasses. Therefore, a waiver of these requirements appears to be warranted under the Commission Rules of practice, including Rules 64(h)(3) and 54(r). Accordingly, it will be granted.

In its Motion of the United States Postal Service to Consolidate Proceedings, filed with its Request, the Postal Service argues that the filing of its Request in this docket Docket No. C97–1 returns to the status that it held just prior to the withdrawal of the Request in Docket No. MC97–2. At that time Docket No. C97–1 was being held in abeyance. It argues that resolution of the issues in the current docket would resolve the identical issues in C97–1, and therefore it is appropriate to consolidate Docket No. C97–1 with the current docket. The apparent agreement by the complainant in C97–1 with the resolution of those issues proposed by the Postal Service in the current docket confirms the appropriateness of the Postal Service's request. Therefore, it will be granted.

Also filed with the Postal Service's Request is a Motion of the United States Postal Service Seeking Leave to File Facsimile Copy of Signature Page as Attachment to Stipulation and Agreement. The Motion alleges sufficient grounds for granting the leave that it requests.

Intervention. Participation in Commission proceedings generally takes the form of either full intervention or limited participation. See sections 20 and 20a of the Commission rules of practice (39 CFR 3001.20 and .20a). For those wishing to express their views informally, without incurring the obligations that attach to the other two forms of participation, commenter status is available. See section 20b (39 CFR 3001.20b). Those wishing to be heard in this matter as either a full intervenor or limited participant are directed to file a written notice of intervention in conformance with section 20(b) or 20a(a), identifying the status they intend to assume and affirmatively stating how actively they expect to participate. In addition, intervenors are requested to

provide a telephone number, facsimile number, and e-mail address if available.

Notices of intervention should be sent to the attention of Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street, NW, Suite 300, Washington, DC 20268–0001, and are to be filed on or before July 1, 1997. Commenter status does not require a notice of intervention.

Representation of the general public. In conformance with section 3624(a) of title 39, the Commission designates W. Gail Willette, Director of the Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Willette will direct the activities of Commission personnel assigned to assist her and, when requested, will supply their names for the record. Neither Ms. Willette nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

Special rules of practice. Special Rules of Practice are set forth in Attachment C. These Special Rules are an amalgam of the non-controversial portions of the Special Rules used Docket Nos. MC97–2, and MC96–3. Participants are to follow these Special Rules during this proceeding or to submit requests for waiver or modification of any of these rules.

Docket Room operations. Documents may be filed with the Commission's docket section Monday through Friday between 8 a.m. and 5 p.m. Questions about docket room operations should be directed to Ms. Peggie Brown (at 202–789–6847) or Ms. Joyce Taylor (at 202–789–6846).

It is ordered:

1. The Commission will sit en banc in this proceeding.

2. Notices of intervention shall be filed no later than July 1, 1997.

3. A settlement conference will be held on July 14, 1997, beginning at 9:30 a.m. in the Postal Rate Commission hearing room, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

4. A prehearing conference will be held on July 14, 1997, beginning at 1:30 p.m., in the Postal Rate Commission hearing room, 1333 H Street, N.W., Suite 300, Washington, D.C., 20269–0001.

5. W. Gail Willette, Director of the Commission's Office of the Consumer Advocate, is designated to represent the interest of the general public in this proceeding.

6. The Motion of the United States Postal Service to Establish Procedural Mechanisms Concerning Settlement, filed June 6, 1997, is granted to the extent described in the body of this order.

7. The Motion of the United States Postal Service to Consolidate Proceedings, filed June 6, 1997, is granted.

8. The Motion of the United States Postal Service Seeking Leave to File Facsimile Copy of Signature Page as Attachment to Stipulation and Agreement, filed June 6, 1997, is granted.

9. The Motion of the United States Postal Service for Waiver of Certain Filing Requirements Incorporated in the Commission's Rules of Practice and Procedure, filed June 6, 1997, is granted.

10. The Secretary shall cause this Notice and Order to be published in the **Federal Register**.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Attachment A—Requested Changes in the Domestic Mail Classification Schedule

In this Request, the Postal Service asks the Commission to recommend certain changes in the Domestic Mail Classification Schedule (DMCS). The changes requested herein alter the DMCS recommended by the Commission on November 29, 1978, adopted by decision of the Governors and implemented by resolution of the Board of Governors on April 3, 1979, effective April 15, 1979, and as amended from time-to-time, most recently by the Decision of the Governors on the Recommended Decision of the Postal Rate Commission on Special Services Fees and Classifications, Docket No. MC96–3, (Special Services Decision) as implemented by Resolution 97–7 of the Board of Governors, and the Decision of the Governors on the Recommended Decision of the Postal Rate Commission on the Experimental Nonletter-Size Business Reply Mail Categories and Fees, Docket No. MC97–1 (BRM Decision), as implemented by Resolution 97–8 of the Board of Governors. The current DMCS (which is published in part at 39 CFR part 3001, subpart C, appendix A, in part as Attachment A to the Special Services Decision (62 FR 26,099), in part as Attachment A to the BRM Decision (62 FR 25,756), and in part as Attachment B to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, Nonprofit Periodicals, and Within County Periodicals, Docket No. MC96–2 (61 FR 42,464)), is the basis for the proposed changes in this Request.

Proposed additions to text of the classification schedule are in italics; proposed deletions are in brackets. The changes in the DMCS requested by the Postal Service are as follows:

350 DEPOSIT AND DELIVERY

* * * * *

353 Forwarding and Return

353.1 Single Piece, Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (Section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as prescribed by the Postal Service. Except as provided in Schedule SS–21, [T]the Single Piece Standard rate is charged for each piece receiving return only service. Except as provided in Schedule SS–22, [C]charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in Schedules SS–21 and SS–22, [T]the charge for those returned pieces is the appropriate Single Piece Standard rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

* * * * *

360 ANCILLARY SERVICES

* * * * *

363 Regular and Nonprofit

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. Bulk Parcel Return Service	SS–21
b. Shipper-Paid Forwarding	SS–22

* * * * *

CLASSIFICATION SCHEDULE SS–21—BULK PARCEL RETURN SERVICE

21.01 Definition

21.010 Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have undeliverable-as-addressed machinable parcels returned to designated postal

facilities for pickup by the mailer at a predetermined frequency prescribed by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency prescribed by the Postal Service.

21.02 Description of Service

21.020 Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

21.03 Requirements of the Mailer

21.030 Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

21.031 To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of a prescribed minimum number of returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving the prescribed minimum number of returned parcels in the postal fiscal year for which the service is requested.

21.032 Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

21.033 Mail for which Bulk Parcel Return Service is requested must bear endorsements prescribed by the Postal Service.

21.034 Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

21.04 Other Services

21.040 The following services may be purchased in conjunction with Bulk Parcel Return Service:

	Classification schedule
a. Address Correction Service	SS–1
b. Certificate of Mailing	SS–4
c. Shipper-Paid Forwarding	SS–22

21.05 Fee

21.050 The fee for Bulk Parcel Return Service is set forth in Fee Schedule SS–21.

21.06 Authorizations and Licenses

21.060 A permit fee as set forth in Fee Schedule 1000 must be paid once each calendar year by mailers utilizing Bulk Parcel Return Service.

21.061 The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on returned parcels or for failure to meet the specifications of the Postal Service.

CLASSIFICATION SCHEDULE SS–22—SHIPPER-PAID FORWARDING

22.01 Definition

22.010 Shipper-Paid Forwarding provides a method whereby mailers may have undeliverable-as-addressed machinable parcels forwarded at Standard Mail Single Piece rates for up to one year from the date that the addressee filed a change-of-address order. If the parcel, for which Shipper-Paid Forwarding is elected, is returned, the mailer will pay the appropriate Standard Mail Single Piece rate, or the Bulk Parcel Return Service fee, if that service was elected.

22.02 Description of Service

22.020 Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

22.03 Requirements of the Mailer

22.030 Shipper-Paid Forwarding is available only in conjunction with automated Address Correction Service in Schedule SS–1.

22.031 Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

22.032 Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

22.033 Mail for which Shipper-Paid Forwarding is requested must bear endorsements prescribed by the Postal Service.

22.04 Other Services

22.040 The following services may be purchased in conjunction with Shipper-Paid Forwarding:

	Classification schedule
a. Certificate of Mailing	SS–4
b. Bulk Parcel Return Service	SS–21

22.05 Applicable Rates

22.050 Except as provided in Schedule SS–21, Standard Mail Single Piece rates, set forth in Rate Schedule 321.1, apply to pieces forwarded or returned in connection with Shipper-Paid Forwarding.

GENERAL DEFINITIONS, TERMS AND CONDITIONS

* * * * *

2000 Delivery of Mail

* * * * *

2030 Forwarding and Return

* * * * *

2033 Applicable Provisions. The provisions of sections 150, 250, 350 and 450 *and schedules SS–21 and SS–22* apply to forwarding and return.

Attachment B—Requested Changes in the Fee Schedules

In conjunction with the requested changes in the Domestic Mail Classification Schedule (DMCS) set forth in Attachment A, the Postal Service also is requesting that the Commission recommend corresponding changes in the attendant special service fee schedules.

Rate and fee schedules were last amended in part by the Decision of the Governors on the Recommended Decision of the Postal Rate Commission on Classroom Mail, Docket No. MC96–2 (Classroom Decision), as implemented by Resolution 97–9 of the Board of Governors; the Decision of the Governors on the Recommended Decision of the Postal Rate Commission on Special Services Fees and Classifications, Docket No. MC96–3 (Special Services Decision), as implemented by Resolution 97–7 of the Board of Governors; and the Decision of the Governors on the Recommended Decision of the Postal Rate Commission on the Experimental Nonletter-Size Business Reply Mail Categories and Fees, Docket No. MC97–1 (BRM Decision), as implemented by resolution 97–8 of the Board of Governors. The current rate and fee schedules (which are published in part at 39 CFR part 3001, subpart C, appendix A, and in part as the Attachment to the Classroom Decision, in part as Attachment B to the Special Services Decision (62 FR 26,099), in part as Attachment B to the BRM Decision (26 FR 25,756), and in part as Attachment B to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, Nonprofit Periodicals, and Within County Periodicals, Docket No. MC96–2 (61 FR 42,464)) are the basis for the proposed changes in this Request.

Unless otherwise indicated, proposed additions to the text of the schedules are

in italics. The requested changes in the fee schedules are as follows:

* * * * *

SPECIAL SERVICES

* * * * *

	Fee
Schedule SS–21—Bulk Parcel Return Service	
Per Returned Piece	$1.75
Schedule 1000—Fees	
* * * * *	
Authorization to Use Bulk Parcel Return Service	85.00

Attachment C—Special Rules of Practice

1. Evidence

A. *Case-in-chief.* A participant's case-in-chief shall be in writing and shall include the participant's direct case and rebuttal, if any, to the United States Postal Service's case-in-chief. It may be accompanied by a trial brief or legal memoranda. There will be a stage providing an opportunity to rebut presentations of other participants and for the Postal Service to present surrebuttal evidence.

B. *Exhibits.* Exhibits should be self-explanatory. They should contain appropriate footnotes or narrative explaining the source of each item of information used and the methods employed in statistical compilations. The principal title of each exhibit should state what it contains or represents. The title may also contain a statement of the purpose for which the exhibit is offered; however, this statement will not be considered part of the evidentiary record. Where one part of a multi-part exhibit is based on another part or on another exhibit, appropriate cross-references should be made. Relevant exposition should be included in the exhibits or provided in accompanying testimony.

C. *Motions to Strike.* Motions to strike are requests for extraordinary relief and are not substitutes for briefs or rebuttal evidence. All motions to strike testimony or exhibit materials are to be submitted in writing at least 14 days before the scheduled appearance of the witness, unless good cause is shown. Responses to motions to strike are due within seven days.

D. *Designation of Evidence from Other Commission Dockets.* Participants may request that evidence received in other Commission proceedings be entered into the record of this proceeding. These requests should be made by motion, should explain the purpose of the designation, and should identify material by page and line or paragraph number. Absent extraordinary justification, these requests must be made at least 28 days before the date for filing the participant's direct case. If requests for designations and counter-designations are granted, the moving participant must submit two copies of the approved material to the Secretary of the Commission for inclusion in the record.

Oppositions to motions for designation and/or requests for counter-designations shall be filed within 14 days.

2. Discovery

A. *General.* Sections 25, 26 and 27 of the rules of practice apply during the discovery stage of this proceeding except when specifically overtaken by these special rules. Questions from each participant should be numbered sequentially, by witness.

The discovery procedures set forth in the rules are not exclusive. Parties are encouraged to engage in informal discovery whenever possible to clarify exhibits and testimony. The results of these efforts may be introduced into the record by stipulation, by supplementary testimony or exhibit, by presenting selected written interrogatories and answers for adoption by a witness at the hearing, or by other appropriate means.

In the interest of reducing motion practice, parties also are encouraged to use informal means to clarify questions and to identify portions of discovery requests considered overbroad or burdensome.

B. *Objections and Motions to Compel Responses to Discovery.* Upon motion of any participant in the proceeding, the Commission or the presiding officer may compel an answer to an interrogatory or request for admissions if the objection is overruled. Motions to compel should be filed within 14 days of an objection to the discovery request.

Parties who have objected to interrogatories or requests for production of documents or items which are the subject of a motion to compel shall have seven days to answer. Answers will be considered supplements to the arguments presented in the initial objection.

C. *Answers to Interrogatories.* Answers to discovery are to be filed within 14 days of the service of the discovery request. Answers to discovery requests shall be prepared so that they can be incorporated as written cross-examination. Each answer shall begin on a separate page, identify the individual responding, the participant who asked the question, and the number and text of the question.

Participants are expected to serve supplemental answers to update or to correct responses whenever necessary, up until the date that answers are accepted into evidence as written cross-examination. Participants filing supplemental answers shall indicate whether the answer merely supplements the previous answer to make it current or whether it is a complete replacement for the previous answer.

Participants may submit responses with a declaration of accuracy from the respondent in lieu of a sworn affidavit.

D. *Follow-up Interrogatories.* Follow-up interrogatories to clarify or elaborate on the answer to an earlier discovery request may be filed after the initial discovery period ends. They must be served within seven days of receipt of the answer to the previous interrogatory unless extraordinary circumstances are shown.

E. *Discovery to Obtain Information Available Only from the Postal Service.* Sections 25 through 27 of the rules of practice allow discovery reasonably calculated to lead to admissible evidence during a noticed proceeding with no time limitations. Generally, through actions by the presiding officer, discovery against a participant is scheduled to end prior to the receipt into evidence of that participant's direct case. An exception to this procedure shall operate when a participant needs to obtain information (such as operating procedures or data) available only from the Postal Service. Discovery requests of this nature are permissible up to 20 days prior to the filing date for final rebuttal testimony.

3. Service

A. *Receipt of Documents.* The Service List shall contain the name and address of up to two individuals entitled to receive copies of documents for each participant. If possible that entry will also include a telephone number and facsimile number.

B. *Service of Documents.* Documents shall be filed with the Commission and served upon parties in accordance with sections 9 through 12 of the Commission's rules of practice. As provided in the Secretary's Notice to Intervenors, issued February 4, 1997, participants capable of submitting documents stored on computer diskettes may use an alternative procedure for filing documents with the Commission. Provided that the stored document is a file generated in either Word Perfect 5.1 or any version of Microsoft Word, and is formatted in Arial 12 font, in lieu of

the requirements of section 10 of the rules, a participant may submit a diskette containing the text of each filing simultaneously with the filing of 1 (one) printed original and 3 (three) hard copies.

C. *Exceptions to general service requirements for certain documents.* Designations of written cross-examination, notices of intent to conduct oral cross-examination, and notices of intent to participate in oral argument need to be served only on the Commission, the OCA, the Postal Service, and the complementary party (as applicable), as well as on participants filing a special request for service.

Discovery requests, objections and answers thereto need to be served on the Commission, the OCA, the Postal Service, and the complementary party, and on any other participant so requesting, as provided in sections 25–27 of the rules of practice. Special requests relating to discovery must be served individually upon the party conducting discovery and state the witness who is the subject of the special request.

D. *Document titles.* Parties should include titles that effectively describe the basic content of any filed documents. Where applicable, titles should identify the issue addressed and the relief requested. Transmittal documents should identify the answers or other materials being provided.

4. Cross-examination

A. *Written cross-examination.* Written cross-examination will be utilized as a substitute for oral cross-examination whenever possible, particularly to introduce factual or statistical evidence.

Designations of written cross-examination should be served no later than three working days before the scheduled appearance of a witness. Designations shall identify every item to be offered as evidence, listing the participant who initially posed the discovery request, the witness and/or party to whom the question was addressed (if different from the witness answering), the number of the request and, if more than one answer is provided, the dates of all answers to be included in the record. (For example, ''OCA–T1–17 to USPS witness Jones, answered by USPS witness Smith (March 1, 1997) as updated (March 21, 1997)).'' When a participant designates written cross-examination, two copies of the documents to be included shall simultaneously be submitted to the Secretary of the Commission.

The Secretary of the Commission shall prepare for the record a packet containing all materials designated for written cross-examination in a format that facilitates review by the witness and counsel. The witness will verify the answers and materials in the packet, and they will be entered into the transcript by the presiding officer. Counsel for a witness may object to written cross-examination at that time, and any designated answers or materials ruled objectionable will be stricken from the record.

B. *Oral cross-examination.* Oral cross-examination will be permitted for clarifying written cross-examination and for testing assumptions, conclusions or other opinion evidence. Requests for permission to conduct oral cross-examination should be served three or more working days before the announced appearance of a witness and should include (1) specific references to the subject matter to be examined and (2) page references to the relevant direct testimony and exhibits.

Participants intending to use complex numerical hypotheticals or to question using intricate or extensive cross-references, shall provide adequately documented cross-examination exhibits for the record. Copies of these exhibits should be provided to counsel for the witness at least two calendar days (including one working day) before the witness's scheduled appearance.

5. General

Argument will not be received in evidence. It is the province of the lawyer, not the witness. It should be presented in brief or memoranda. Legal memoranda on matters at issue will be welcome at any stage of the proceeding.

New affirmative matter (not in reply to another party's direct case) should not be included in rebuttal testimony or exhibits.

Cross-examination will be limited to testimony adverse to the participant conducting the cross-examination.

Library references may be submitted when documentation or materials are too voluminous reasonably to be distributed. Each party should sequentially number items submitted as library references and provide each item with an informative title. Parties are to file and serve a separate Notice of Filing of Library Reference(s). Library material is not evidence unless and until it is designated and sponsored by a witness.

[FR Doc. 97–15810 Filed 6–16–97; 8:45 am]

BILLING CODE 7710–FW–P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Notification of Item Added to Meeting Agenda

DATE OF MEETING: June 2, 1997.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 62 FR 28074, May 22, 1997.

CHANGE: At its meeting on June 2, 1997, the Board of Governors of the United States Postal Service voted unanimously to add an item to the agenda of its closed meeting held on that date: Consideration of an Expedited Filing with the Postal Rate Commission for Bulk Parcel Return Service (BPRS) and Shipper Paid Forwarding (SPF) for Standard (A) Parcels.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 97–15956 Filed 6–13–97; 12:43 pm]

BILLING CODE 7710–12–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, June 30, 1997; 8:30 a.m., Tuesday, July 1, 1997.

PLACE: Washington, D. C., at Post Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: June 30 (Closed); July 1 (Open)

MATTERS TO BE CONSIDERED:

Monday, June 30—1:00 p.m. (Closed)

1. Status Report on the Tray Management System.
2. Filing with the Postal Rate Commission for Rate Case.
3. Developmental Real Estate.
4. Mail Transport Equipment Service Center (MTESC) Network.
5. Status Report on the Five-Year Strategic Plan.

Tuesday, July 1—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, June 2–3, 1997.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Consideration of Amendments to BOG Bylaws.
4. Environmental Update.
5. Capital Investment.
   a. 2,000 Trailers.
6. Briefing on Integrated Processing Facility Concept.

7. Tentative Agenda for the August 4–5, 1997, meeting in Minneapolis, Minnesota.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 97–16005 Filed 6–13–97; 2:51 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Student Beneficiary Monitoring.

(2) *Form(s) submitted:* G–315, G–315a, G–315a.1.

(3) *OMB Number:* 3220–0123.

(4) *Expiration date of current OMB clearance:* 7/31/1997.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,230/

(8) *Total annual responses:* 1,230.

(9) *Total annual reporting hours:* 121.

(10) *Collection description:* Under the Railroad Retirement Act (RRA), a student benefit is not payable if the student ceases a full-time attendance, marries, works in the railroad industry, has excessive earnings or attains the upper age limit under the RRA. The report obtains information to be used in determining if benefits should cease or be reduced.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–15775 Filed 6–16–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22702; 811–8482]

The Andean Fund, Inc.; Notice of Application

June 11, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: The Andean Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 24, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o The Corporation Trust Incorporated, 32 South Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942-0584, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end, non-diversified management investment company. On April 18, 1994, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and filed a registration statement on Form N–2 under section 8(b) of the Act and the Securities Act of 1933. Applicant's registration was never declared effective, and applicant has made no public offering of its shares.

2. Applicant never issued or sold any securities. Applicant has no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

4. Applicant's charter in the State of Maryland has been forfeited.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15831 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22703; 811–8812]

Briar Funds Trust; Notice of Application

June 11, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregulation under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Briar Funds Trust (the ''Trust'')

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on September 9, 1996, and amended on December 18, 1996 and May 27, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on the applicant, in the

form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 311 S. Wacker Drive, Suite 4990, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, management investment company organized as a Delaware business trust. Applicant has five series: Income, U.S. Government Securities, Core Equity, Aggressive Equity, and International Equity. The individual series of Briar Fund Trust are diversified except for the Aggressive Equity Portfolio which is non-diversified.

2. On October 13, 1994, applicant registered under the Act and filed a registration statement on Form N–1A under the Act and under the Securities Act of 1933. The registration statement became effective on January 20, 1995, and applicant commenced a public offering of capital stock of each series soon thereafter.

3. As of January 1, 1996, applicant had two shareholders, Briar Capital Management, L.L.C. (the ''Adviser'') and Sachem Trust, n.a. (''Sachem''), as trustee with respect to several fund shareholders. Applicant's Board of Trustees (the ''Board'') adopted a plan of liquidation at a special meeting held on January 26, 1996. This action was taken because of the lack of success in attracting additional shareholders and the resulting questions regarding the viability of the Adviser. Applicant's Board also voted to terminate its advisory contract with the Adviser, all of its sub-advisory agreements with Pekin, Singer, Shapiro Asset Management, Inc., Harris Associates L.P., Wassatch Advisors, Inc. and Harding, Loevner Management, L.P., its distribution agreement with S.F. Investments, Inc., its custodian agreement with United Missouri Bank, and its transfer agent and administrative agreements with Sunstone Financial Group, Inc. (collectively, the ''Service Provider Agreements''). The Service Provider Agreements were terminated as of March 31, 1996. At the January 1996 meeting, the Board also adopted a resolution that the portfolios cease accepting additional purchases of shares.

4. On May 13, 1996, Sachem redeemed its shares of applicant, at net asset value, as follows: Income, $9.57 per share; U.S. Government Securities, $9.49 per share; Core Equity, $7.95 per share; Aggressive Equity, $8.85 per share; and International Equity, $8.70 per share. Sachem reinvested in the Lazard Funds, Inc., a fund unrelated to the Adviser, after determining that an investment in those funds would be in the best interests of its trust accounts.

5. On June 1, 1996, the Adviser, as sole shareholder of the Trust and by unanimous written consent, authorized and directed the trust to do all things necessary to accomplish its liquidation. On June 15, 1996, the Adviser redeemed its shares of applicant, at net asset value, as follows: Income, $8.50 per share; U.S. Government Securities, $7.54 per share; Core Equity, $7.03 per share; Aggressive Equity, $7.79 per share; and International Equity, $9.04 per share.[1] As of the filing of the application, all shareholders have redeemed their shares and have received their then current net asset value. Distributions of net investment income and capital gains also have been made, completely liquidating the interests of all shareholders.

6. Applicant disposed of its portfolio securities either in the ordinary course of trading, after soliciting bids, or in a block trade on the advise of the portfolio's sub-adviser.

7. Liquidation expenses, including legal and administrative fees, have been waived by various service providers. The Adviser will bear one time liquidation fees and expenses. All unamortized organizational expenses have been assumed by the Adviser.

8. As of the date of filing the amendment to the application, applicant had no shareholders and no liabilities. All service providers have been paid in full. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

9. Applicant is not making and does not presently propose to make a public offering of its securities, and has no remaining assets.

10. Applicant has filed a certificate of cancellation pursuant to the laws of Delaware.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15839 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–01–M

[1] On May 21, 1996, applicant entered into an agreement with UMB Bank, n.a. (''UMB''), pursuant to which UMB purchased applicant's foreign dividends and withholding tax reclaim receivables. Applicant had estimated the value of these receivables based on prevailing exchange rates and its assessment of collectability. UMB's estimate of collectability was greater than the Fund's and, as a result, UMB paid the Fund $901.36 more than the Fund's receivable. This increased the NAV by approximately $0.32 per share. The remaining $0.02 increase is due to rounding.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–22698; File No. 812–10494]

Pioneer Variable Contracts Trust, et al.

June 10, 1997.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of Application for Exemptions under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Pioneer Variable Contracts Trust (the ''Trust'') and Pioneering Management Corporation (''Pioneer'' or the ''Manager'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the Trust and all similar investment companies that Pioneer or any of its affiliates may in the future serve as manager, investment adviser, administrator, principal underwriter or sponsor to be sold to and held by: (1) separate accounts funding variable annuity and variable life insurance contracts issued by both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans outside of the separate account context (''Qualified Plans'' or ''Plans'').

FILING DATE: The application was filed on January 14, 1997, and amended on April 28, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing

to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on July 7, 1997, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Robert P. Nault, Esq., Pioneering Management Corporation, 60 State Street, 19th Floor, Boston, MA 02109. Copies to Jeffrey S. Puretz, Esq., Dechert Price & Rhoads, 1500 K Street, NW., Suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Zandra Y. Bailes, Attorney, or Mark C. Amorosi, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. The Trust is organized as a Delaware business trust and is registered under the 1940 Act as an open-end management investment company. It currently consists of eight separate investment portfolios (''Series''), each with its own investment objective or objectives and policies.

2. Pioneer, a corporation organized under the laws of the State of Delaware and registered as an investment adviser under the Investment Advisers Act of 1940, serves as investment adviser to each Series.

3. The Trust currently offers shares of its Series to separate accounts of Allmerica Financial Life Insurance and Annuity Company (''Allmerica'') and First Allmerica Financial Life Insurance Company (''First Allmerica'') to serve as the investment medium for variable annuity contracts issued by Allmerica and First Allmerica.

4. The Trust and any other similar investment companies that Pioneer or any of its affiliates may manage or serve as investment adviser, administrator, principal underwriter or sponsor for in the future (the Trust and such similar investment companies are collectively referred to herein as the ''Funds'') would offer shares to separate accounts that are registered under the 1940 Act as unit investment trust (''Separate Accounts'') and that serve as investment vehicles for variable insurance contracts issued by affiliated and unaffiliated life insurance companies. Variable insurance contracts may include variable annuity contracts, variable life insurance contracts and variable group life insurance contracts. Separate accounts to which the shares of the Funds would in the future be offered also include separate accounts that are not registered as investment companies under the 1940 Act pursuant to the exceptions from registration in Sections 3(c)(1) and 3(c)(11) of the 1940 Act. In addition, the Funds may offer shares to separate accounts serving as investment vehicles for other types of insurance products, which may include variable annuity contracts, scheduled premium variable life insurance contracts, single premium variable life insurance contracts, modified single premium variable life insurance contracts, and flexible premium variable life insurance contracts. (All insurance contracts referenced in this paragraph are collectively referred in herein as ''Variable Contracts.'' Insurance companies whose separate account or accounts would own shares of the Funds are referred to herein as ''participating insurance companies.'')

5. The Funds also intend to offer shares directly to Qualified Plans described in Treasury Regulation § 1.817–6(f)(3)(iii).

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order under Section 6(c) of the 1940 Act granting exemptions from Sections 9(a), 13(a), 15(a) and 15(b) thereof, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to: (a) permit ''mixed'' and ''shared'' funding as defined below; and (b) allow shares of the Funds to be sold to and held by Qualified Plans.

2. Section 6(c) authorizes the Commission, by order upon application, to conditionally or unconditionally exempt any person, security, or transaction, or class or classes of persons, securities, or transaction, from any provision of the 1940 Act, or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. In connection with the funding of scheduled premium variable life insurance contracts issued through Separate Accounts, Rule 6e–2(b)(15) under the 1940 Act provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the Separate Account (''underlying fund'') offers its shares ''*exclusively* to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company'' (emphasis supplied).[1] Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity or a flexible premium variable life insurance separate account of the same company of any affiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to herein as ''mixed funding.'' In addition, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers it shares to separate accounts funding Variable Contracts of one or more unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for variable life insurance separate accounts of one insurance company and separate accounts funding Variable Contracts of one or more unaffiliated life insurance companies is referred to herein as ''shared funding.''

4. The relief granted by Rule 6e–2(b)(15) is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under Rule 6e–2(b)(15) is available only where shares are offered *exclusively* to separate accounts, additional exemptive relief is necessary if the shares of the Funds are also to be sold in Plans.

5. In connection with the funding of flexible premium variable life insurance contracts issued through a Separate Account, Rule 6e–3(T)(b)(15) under the 1940 Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted by Rule 6e–3(T) are available

[1] The exemptions provided by Rule 6e–2 also are available to the investment adviser, principal underwriter, and sponsor or depositor of the separate account.

only where the Separate Account's underlying fund offers its shares ''*exclusively* to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled [premium variable life insurance] contracts or flexible [premium variable life insurance] contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliate life insurance company'' (emphasis supplied).[2] Therefore, Rule 6e–3(T)(b)(15) permits mixed funding but does not permit shared funding.

6. The relief granted by Rule 6e–3(T) also is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if the shares of the Funds are also to be sold to Plans.

7. Section 9(a) of the 1940 Act provides that it is unlawful for any persons to serve as an investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that person is subject to a disqualification enumerated in Section 9(a) (1) or (2). Rules 6e–2(b)(15) and 6e–3(T)(b)(15) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying fund.

8. Applicants state that the partial relief from Section 9(a) provided the Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that those Rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies in that organization. Applicants assert, therefore, that there is no regulatory purpose in extending the monitoring requirements to embrace a full application of Section 9(a)'s eligibility restrictions because of mixed funding or shared funding.

9. Applicants state that the relief requested herein will not be affected by the proposed sale of shares of the Funds to Qualified Plans because the Qualified Plans are not investment companies and will not be deemed to be affiliates by virtue of their shareholdings in the Funds.

10. Sections 13(a), 15(a) and 15(b) of the1940 Act require ''pass-through'' voting with respect to management investment company shares held by a separate account. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from the pass-through voting requirement. More specifically, the Rules provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority and subject to certain requirements. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) provide that the insurance company may disregard contract owner's voting instructions if the contract owners initiate any change in such company's investment policies, principal underwriter, or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to other provisions of Rules 6e–2 and 6e–3(T)).

11. Rule 6e–2 recognizes that a variable life insurance contract has important elements unique to insurance contracts, and is subject to extensive state regulation. In adopting Rule 6e–2(b)(15)(iii), the Commission expressly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters. The Commission also expressly recognized that state insurance regulators have authority to require an insurer to draw from its general account to cover costs imposed upon the insurer by a change approved by contract owners over the insurer's objection. the Commission therefore deemed such exemptions necessary ''to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposal reasonably could be expected to increase the risks undertaken by the life insurer.'' In this respect, flexible premium variable life insurance contracts are identical to scheduled premium variable life insurance contracts; therefore, Rule 6e–3(T)'s corresponding provisions undoubtedly were adopted in recognition of the same factors.

12. Applicants further represent that the Funds' sale of shares to Qualified Plans will not have any impact on the relief requested in this regard. Shares of the Funds sold to such Plans would be held by the trustees of said Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act (''ERISA''). Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the assets of the plan with two exceptions: (a) when the plan expressly provides that the trustee(s) is subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is subject to proper directions made in accordance with the term of the plan and not contrary to ERISA, and (b) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. In any event, there is no pass-through voting to the participants in such plans. Accordingly, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

13. Applicants submit that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. In this regard, Applicants state that a particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. Accordingly, Applicants submit that the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

14. Applicants submit that the conditions discussed below (which are adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against and provide procedures for resolving any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's

[2] The exemptions provided by Rule 6e–3(T) also are available to the investment adviser, principal, underwriter, and sponsor or depositor of the separate account.

decision conflicts with the majority of other state regulators, then the affected insurer will be required to withdraw its separate account's investment in the affected Fund. This requirement will be provided for in agreements that will be entered into by participating insurance companies with respect to their participation in the Funds.

15. Rules 6e–2(b)(15) and 6e–3(T)(b)(15) permit an insurance company to disregard contract owners' voting instructions. Applicants submit that this does not raise any issues different from those raised by the authority to state insurance administrators over separate accounts. Applicants note that Rules 6e–2 and6e–3(T) both require that disregard of voting instructions by an insurance company be reasonable and based on specific good faith determinations. If the insurer's judgment represents a minority position or would preclude a majority vote, the insurer may be required, at a Fund's election, to withdraw its separate account's investment in such Fund. No charge or penalty would be imposed as a result of such withdrawal.

16. Applicants submit that there is no reason why the investment policies of the Funds providing mixed funding would or should be materially different from what those policies would or should be if the Funds funded only variable annuity contracts or variable life insurance policies, whether flexible premium or scheduled premium policies. In this regard, Applicants note that each type of variable insurance product is designed as long-term investment program. In addition, each Fund will be managed to attempt to achieve the Fund's investment objective or objectives, and not to favor or disfavor any particular participating insurer or type of variable insurance product.

17. Furthermore, Applicants submit that no one investment strategy can be identified as appropriate to a particular insurance product. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. An underlying fund supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers.

18. Applicants note that Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, Applicants have concluded that neither the Code, the Treasury Regulations, nor Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life separate accounts all invest in the same management investment company.

19. Applicants note that while there are differences in the manner in which distributions are taxes for variable annuity contracts, variable life insurance contracts and Qualified Plans, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Separate Account or the Qualified Plan is unable to net purchase payments to make the distributions, the Separate Account or the Plan will redeem shares of the Funds at their respective net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Plan, and the life insurance company will make distributions in accordance with the terms of the Variable Contract.

20. With respect to voting rights, Applicants submit that it is possible to provide an equitable means or giving such voting rights to Separate Account contract owners and to the trustees of Qualified Plans. Applicants represent that the transfer agent for the Funds will inform each participating insurance company of its share ownership in each Separate Account, as well as inform the trustees of Qualified Plans of their holdings. Each participating insurance company will then solicit voting instructions in accordance with the ''pass-through'' voting requirements of Rules 6e–2 and 6e–3(T).

21. Applicants argue that the ability of the Funds to sell their respective shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the 1940 Act, with respect to any contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants under the Qualified Plans, or contract owners under Variable Contracts, the Qualified Plans and the Separate Accounts have rights only with respect to their respective shares of the Funds. Such shares may be redeemed only at their net asset value. No shareholder of any of the Funds will have any preference over any other shareholder with respect to distribution of assets or payment of dividends.

22. Applicants submit that there are no conflicts between the contract owners of the Separate Accounts and the participants under the Qualified Plans with respect to the state insurance commissioners' veto powers over investment objectives. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply redeem shares of one underlying fund held by their separate accounts and invest in another underlying fund. Complex and time-consuming transactions must be undertaken to accomplish such redemptions and transfers. On the other hand, trustees of Qualified Plans can make the decision quickly and implement the redemption of their shares from the Funds and reinvest in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending a suitable investment. Based on the foregoing, Applicants represent that even if there should arise issues where the interests of contract owners and the interests of Qualified Plans are in conflict, the issues can be resolved almost immediately because the trustees of the Qualified Plans can, on their own, redeem the shares out of the Funds.

23. Applicants submit that various factors have limited the number of insurance companies that offer variable annuities and variable life insurance policies. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of name recognition by the public of certain insurers as investment experts. Applicants submit that use of the Funds as a common investment medium for Variable Contracts would help alleviate these concerns. Applicants submit that mixed and shared funding also should benefit variable contract owners by: eliminating a significant portion of the costs of establishing and administering separate funds; creating a greater amount of assets available for investment by the Funds, thereby promoting economies of scale which permit increased safety of investments through greater diversification and make the addition of new series more feasible; and encouraging more insurance companies to offer Variable Contracts, which should result in increased competition with respect to both the design and pricing of Variable Contracts, which, in turn, can be

expected to result in more product variation and lower charges.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of the Board of Trustees or Board of Directors (each a ''Board'') of each of the Funds shall consist of persons who are not ''interested persons'' of the Funds, as defined by Section 2(a)(19) of the 1940 Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Trustee(s) or Director(s), then the operation of this condition shall be suspended: (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board of Trustees or Directors; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Funds for the existence of any material irreconcilable conflict among the interests of the contract owners of all Separate Accounts investing in the Funds and all other persons investing in the Funds, including Qualified Plans. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any Series of the Funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; or (f) a decision by an insurer to disregard the voting instructions of contract owners.

3. Participating insurance companies and any Qualified Plan that executes a fund participation agreement with a Fund (collectively, ''Participating Parties'') and the Manager (or any affiliate thereof that may serve as advisor to a Fund) will report any potential or existing conflicts of which it becomes aware to the Board of the relevant Fund. Participating Parties and the Manager will be responsible for assisting the Board in carrying out its responsibilities under these conditions, by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contract owner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participating Parties in the Funds under their agreements governing participation in the Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of the contract owners and Qualified Plan participants.

4. If it is determined by a majority of the Board of a Fund, or a majority of its disinterested Trustees or Directors, that a material irreconcilable conflict exists, the relevant Participating Parties shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Trustees or Directors), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) In the case of the participating insurance companies, withdrawing the assets allocable to some or all of the Separate Accounts from the relevant Fund or any series therein and reinvesting such assets in a different investment medium (including another series, if any, of such Fund) or submitting the question of whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners, life insurance contract owners, or variable contract owners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; (b) in the case of participating Qualified Plans, withdrawing the assets allocable to some or all of the Qualified Plans from the relevant Fund and reinvesting those assets in a different investment medium; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its Separate Account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Parties under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of the contract owners and participants in Qualified Plans, as applicable.

5. For the purposes of condition 4, a majority of the disinterested members of the relevant Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the Fund or the Manager be required to establish a new funding medium for any Variable Contract or Qualified Plan. No participating insurance company shall be required by condition 4 to establish a new funding medium for any Variable Contract if an offer to do so has been declined by vote of a majority of contract owners materially and adversely affected by the irreconcilable material conflict.

6. A Board's determination of the existence of a material irreconcilable conflict and its implications shall be made known promptly in writing to the Manager and all Participating Parties.

7. As to Variable Contracts issued by Separate Accounts, participating insurance companies will provide pass-through voting privileges to all participants so long as and to the extent that the Commission continues to interpret the 1940 Act to require pass-through voting privileges for Variable Contract owners. As to Variable Contracts issued by unregistered separate accounts, pass-through voting privileges will be extended to participants to the extent granted by the issuing insurance company. Participating insurance companies will be responsible for assuring that each of their registered Separate Accounts participating in a Fund calculate voting privileges as instructed by a Fund with the objective that each such participating insurance company calculate voting privileges in a manner consistent with that of other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in a Fund will be a contractual obligation of all participating insurance companies under their agreements governing participation in a Fund. Each participating insurance company will vote shares held by Separate Accounts for which it has not received voting

instructions, as well as shares attributable to it, in the same proportion as it votes shares for which it has received voting instructions.

8. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of a Fund), and in particular the Funds will either provide for annual meetings (except insofar as the Commission may interpret Section 16 not to require such meetings) or, if annual meetings are not held, comply with Section 16(c) of the 1940 Act (although the Fund is not one of the trusts described in Section 16(c) of the 1940 Act) as well as with Sections 16(a) and, if and when applicable, 16(b). Further, the Funds will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Trustees or Directors and with whatever rules the Commission may promulgate with respect thereto.

9. The Funds will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund shall disclosure in its registration statement that: (1) Shares of such Fund are offered to insurance company separate accounts offered by various participating insurance companies which fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) due to the differences of tax treatment or other considerations, the interests of various contract owners participating in the Fund and the interests of Qualified Plans investing in the Fund may conflict; and (c) the Board will monitor for any material conflicts and determine what action, if any, should be taken in response to a conflict.

10. No less than annually, the Participating Parties and/or the Manager shall submit to the Boards such reports, materials, or data as each Board may reasonably request so that the Boards may carry out fully the obligations imposed upon them by the conditions contained in the application. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the relevant Board. The obligations of the Participating Parties to provide these reports, materials, and data to a Board shall be a contractual obligation of all Participating Parties under the agreements governing their participation in the Funds.

11. All reports received by a Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying the Manager or Participating Parties of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

12. If an to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Funds and/or the Participating Parties, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

13. In the event that a Qualified Plan should ever become an owner of 10% or more of the assets of a Fund, such Qualified Plan will executive a fund participation agreement with such Fund. A Qualified Plan will executive an application containing an acknowledgement of this condition at the time of its initial purchase of shares of the Fund.

Conclusion

For the reasons stated above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15770 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 22700; 812-10502]

Reich & Tang Distributors L.P., et al.; Notice of Application

June 11, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: Reich & Tang Distributors L.P. (''Reich & Tang'') and Equity Securities Trust (''Trust'') (Series 1 and Signature Series), on behalf of themselves and all subsequently issued series (''Subsequent Series'') (collectively with Series 1 and Signature Series, the ''Series'') containing certain types of securities and sponsored by Reich & Tang or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with Reich & Tang (collectively with Reich & Tang, the ''Sponsor'')

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order to permit certain terminating Series of the Trust, a unit investment trust (''UIT''), to sell portfolio securities to certain new Series of the Trust.

FILING DATES: The application was filed on December 31, 1996, and amended on April 21, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on applicants, in the forms of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 600 Fifth Avenue, New York, New York 10020, attention: Peter J. DeMarco.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942-0583, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Equity Securities Trust (the ''Trust'') is a UIT registered under the Act that consists of several Series. The Trust is organized under a trust

indenture agreement between the Trust, Reich & Tang as sponsor, and Chase Manhattan Bank as trustee.

2. The investment objective of certain Series of the Trust (each a ''Dow Series'') is to seek a greater total return than the stocks comprising the DOW Jones Industrial Average (''DJIA''). Each Dow Series acquires a portfolio from among the ten stocks in the DJIA having the highest dividend yields as of a specified date, and hold those stocks for approximately one year. The Sponsor intends that, as each Dow Series terminates, a new Series based on the DJIA will be offered for the next year.

3. Certain other Series of the Trust (each a ''Growth Series'') contain a portfolio of common stocks of aggressive growth companies. The investment objective of each Growth Series is to seek capital appreciation. Each Growth Series combines the buy and hold philosophy of a UIT with an investment in the aggressive end of the stock market. This approach leads to trusts with shorter terms to take advantage of the rapid changes in this segment of the stock market.

4. The Dow Series and the Growth Series have a contemplated date (a ''Rollover Date'') on which holders of units in that Series (''Rollover Series'') may, at their option, redeem their units in the Rollover Series and receive in return units of a subsequent Series of the same type (a ''New Series'').[1] The New Series will be created on or about the Rollover Date and will have a portfolio that contains securities of the relevant type, many, if not all, of which are actively traded (*i.e.*, have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least US$25,000) (''Qualified Securities'') on an exchange that is either (a) a national securities exchange that meets the qualifications of section 6 of the Securities Exchange Act of 1934, (b) a foreign securities exchange that meets the qualification set out in the proposed amendments to rule 12d3–1(d)(6) under the Act as proposed by the SEC[2] and that releases daily closing prices, or (c) the Nasdaq-National Market System (a ''Qualified Exchange'').

5. There is normally some overlap from one year to the next in the stocks having the highest dividend yields in the DJIA, and therefore between the portfolios of each Dow Series that is also a Rollover Series and the related new Dow Series. Similarly, the Sponsor anticipates that there will be some overlap from one year to the next in the aggressive growth stocks selected for each Growth Series, and therefore between the portfolios of each Growth Series that is also a Rollover Series and the related new Growth Series. Therefore, since the New Series may contain securities that duplicate those of the Rollover Series, substantial brokerage commissions occurring on the purchase and sale of such securities could be avoided if the Rollover Series had the ability to sell, and the New Series had the ability to purchase, such duplicate securities from one another.

6. In order to minimize the possibilities of overreaching in such transactions, applicants agree that the Sponsor will certify to the trustee, within five days of each sale from a Rollover Series to a new Series, (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of such transaction, and (c) the closing sales price on the Qualified Exchange for the sale date of the securities subject to such sale. The trustee then will countersign the certificate, unless, in the unlikely event that the trustee disagrees with the closing sales price listed on the certificate, the trustee immediately informs the Sponsor orally of any such disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of units of the New Series, and distributions to holders of the Rollover Series with regard to redemption of their units of termination of the Rollover Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the trustee's corrected price, the Sponsor and the trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Legal Analysis

1. Section 17(a) of the Act makes it unlawful for an affiliated person of a registered investment company to sell securities to or purchase securities from, the company. Each Series will have an identical or common Sponsor. Since the Sponsor of each Series may be considered to control each Series, it is likely that each Series would be considered an affiliated person of the others.

2. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Under section 6(c) the SEC may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).[3]

3. Rule 17a–7 under the Act permits registered investment companies that are affiliates solely by reason of common investment advisers, directors, and/or officers, to purchase securities from or sell securities to one another at an independently determined price, provided certain conditions are met. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor the procedures for these transactions to assure compliance with the rule. A unit investment trust does not have a board of directors and, therefore, may not rely on the rule. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraph (e).

4. Applicants represent that purchases and sales between Series will be consistent with the policy of the Trust, as only securities that otherwise would be brought and sold on the open market

[1] Applications previously obtained an order exempting them from sections 11(a) and 11(c) of the Act to permit them to offer certain exchange and rollover privileges to unitholders of the Trust. Investment Company Act Release Nos. 2222 (Sept. 19, 1996) (notice) and 22273 (Oct. 9, 1996) (order).

[2] Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3–1). The proposed amended rule defined a ''Qualified Foreign Exchange'' to mean a stock exchange in a country other than the United States where: (1) trading generally occurred at least four days a week; (2) there were limited restrictions on the ability of registered investment companies to trade their holdings on the exchange; (3) the exchange had a trading volume in stocks for the previous year of at least U.S. $7.5 billion; and (4) the exchange had a turnover ratio for the preceding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term ''Qualified Foreign Exchange.''

[3] Section 17(b) applies to a specific proposed transaction, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used, along with section 17(b), to grant relief from section 17(a) to permit an ongoing series of future transactions.

pursuant to the policy of each Series will be involved in the proposed transactions. Applicants further submit that the current policies of buying and selling on the open market leads to unnecessary brokerage fees on sales of securities and is therefore contrary not only to the policies of the Series, but to the general purposes of the Act.

5. Applicants state that the condition that the securities must be actively traded on a Qualified Exchange protects against overreaching. This limitation ensures that there will be current market prices available and thus an independent basis for determining that the terms of the transaction are fair and reasonable to each participating investment company.

6. In order to minimize the possibilities of overreaching in the proposed transactions, applicants agree that the Sponsor will certify to the trustee, within five days of each sale from a Rollover Series to a New Series, (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of such transaction, and (c) the closing sales price on the Qualified Exchange for the sale date of the securities subject to such sale. The trustee will then countersign the certificate unless it is disagrees with the closing sales price listed on the certificate, and returns the certificate to the Sponsor for verification and/or correction. In addition, the trustee of each Series will review the procedures for sales and make such changes as it deems necessary to comply with sections (a) through (d) of rule 17a–7.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each sale of Qualified Securities by a Rollover Series to a New Series will be effected at the closing price of the securities sold on a Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each Rollover Series and New Series.

3. The trustee of each Rollover Series and New Series will (a) review the procedures discussed in the application relating to the sale of securities from a Rollover Series and the purchase of those securities for deposit in a New Series, and (b) make such changes to the procedures as the trustee deems necessary to ensure compliance with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to the order will be maintained as provided in rule 17a–7(f).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15832 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38730; File No. SR–CBOE–97–25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to the Listing of Options on Mutual Fund Indexes

June 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE proposes to trade options on mutual fund indexes. Specifically, CBOE plans to list options on two mutual fund indexes designed by Lipper Analytical Services, Inc. in conjunction with Salomon Brothers Inc. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE 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 CBOE 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

The purpose of the proposed rule change is to enable the CBOE to list options based on mutual fund indexes. CBOE proposes to list options on two mutual fund indexes designed by Lipper Analytical Services, Inc. (''Lipper Analytical'' or LAS®) in conjunction with Salomon Brothers Inc.—the Lipper Analytical/Salomon Brothers Growth Fund Index (''Growth Fund Index'') and the Lipper Analytical/Salomon Brothers Growth & Income Fund Index (''Growth & Income Fund Index''). Options on the Indexes will allow investors to hedge their risk in mutual funds as well as provide a low-cost means for investors to participate in the mutual fund market. Lipper analytical is a major provider of mutual fund information and currently calculates approximately 100 other mutual fund indexes designed to track specific investment objectives.

Index Design. The Indexes are composed of the 30 largest U.S. funds in each investment objective, based on their total net assets as of the close on the last trading day of December. The Indexes include only those funds that report net asset values (''NAV'') through the facilities of the National Association of Securities Dealers Automated quotation System (''NASDAQ''). Some mutual funds are composed of more than one class which have different fees and expenses. If there is more than one class of a specific mutual fund, only the class with the highest total net assets will be included. As of December 31, 1996, the Growth Fund Index had total net assets (''TNA'') of $218.6 billion, an average TNA per component of $7.3 billion and a median TNA per component of $4.2 billion. The TNAs ranged from $2.5 billion to $54.0 billion. As of the same date, the Growth & Income Fund Index had a TNA of $241.2 billion, an average TNA per component of $8.0 billion and a median TNA per component of $5.0 billion. The TNAs ranged from $2.5 billion to $30.9 billion.

Lipper Analytical determines the investment objective of each fund by reviewing both the language in the prospectus and the fund's investment characteristics as shown in the Lipper-Equity Analysis Report on the Weighted Average Holdings of Large Investment Companies. A Growth Fund is described as a fund that normally invests in companies whose long-term earnings are expected to grow significantly faster

than earnings of the stocks represented in the major unmanaged stock indexes. A Growth & Income Fund is described as a fund that combines a growth of earnings orientation and an income requirement for level and/or rising dividends.

Calculation. The Indexes are equal-weighted and re-balanced quarterly after the close on expiration Fridays in March, June, September, and December. The Index value is calculated in essentially the same manner as other equal-weighted indexes. The total number of shares for each component is calculated by dividing $1,000 by the closing NAV, adjusted for distributions, of the component on the re-balancing date and rounding to two decimal places. The share amount is held constant throughout the quarter. The Indexes are calculated by summing the product of the current NAV adjusted for distributions and the share amount for each component and then dividing by the index divisor. The divisors were calculated to produce a value of 150.00 for the Growth Fund Index and 250.00 for the Growth and Income Fund Index as of December 31, 1996, the base date. The Indexes are calculated once per day as soon as the NAVs for each of the components are available.[1] The Index values will be disseminated by CBOE through the facilities of the Options Price Reporting Authority (''OPRA'') prior to the opening on the next business day.

[1] Index values are updated only at the close of trading each day because that is the only time when the fund net asset values comprising the Indexes are determined and disseminated. The Exchange believes that this should not pose an obstacle to options trading, any more than it prevents investors from entering intra-day orders to purchase or redeem shares of the funds themselves at closing net asset values that are unknown at the time the orders are entered. Further, insofar as options trading is concerned, this would not be the only example of options on indexes that are available only one time per day, albeit for different reasons. Options on the AMEX Japan Index and the AMEX Hong Kong 30 Index are traded in the United States when the underlying markets are closed, and the trading of these options has amply demonstrated that options markets can function effectively when only one index value is available during the trading day. Indeed, because the U.S. stock markets in which the component funds of the Lipper Analytical Indexes invest will be trading at the same time as the options are traded, the Exchange feels that conditions for options trading on the Lipper Analytical Indexes would be more favorable than for options trading on foreign indexes when the underlying markets are closed. In the cases of the Lipper Analytical Indexes, investors will be able to base their trading decisions on the observation of real-time movements in the value of market indexes and individual securities that have tended to move in regular relationship with the Indexes. This is the basis on which funds themselves are traded, and we see no reason why options on indexes of funds should not be available to investors on the same basis.

Lipper has informed the Exchange that it has not had any difficulty in obtaining net asset values for the funds in the Indexes. The funds comprising the Indexes are among the largest funds in existence. In the unlikely event that any of these funds do not comply with Rule 22c–1 under the Investment Company Act of 1940, which requires daily computation of a fund's current net asset value, the Exchange would follow the same procedure it uses for dissemination of standard indexes when a component price is unavailable; it will use the last available price.

Maintenance. Lipper Analytical has the sole responsibility of maintaining the Indexes. Salomon Brothers acted as an adviser to provide technical support, including advice on index design and the methodology of index construction. Lipper Analytical reviews the components annually after the close on the last trading day of December to include the thirty largest funds by total net assets. Any component changes resulting from the annual review will be announced by LAS and CBOE at least two weeks prior to implementation which will occur after the close on expiration in March. The index calculation reflects reinvestment of all distributions of component funds. Generally, there will be no need for any other adjustments intra-quarter.

Index Option Trading. The Exchange proposes to base trading in options on the Lipper Analytical Indexes on the full-value of each Index. The Exchange may list full-value long-term index option series (''LEAPS''®), as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

Exercise and Settlement. Options on the Indexes will be European-style and settle based on the closing NAVs of the component funds two business days prior to expiration. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be two business days (ordinarily a Thursday) preceding the expiration date. The settlement value (which is the same as Thursday's closing value) will be disseminated prior to the opening on Friday.

Exchange Rules Applicable. Except as modified herein, the Rules in Chapter XXIV will be applicable to mutual fund index options. Index option contracts based on the Lipper Analytical Indexes will be subject to a position limit of 75,000 contracts on the same side of the market. Ten reduced-value options will equal one full-value contract for such purposes. The Exchange believes that the proposed position limits are reasonable and appropriate for this product, and are consistent with the position limits that apply to other index options.

Rule 24.9 Interpretation and Policy .01(a) is being amended to include 2½ point strike price intervals for mutual fund indexes with strike prices less than $200. Broad-based margins will apply to mutual fund index options. CBOE is amending Rule 24.1(e) to reflect the fact that mutual funds can underlie indexes.

Surveillance. As with any other option product, the CBOE will closely monitor activity in these options and therefore, should be able to identify any potentially unusual activity in the options. It should be noted that with respect to the component funds that comprise the Indexes, trading in the funds themselves has no effect on the value of the Indexes. Instead, the value of the Indexes depends entirely on the net asset values of the component funds, which in turn depends on the values of the stocks held in the portfolios of the various funds. With this in mind, there are a few reasons why the concerns with manipulative activity are not as great with respect to options on these Indexes as they are on other index options. First, the Indexes are equal-weighted, thus no single component dominates the Index. Therefore any person attempting to manipulate the Indexes would have to manipulate the NAVs of a majority of the Index components. Second, in order to manipulate the NAVs of the component funds, a persons would have to have knowledge of the component securities held by the funds. This information is not disseminated to the public until after the fact (generally only quarterly), thus it would be nearly impossible for any individual to know, with any degree of certainty, the components of enough of the funds to make any manipulative efforts worthwhile. If it became necessary to examine activity in the underlying stocks, the CBOE could use the information available for the time period that was being examined.

Miscellaneous. The Exchange is aware of Commission concerns with respect to the degree in which fund portfolio managers should be allowed to trade options on the Lipper Analytical Indexes. CBOE believes that question of permissible trading activities of fund managers are properly to be answered by each fund's management, consistent

with guidance provided by the Commission. We do point out, However, that because the Indexes will be re-balanced each quarter to ensure that no single fund makes up more than 3.33% of an Index, there is little likelihood that any one fund will ever have a significant influence over the value of the Index of which it is a part. Thus the conflict of interest that may be thought to exist when a portfolio manager trades the same securities in which his or her fund may be interested should not exist in respect of the portfolio manager's activities in options on the Lipper Analytical Indexes.

CBOE has the necessary systems capacity to support new series that would result from the introduction of the Lipper Analytical/Salomon Brothers Index options. CBOE has also been informed that OPRA has the capacity to support such new series.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 in general and Section 6(b)(5) in particular in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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 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 CBOE. All submissions should refer to File No. SR–CBOE–97–25 and should be submitted by July 8, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15772 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–02–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38731; File No. SR–NYSE–97–08]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by New York Stock Exchange, Inc. Consisting of an Information Memo Relating to Electronic Delivery of Information to Customers by Exchange Members and Member Organizations

June 10, 1997.

On March 24, 1997,[1] the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change setting forth the Exchange's policy regarding electronic delivery of information required under Exchange rules to be furnished to customers. A notice of the proposed rule change appeared in the **Federal Register** on May 7, 1997.[4] The Commission received no comment letters addressing the proposed rule change.

The Exchange has filed with the Commission an Information Memo (''Memo'') setting forth the Exchange's policy regarding electronic delivery of information required under Exchange rules to be furnished to customers. Under this proposed Exchange policy, members and member organizations will be allowed to electronically transmit documents required to be furnished to customers under Exchange rules, provided that they adhere to the Commission's established requirements. The Commission, in Release Nos. 34–37182[5] and 33–7233,[6] addresses the procedural aspects of how broker-dealers and others may satisfy their delivery obligations under federal securities laws by using electronic media as an alternative to paper-based media provided that they comply with certain prescribed requirements.

The Memo summarizes the Commission procedures, which address format, content, access, evidence of receipt of delivery, and consent for delivery of personal financial information. The Memo also sets forth a list of current Exchange rules that require members and member organizations to furnish specific information to customers for which electronic delivery may be used in accordance with the Commission Releases.[7] The Exchange intends that the policy outlined in this Memo cover all communications required to be sent to customers by firms pursuant to Exchange rules.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the

---

[2] 17 CFR 200.30–3(a)(12).

[1] On April 24, 1997, the NYSE amended the exhibit attached to the rule filing. *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated April 24, 1997.

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1995).

[4] Securities Exchange Act Release No. 38567 (May 1, 1997); 62 FR 25009 (May 7, 1997).

[5] *See*, Securities Exchange Act Release No. 37182, May 9, 1996; 61 FR 24644, May 15, 1996, (Commission's interpretation concerning the delivery of information through electronic media in satisfaction of broker-dealer and transfer agent requirements to deliver information under the Act and the rules thereunder).

[6] *See*, Securities Act Release No. 7233, Oct. 6, 1995; 60 FR 53458, Oct. 13, 1995, (Commission's interpretation concerning the use of electronic media as a means of delivering information required to be disseminated pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940).

[7] The Exchange believes this list is complete. The Commission notes, however, that if the Exchange proposes a rule for which electronic delivery of information to customers may be used, then the Exchange should specify that the rule would be governed by this interpretation, as well.

Commission believes that approval of the proposed rule change is consistent with Section 6(b)(5)[8] of the Act. Pursuant to Section 6(b)(5), the proposed rule change benefits the public,[9] because it not only allows customers easy and efficient access to account documentation, but also requires an evaluation of systems and procedures to ensure that the privacy of personal information is maintained. In using the Commission's releases as a guide,[10] the Exchange has established a uniform policy concerning electronic delivery of information which should allow members and member organizations to satisfy their delivery obligations under federal securities laws and the Exchange's rules. This uniform policy should simplify compliance by members and member organizations and aid the Exchange in monitoring the same.

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NYSE–97–08) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15771 Filed 6–16–97; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Pub.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. *Application for Lump-Sum Death Payment—0960–0013.* The information collected on Form SSA–8–F4 is required to authorize payment of the lump-sum death benefit to a widow, widower, or children as defined in Section 202(i) of the Social Security Act. The respondents are widows, widowers or children who receive lump-sum death benefits.

Number of Respondents: 735,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 122,500.

2. *Statement Regarding Contributions—0960–0020.* Form SSA–783 collects the information necessary to make a determination of one-half support, or contributions to support, in order to entitle certain child applicants to Social Security benefits. The respondents are children who apply for Social Security benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 7,500.

3. *Application for Search of Census Record for Proof of Age—0960–0097.* The information collected on Form SSA–1535–U3 is required to provide the Census Bureau with sufficient identifying information, which will allow an accurate search of census records to establish proof of age for an individual applying for Social Security benefits. It is used for individuals who must establish age as a factor of entitlement. The respondents are individuals applying for Social Security Benefits.

Number of Respondents: 18,000.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 3,600.

4. *Claimant's Statement About Loan of Food or Shelter, and Statement About Food or Shelter Provided to Another—0960–0529.* The information on Forms SSA–5062 and SSA–L5063 will be used by the Social Security Administration to determine whether food or shelter provided to a recipient of supplemental security income (SSI) payments should be counted as income. The respondents are SSI recipients who receive food or shelter and individuals who provide it to them.

Number of Respondents: 131,080.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 21,847.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, *Attn:* Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. *Certification by Religious Group—0960–0093.* The information collected by the Social Security Administration on form SSA–1458 is used to determine if the religious group of which an individual is a member qualifies for a self-employment tax exemption under Section 1402(g) of the Internal Revenue Code. The respondents are spokespersons for religious groups.

Number of Respondents: 180.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 45 hours.

2. *RSI/DI Quality Review Case Analysis Questionnaires and Annual Earnings Test Questionnaire—0960–0189.* The information collected on forms SSA–2930, SSA–2931 and SSA–2932 is used by the Social Security Administration to establish a national payment accuracy rate for all cases in payment status and to serve as a source of information regarding problem areas in the Retirement and Survivors Insurance (RSI) program and Disability Insurance programs. The information is also used to measure the accuracy rate for newly adjudicated RSI/DI cases. The information collected on form SSA–4659 is used to evaluate the annual earnings test (AET) process to determine the effectiveness of the AET process. The results will be used to develop ongoing improvements in the process. The respondents are RSI and DI beneficiaries.

[8] Section 6(b)(5) requires the Commission to determine that a registered national securities exchange's rules are designed to prevent fraudulent acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

[9] Pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f) (1996).

[10] *See supra* notes 5 and 6.

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30–3(a)(12).

	SSA–2930	SSA–2931	SSA–2932	SSA–4659
Number of Respondents	5,500	2,750	1,375	740
Frequency of Response	1	1	1	1
Average Burden Per Response (minutes)	20	30	30	20
Estimated Annual Burden (Hours)	1,833	1,375	688	247

3. *Questionnaire for Children Claiming SSI Benefits—0960–0499.* The information collected on form SSA–3881 is used by the Social Security Administration to evaluate disability in children who apply for supplement security income payments. The respondents are individuals who apply for supplement security income benefits for a disable child.

Number of Respondents: 455,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 151,667 hours.

4. *Consent for Release of Information—0960–0567.* The information collected on form SSA–3288 is used by the Social Security Administration (SSA) to ensure that an individual consents to the release of his/her personal information to another individual. The respondents are individuals assenting to the disclosure of information from their social security records to someone else.

Number of Respondents: 200,000.

Frequency of response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 10,000 hours.

5. *Request for Self-Employment Information (SSA–2765), Request for Employment Information (SSA–3365), Request for Employer Information (SSA–4002)—0960–0508.* The information is needed by SSA when earnings information reported to the agency is incomplete or incorrect. The information is used to post the reported earnings to the appropriate earnings record. The respondents are employers of the wage earners or employees and self-employed individuals for whom the earnings were reported.

Number of Respondents: 3,000,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 500,000 hours.

6. *State Vocational Rehabilitation Agency Claim (SSA–199) and Subpart V—Payments for Vocational Rehabilitation Services, 20 CFR Sections 404.2104, 404.2108, 404.2113, 404.2117 404.2121, 416.2204, 416.2208, 416.2213 and 416.2217—0960–0310.* The information collected on form SSA–199 and through these current rules is used by the Social Security Administration to determine if State vocational rehabilitation agencies are providing appropriate services, including referrals when necessary, and whether those claims for services should be paid.

Number of Respondents: 80–100.

Frequency of Response: On occasion.

Average Burden Per Response: Varies from 23 minutes to 4 hours.

Estimated Annual Burden: 8,465 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: June 10, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–15764 Filed 6–16–97; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities; Request for Emergency Review by the Office of Management and Budget

The Social Security Administration publishes a list of information collection packages that will require clearance by OMB in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection listed below has been submitted to OMB for emergency clearance. OMB approval has been requested by June 12, 1997:

0960–NEW. The information collected on forms SSA–3368, SSA-3369 and SSA–3820 will be used in the determination of disability by the State Disability Determination Services. The SSA–3368 will be used to develop medical evidence and to assess the alleged disability. The SSA–3369 will be used to collect information about an individual's past work history. The SSA–3820 will be used to obtain various types of information about a child's condition, his/her treating sources and/or other medical sources of evidence. The respondents are applicants for disability benefits.

	SSA–3368	SSA–3369	SSA–3820
Number of Respondents	2,438,496	1,000,000	523,000
Frequency of Response	1	1	1
Average Burden Per Response (minutes)	45	30	20
Estimated Annual Burden (hours)	1,828,872	500,000	174,333

To receive a copy of the form or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed below. Written comments and recommendations regarding the information collection(s) should be directed to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room

10230, 725 17th St., NW, Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1-A–21 Operations Bldg., Baltimore, MD 21235.

Dated: June 11, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–15841 Filed 6–16–97; 8:45 am]

BILLING CODE 4190–29–P

OFFICE OF SPECIAL COUNSEL

Proposed Information Collection Activities; Comment Request

AGENCY: Office of Special Counsel.

ACTION: Notice of submission for OMB review; comment request.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this is the second notice the U.S. Office of Special Counsel (OSC) has published in the Federal Register regarding proposed information collection activities for two OSC forms and related regulations at 5 CFR 1800. On March 13, 1997, the first notice was published at 62 FR 11941. The OSC has submitted an information clearance package to the Office of Management and Budget (OMB) and requested the extension of the collection that has been previously approved until September 30, 1997.

Federal employees, other Federal agencies, and the general public are invited to comment on OSC's information collection activities regarding possible prohibited personnel practices and other prohibited activity and whistleblower disclosures. The period inviting comment to OMB will end on July 17, 1997. The OMB has until August 18, 1997 to act on OSC's request.

Send written comments regarding the proposed information collection to Joe Lackey, Desk Officer, OMB, OIRA, Washington, DC 20503. OMB should receive comments by July 17, 1997.

Request copies of the proposed information collection from Cathleen Sadlo Schulz, Senior Attorney, U.S. Office of Special Counsel, 1730 M Street, NW., Suite 300, Washington, DC 20036–4505; telephone (202) 653–8971; facsimile (202) 653–6864.

SUPPLEMENTARY INFORMATION: Comment is requested on the following collections of information:

1. Title of Collection: Report of Possible Prohibited Personnel Practice or Other Prohibited Activity.

Agency Form Number: OSC 11; OMB Control Number 3255–0002.

Type of Information Collection: Extension of a previously approved collection that expires September 30, 1997.

Affected Public: Current and former Federal employees and applicants for Federal employment.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Respondents: 1884.

Frequency: On occasion.

Estimated Average Burden Per Respondent: 1 hour.

Estimated Annual Burden: 1884 hours.

Abstract: This optional form, or the format provided in 5 CFR 1800.1, are for use by current and former Federal employees and applicants for Federal employment to report possible prohibited personnel practices or other prohibited activity by Federal agencies or employees.

2. Title of Collection: Disclosure of Information.

Agency Form Number: OCS 12; OMB Control Number 3255–0002.

Type of Information Collection: Emergency approval and reinstatement, with change, of a previously approved collection for which approval has expired.

Affected Public: Federal employees and agencies and other individuals.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Respondents: 252.

Frequency: On occasion.

Estimated Average Burden Per Respondent: 1 hour.

Estimated Annual Burden: 252 hours.

Abstract: This optional whistleblower disclosure form, and the format provided in 5 CFR 1800.2, are for use by current and former Federal employees and applicants for Federal employment to disclose a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Dated: June 6, 1997.

Erin M. McDonnell,

Associate Special Counsel for Planning and Advice.

[FR Doc. 97–15836 Filed 6–16–97; 8:45 am]

BILLING CODE 7405–01–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1495).

TIME AND DATE: 9 a.m. (CDT), June 19, 1997.

PLACE: Gallatin Fossil Plant Assembly Room, 1499 Steam Plant Road, Gallatin, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on April 23, 1997.

New Business

C—Energy

C1. Delegation of authority to the Vice President, Fuel Supply and Engineering, or a designated representative, to enter into a 5-year contract (with a possible 5-year extension) with BRT Transfer Terminal, Inc., for blending and transloading of coal. Under this contract, an annual minimum of 5 million tons of previously acquired bituminous and subbituminous coal would be blended and/or transloaded by BRT onto barges for delivery to Colbert, Gallatin, Johnsonville, and Widows Creek Fossil Plants. Total payments under the contract and its extension will not exceed $80 million.

C2. Approval for Fossil and Hydro Power Group to enter into a 2-year contract (with options for three 2-year extensions) with Siemens Power Corporation, subject to final negotiations, to design and furnish control systems for the automation of TVA's hydro system. Total payments under the contract and its extension over the 8-year period will not exceed $19.7 million.

Real Property Transactions

E1. Abandonment of a portion of Limestone-Jetport Transmission Line Right-of-Way affecting approximately 20.76 acres of land (Tract No. LJET–1) in Limestone County, Alabama.

E2. Deed modification affecting 0.12 acre of former TVA land on Wheeler Lake (Tract No. XWR–308) in Limestone County, Alabama, to remove provisions that prohibit any buildings or other structures except water-use facilities located below the 560-foot contour elevation.

E3. Sale of a permanent easement to GTE South, Inc., affecting 0.06 acre of land on Guntersville Lake (Tract No. XGR–740E) in Jackson County, Alabama, for a fiber optic concentrator.

Unclassified

F1. Filing of condemnation cases.

Information Items

1. Public auction of Braden Mountain Coal Lease, Koppers Coal Reserves, Scott and Campbell Counties, Tennessee, affecting approximately 3,490 acres of land (Tract No. XEKCR–38L).

2. Sale of a 30-year commercial recreation easement affecting 2.8 acres of land on Fort Loudoun Lake in Knox County, Tennessee (Tract No. XFL–126RE), for the continued operation and development of Willow Point Marina and Restaurant to Kiger, Inc.

3. Grant of easement to Kimberly-Clark Financial Services, Inc., affecting approximately 330 square feet (Tract No. XKOC–1B) for the encroachment of the Summit Building onto TVA's Summer Place Building and Parking Garage property in Knox County, Tennessee.

4. Public auction of approximately 16.99 acres of land located on White Bridge Road in Nashville, Davidson County, Tennessee (Tract No. NVSC–9).

5. Filing of a condemnation case.

6. Delegation of authority to the Vice President, Fuel Supply and Engineering, or a designated representative, to enter into a contract with Enron Transportation Services, L.P., for blending and transloading of coal.

7. Contract with Enterprise Rent-A-Car to provide rental vehicles.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: June 12, 1997.
Signed:

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 97–15918 Filed 6–13–97; 9:55 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Announcement of the June 1997 Revision of the Federal Aviation Administration Acquisition Management System and Changes 1, 2, 3, 4, and 5 of the Standard Clauses

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of the June 1997 revision of the FAA Acquisition Management System, and Changes 1, 2, 3, 4, and 5 of the standard clauses used in FAA procurement contracts and Screening Information Requests (SIR), as well as the latest versions of the real property and utility clauses.

ADDRESSES: The complete text of the June 1997 revision of the FAA Acquisition Management System, Changes 1, 2, 3, 4, and 5 of the standard clauses and the latest versions of the real property and utility clauses are available on the Internet at http://fast.faa.gov/. Use of the Internet World Wide Web Site is strongly encouraged for access to copies of the FAA Acquisition Management System and the current clauses. If Internet service is not available, requests for copies of these documents may be made to the following address: FAA Acquisition Reform, ASU–100, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:

David Lankford, Procurement Management Branch Federal Aviation Administration, Rm. 435, 800 Independence Avenue, SW, Washington DC 20591, (202) 267–8407.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an Act Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (The 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. The new FAA Acquisition Management System went into effect on April 1, 1996 [see *Notice of availability* at 61 FR 15155 (April 4, 1996)].

The Air Traffic Management System Performance Improvement Act of 1996, title II of the Federal Aviation Reauthorization Act of 1996, Public Law 104–264, October 9, 1996, expanded the procurement reforms previously authorized by the 1996 DOT Appropriations Act. Amendment 01 implements title 11 and makes other necessary changes to, and clarifications of, the FAA Acquisition Management System.

Issued in Washington, DC, on June 11, 1997.

Gilbert B. Devey, Jr.,

Director of Acquisitions, ASU–1.

[FR Doc. 97–15864 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Revisions to Advisory Circular; Flight Test Guide for Certification of Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed advisory circular and request for comments.

SUMMARY: This notice requests comments regarding proposed revisions to Advisory Circular (AC) 25–7, ''Flight Test Guide for Certification of Transport Category Airplanes.'' AC 25–7 provides guidance on acceptable means, but not the only means, of demonstrating compliance with the airworthiness standards for transport category airplanes. The proposed revisions complement revisions to the airworthiness standards for transport category airplanes that were proposed recently by separate notice in the **Federal Register.** This notice provides interested persons an opportunity to comment on the proposed revisions to the AC concurrently with the proposed rulemaking.

DATES: Comments must be received on or before September 8, 1997.

ADDRESSES: Send all comments on the proposed AC revisions to the Federal Aviation Administration, Attention: Don Stimson, Flight Test and Systems Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave SW., Renton, WA 98055–4056. Comments may be examined at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Regulations Branch, ANM–114, at the above address, telephone (425) 227–2126, or facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed revisions to the AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the title of the AC and submit comments in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Transport Airplane Directorate before issuing the revised AC.

Discussion

On June 9, 1997, the Federal Aviation Administration (FAA) published a proposal (Notice 97–9, 62 FR 31482) to amend 14 CFR part 25 to revise the requirements regarding gated positions on the control used by the pilot to select the position of an airplane's high-lift devices. The proposed amendment would update the current standards to take into account the multiple configurations of the high-lift devices provided on current airplanes to perform landings and go-around maneuvers. The proposed amendment would also harmonize these standards with those being proposed for the European Joint Aviation Requirements (JAR–25).

The FAA also proposes to revise Advisory Circular (AC) 25–7, ''Flight Test Guide for Certification of Transport Category Airplanes,'' to provide additional guidance and criteria for locating the gate when the airplane has multiple go-around configurations. This proposed revision to AC 25–7 should not be confused with other proposed revisions of AC 25–7 for which the FAA is currently seeking comments. This revision only addresses guidance material associated with gated positions on the control used by the pilot to select the position of an airplane's high-lift devices. Issuance of a revised AC based on this proposal is contingent on adoption of the revisions to part 25 proposed in Notice 97–9.

Through an inadvertent publication error, this AC notice was not published in the same issue of the **Federal Register** as Notice 97–9 and is therefore being published at this time to allow the public the opportunity to comment on the AC concurrently with the rulemaking proposed in Notice 97–9.

Revisions to AC 25–7 Which Accompany Notice 97–9

1. Revise paragraph 21a(2) as follows:

(2) *Section 25.145(b)* requires changes to be made in flap position, power, and speed without undue effort when retrimming is impractical. The purpose is to ensure that any of these changes are possible assuming that the pilot finds it necessary to devote at least one hand to the initiation of the desired operation without being overpowered by the primary airplane controls. The objective is to show that an excessive change in trim does not result from the application of power or the extension or retraction of wing flaps. The presence of gated positions on the flap control does not affect the requirement to demonstrate full flap extensions and retractions without changing the trim control. Compliance with § 25.145(b) also requires that the relation of control force to speed be such that reasonable changes in speed may be made without encountering very high control forces.

2. Revise paragraphs 21a(3) as follows:

(3) *Section 25.145(c)* contains requirements associated primarily with attempting a go-around maneuver from the landing configuration. Retraction of the high-lift devices from the landing configuration should not result in a loss of altitude if the power or thrust controls are moved to the go-around setting at the same time that flap/slat retraction is begun. The design features involved with this requirement are the rate of flap/slat retraction, the presence of any flap gates, and the go-around power or thrust setting. The go-around power or thrust setting should be the same as is used to comply with the approach and landing climb performance requirements §§ 25.121(d) and 25.119, and the controllability requirements of §§ 25.145(b)(3), 25.145(b)(4), 25.145(b)(5), 25.149(f), and 25.149(g). The controllability requirements may limit the go-around power or thrust setting.

4. Add a new paragraph 21a(4) to read as follows:

(4) *Section 25.145(d)* provides requirements for demonstrating compliance with § 25.145(c) when gates are installed ion the flap selector. Section 25.145(d) also specifies gate design requirements. Flap gates, which prevent the pilot from moving the flap selector through the gated position without a separate and distinct movement of the selector, allow compliance with these requirements to be demonstrated in segments. High lift device retraction must be demonstrated beginning from the maximum landing position to the first gated position, between gated positions, and from the last gated position to the fully retracted position.

(i) If gates are provided, § 25.145(d) requires the first gate from the maximum landing position to be located at a position corresponding to a go-around configuration. If there are multiple go-around configurations, the following criteria should be considered when selecting the location of the gate:

(A) The expected relative frequency of use of the available go-around configurations.

(B) The effects of selecting the incorrect high-lift device control position.

(C) The potential for the pilot to select the incorrect control position, considering the likely situations for use of the different go-around positions.

(D) The extent to which the gate(s) aid the pilot in quickly and accurately selecting the correct position of the high-lift devices.

(ii) Regardless of the location of any gates, initiating a go-around from any of the approved landing positions should not result in a loss of altitude. Therefore, § 25.145(d) requires that compliance with § 25.145(c) be demonstrated for retraction of the high-lift devices from each approved landing position to the control position(s) associated with the high-lift device configuration(s) used to establish the go-around procedure(s) from that landing position. A separate demonstration of compliance with this requirement should only be necessary if there is a gate between an approved landing position and its associated go-around position(s). If there is more than one associated go-around position, conducting this test using the go-around configuration with the most retracted high-lift device position should suffice, unless there is a more critical case. If there are no gates between any of the landing flap positions and their associated go-around positions, the demonstrations discussed in paragraph 21a(4) above should be sufficient to show compliance with this provision of § 25.145(d).

5. Revise paragraph 21c(6) as follows:

(6) *Longitudinal control*, flap retraction and power application, §§ 25.145(c) and (d).

6. Revise paragraph 21c(6)(ii) as follows:

(ii) With the airplane stable in level flight at a speed of 1.1 V_S for propeller driven airplanes, or 1.2 V_S for turbojet powered airplanes, retract the flaps to the full up position, or the next gated position, while simultaneously setting go-around power. Use the same power or thrust as is used to comply with the performance requirement of § 25.121(d), as limited by the applicable controllability requirements. It must be possible, without requiring exceptional piloting skill, to prevent losing altitude during the maneuver. Trimming is permissible at any time during the maneuver. If gates are provided, conduct this test from the maximum landing flap position to the first gate, from gate to gate, and from the last gate to the fully retracted position. If there is a gate between any landing position and its associated go-around position(s), this test should also be conducted from that landing position through the gate to the associated go-around position. If there is more than one associated go-around position, this additional test should be conducted using the go-around position corresponding to the most retracted flap

position, unless another position is more critical. Keep the landing gear extended throughout the test.

Issued in Renton, Washington, on June 10, 1997.

Stewart R. Miller,

Manager, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 97–15860 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Portland International Airport; Portland, OR

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Director of Aviation of Portland International Airport under the provisions of 49 U.S.C. Sec. 47504 (b) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980)

On October 22, 1996, the FAA determined that the noise exposure maps submitted by the Director of Aviation under Part 150 were in compliance with applicable requirements. On April 18, 1997, the Associate Administrator for Airports approved the Portland International Airport noise compatibility program. Nineteen of the 25 proposed action elements in the Noise Compatibility Program were approved. Action elements A5, B1, B2, B3, B5, and B8 were disapproved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Portland International Airport noise compatibility program is April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM–611; 1601 Lind Avenue, S.W., Renton, Washington, 98055–4056. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Portland International Airport, effective April 18, 1997. Under 49 U.S.C. Sec. 47504 (a) an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measures according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Seattle, Washington.

The Port of Portland submitted to the FAA the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Portland International Airport. The Portland International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on October 22, 1996. Notice of this determination was published in the **Federal Register** on November 1, 1996.

The Portland International Airport noise compatibility program contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in 49 U.S.C. Sec. 47504(a). The FAA began its review of the program on October 22, 1996, and was required by a provision of 49 U.S.C. Sec. 47504(b) to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 25 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of 49 U.S.C. Sec. 47504(b) and FAR 150 have been satisfied. The overall program, therefore, was approved by the Associate Administrator for Airports effective April 18, 1997. Nineteen of the 25 proposed action elements in the Noise Compatibility Program were approved. Action elements A5, B1, B2, B3, B5, and B8 were disapproved. These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on April 18, 1997. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the

administrative offices of the Portland International Airport.

Issued in Renton, Washington on June 9, 1997.

David A. Field,

Acting Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 97–15859 Filed 6–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–367 (Sub-No. 2X)]

Georgia Central Railway, L.P.—Abandonment Exemption—in Chatham County, GA

On May 28, 1997, Georgia Central Railway, L.P. (Georgia Central) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a portion of its line of railroad extending from Value Station 42+33 where it switches off the Georgia Central main line to Value Station 37+72, a distance of 0.71 miles, in Savannah, Chatham County, GA. The line transverses through U.S. Postal Service Zip Code 31401.

The line does not contain federally granted rights-of-way. Any documentation in Georgia Central's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 15, 1997.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by a $900 filing fee. See 49 CFR 1002.2(f)(25).

Georgia Central states that the right-of-way underlying the line is not suitable for use for other public purposes and that, upon abandonment, it will revert to its owner, CSX Transportation, Inc. Nonetheless, we will entertain public use/trail use requests. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 7, 1997. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–367 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Kelvin J. Dowd and Andrew B. Kolesar III, Slover and Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA or EIS. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: June 11, 1997.

Vernon A. Williams,

Secretary.

[FR Doc. 97–15830 Filed 6–16–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Submission for OMB review; Comment request.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has sent to the Office of Management and Budget (OMB) for review an information collection titled Investment Securities (12 CFR 1).

DATES: Comments regarding this information collection are welcome and should be submitted to the OMB Reviewer and the OCC. Comments are due on or before July 17, 1997.

ADDRESSES: A copy of the of the submission may be obtained by calling the OCC Contact listed. Direct all written comments to the Communications Division, Attention: 1557–0205, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

SUPPLEMENTARY INFORMATION:

OMB Number: 1557–0205.

Form Number: Not applicable.

Type of Review: Renewal of OMB approval.

Title: Investment Securities (12 CFR 1).

Description: This submission covers a renewal without change of the information collections currently contained in 12 CFR Part 1. The collection of information requirements are found in 12 CFR 1.3(h)(2) and 12 CFR 1.7(b).

Under 12 CFR 1.3(h)(2), a national bank may request an OCC determination that it may invest in an entity that is exempt from registration under section 3(c)(1) of the Investment Company Act of 1940 if the portfolio of the entity consists exclusively of assets that a national bank may purchase and sell for its own account. The OCC uses the information contained in the request as a basis for determining that the bank's investment is consistent with its investment authority under applicable law and does not pose unacceptable risk.

Under 12 CFR 1.7(b), a national bank may request OCC approval to extend the five-year holding period of securities held in satisfaction of debts previously contracted (DPC) for up to an additional five years. The bank must provide a clearly convincing demonstration of why any additional holding period is needed. The OCC uses the information in the request to ensure, on a case-by-case basis, that the bank's purpose in retaining the securities is not speculative and that the bank's reasons for requesting the extension are adequate, and to evaluate the risks to the bank of extending the holding period, including potential effects on bank safety and soundness.

Respondents: Businesses or other for-profit; individuals.

Number of Respondents: 25.

Total Annual Responses: 25.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 460.

OCC Contact: Jessie Gates or Dionne Walsh, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

OMB Reviewer: Alexander Hunt, (202) 395–7340, Paperwork Reduction Project 1557–0205, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Comments are invited on: (a) whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility; (b) the accuracy of the OCC's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 11, 1997.

Karen Solomon,

Director, Legislative & Regulatory Activities Division.

[FR Doc. 97–15778 Filed 6–16–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8633; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice and request for comments.

SUMMARY: This document contains a correction to a notice and request for comments inviting the general public and other Federal agencies to comment concerning Form 8633, Application to Participate in the Electronic Filing Program.

FOR FURTHER INFORMATION CONTACT: Carol Savage, (202) 622–3945, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that are the subject of this correction are required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Need for Correction

As published, the notice and request for comments contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice and request for comments, which is the subject of FR Doc. 97–14590, is corrected as follows:

On page 30674, column 3, following the heading ''*Current Actions*:'', lines 1 through 4, the language ''On page 1 of Form 8633, lines 1e, 1f, 1g, 1h, 1i, and 1j were deleted because the information was no longer needed.'' is removed.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–15776 Filed 6–16–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0101]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Extension

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements of eligibility verification reports.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 18, 1997.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0101'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–8310 or FAX (202) 275–4884.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Numbers: Eligibility Verification Reports.

Old Law Eligibility Verification Report (Surviving Spouse), VA Form 21–0511s.

Old Law Eligibility Verification Report (Veteran), VA Form 21–0511v.

Section 306 Eligibility Verification Report (Surviving Spouse), VA Form 21–0512s.

Section 306 Eligibility Verification Report (Veteran), VA Form 21–0512v.

Old Law and Section 306 Eligibility Verification Report (Children Only), VA Form 21–0513.

DIC Parent's Eligibility Verification Report, VA Form 21–0514.

Improved Pension Eligibility Verification Report (Veteran With No Children), VA Form 21–0516.

Improved Pension Eligibility Verification Report (Veteran With Children), VA Form 21–0517.

Improved Pension Eligibility Verification Report (Surviving Spouse With No Children), VA Form 21–0518.

Improved Pension Eligibility Verification Report (Child or Children), VA Form 21–0519c.

Improved Pension Eligibility Verification Report (Surviving Spouse With Children), VA Form 21–0519s.

OMB Control Number: 2900–0101.

Type of Review: Extension of a currently approved collection.

Abstract: The reports are used to report changes in entitlement factors in VA's income-based benefit programs, pension and parents' Dependency and Indemnity Compensation (DIC). Any individual who has applied for or receives pension or parents' DIC must promptly notify VA in writing of any changes in entitlement factors. The reports are also used to confirm that there have been no changes in entitlement factors.

Affected Public: Individuals or households.

Estimated Annual Burden: 354,725 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 709,450.

Dated: June 4, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–15802 Filed 6–16–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

VA Innovations in Nursing Advisory Committee Notice of Meeting

As required by Section 10(a)(2) of the Federal Advisory Committee Act, the Department of Veterans Affairs (VA) hereby gives notice that the fourth meeting of the VA Innovations in Nursing Advisory Committee will be held June 22–25, 1997, in Portland, OR. On Sunday, June 22, 1997, the meeting will convene at 5:30 p.m. at the Red Lion Hotel, Jantzen Beach, 909 N. Hayden Island Drive, Portland, OR. All other sessions will convene at the VA Medical Center, 3710 SW US Veterans Hospital Road, Portland, OR. On Monday, June 23rd, the session will convene at 9:00 a.m. and adjourn at 4:30 p.m. The June 24th session will convene at 8:00 a.m. and adjourn at 4:00 p.m. The session on Wednesday, June 25th will convene at 8:00 a.m. and adjourn at 12:00 p.m.

The purpose of the Committee is to present recommendations to the Under Secretary for Health on how VA can generally promote and support health care innovations in which nurses play key leadership and clinical roles and which promote VA's reengineering efforts.

On June 22, the Committee will be briefed on Veterans Integrated Service Network and outstanding Models of Nursing in the Private Sector.

On June 23, the Committee will hear presentations on Innovative models of VA Hospital Management. A public comment period is scheduled from 3:30–4:30 p.m.

On June 24 and 25, the Committee will discuss facilitators and barriers to innovative nursing practice and begin writing a final report.

The meeting is open to the public. However, please note that a public comment period is provided on June 23 only. Those who plan to attend or who have questions concerning the meeting should contact the Designated Federal Official for the Committee, Charlotte F. Beason, Ed.D., RN at (202) 273–8422.

Dated: June 2, 1997.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–15798 Filed 6–16–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VERTERANS AFFAIRS

Enhanced-Use Development of the VAMC Mountain Home, TN

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the James H. Quillen Veterans Affairs Medical Center at Mountain Home, TN, for an Enhanced-Use development. The Department intends to enter into a long-term lease of real property at the Medical Center with a public or private energy developer/producer in order to develop a new co-generation energy plant that would produce and sell energy to the Medical Center and its partners. As consideration for the long-term use of VA's capital assets, the Medical Center would receive the benefits of a new, state-of-the-art energy plant at no capital cost to VA, and utilities (steam, chilled water and electricity) at substantial savings, as compared to today's rates.

FOR FURTHER INFORMATION CONTACT: Robert B. Eidson, Capital Assets Manager, Office of the Director (00B), James H. Quillen VA Medical Center Mountain Home (Johnson City), TN, 37684, (423)–926–1171, extension 7112.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.,* specifically provides that the Secretary may enter into an Enhanced-Use lease if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: June 3, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 97–15799 Filed 6–16–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Development of the VAMC North Chicago, IL

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Veterans Affairs Medical Center at North Chicago, IL, for an Enhanced-Use development. The Department intends to enter into a long-term lease of real property under VA's control and jurisdiction with a public or private energy developer/producer in order to develop a new co-generation energy plant that would produce and sell to the Medical Center and its partners. As consideration for the long-term use of VA's capital assets, the Medical Center would receive the benefits of a new, state-of-the-art co-generation plant at no capital cost to VA, and utilities (steam and electricity) at substantial savings, as compared to today's rates.

FOR FURTHER INFORMATION CONTACT: Edward L. Bradley, III, Portfolio Manager, Office of Asset and Enterprise Development (189), Department of Veterans Affairs, Veterans Health Administration, Office of Facilities Management, 810 Vermont Avenue, N.W., Room 419 Laf., Washington, D.C. 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.,* specifically provides that the Secretary may enter into an Enhanced-Use Lease if the Secretary determines that at lease part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: June 5, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 97–15801 Filed 6–16–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

A Child Development Center at the VAMC West Palm Beach, FL

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the West Palm Beach, FL, Veterans Affairs Medical Center for an Enhanced-Use development. The Department intends to enter into a long-term lease of real property with the developer whose proposal will provide the best quality child development and care at the greatest economic advantage for children of VAMC employees. The developer will be responsible for all aspects of construction, ownership, maintenance, and operation of the Child Development Center.

FOR FURTHER INFORMATION CONTACT: Renee Badey, Office of Asset and Enterprise Development (189), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC, 20420 (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.* specifically provides that the Secretary may enter into an Enhanced-Use lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: May 28, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 97–15800 Filed 6–16–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 116

Tuesday, June 17, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Alternative Method of Compliance With Requirements for Delivery and Retention of Monthly, Confirmation and Purchase-and-Sale Statements

Correction

In rule document 97–15071, beginning on page 31507 in the issue of Tuesday, June 10, 1997, make the following corrections:

1. On page 31057, in the third column, in the first paragraph, in the second line from the bottom, ''rule'' should read ''Rule''.

2. On page 31507, in the third column, in footnote 2, in paragraph (2)(ii), in the third line, ''period'' should read ''period,''.

3. On page 31507, in the third column, in footnote 2, in paragraph (2)(ii), in the fifth line, ''transactions'' should read ''transaction''.

4. On page 31508, in the second column, in footnote 5, in the fourth line, ''has'' should read ''had''.

5. On page 31508, in the third column, in footnote 8, in the third line from the bottom, ''FMCs' '' should read ''FCMs' ''.

6. On page 31510, in the first column, in the first full paragraph, in the eleventh line, ''and'' should read ''an''.

7. On page 31510, in the second column, in footnote 23, in the fourth line from the bottom, ''records images'' should read ''records or images''.

8. On page 31510, in the third column, in footnote 26, in the fourth line from the bottom, ''and'' should read ''an''.

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Chapter XXXV

RIN 3206-AG87, 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Office of Personnel Management

Correction

In rule document 96–18020 beginning on page 36993 in the issue of Tuesday, July 16, 1996, make the following correction:

§ 4501.103 [Corrected]

On page 36996, in the third column, in § 4501.103(a)(3), in the last line, ''CFR'' should read ''CFC''.

BILLING CODE 1505-01-D

Federal Register

Tuesday
June 17, 1997

Part II

Federal Communications Commission

47 CFR Parts 36, 54, and 69
Universal Service; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36, 54, and 69

[CC Docket No. 96–45; FCC 97–157]

Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Report and Order released May 8, 1997, promulgates rules implementing the statutory requirements of the Telecommunications Act of 1996 relating to universal service. The rules adopted in this Order are intended to promote affordable access to telecommunications and information services to low-income consumers and consumers residing in high cost, rural, and insular regions of the nation. The Order establishes the definition of services to be supported by Federal universal service support mechanisms, carriers eligible for universal service support, and the specific timetable for implementation. The Order modifies existing federal universal service support in the interstate high cost fund, the dial equipment minutes weighting program, long term support, and the Lifeline and Link-Up program. In addition, this Order establishes new universal service support mechanisms for eligible schools and libraries to purchase telecommunications services at discounted rates and eligible rural health care providers to have access to telecommunications services at rates comparable to those in urban areas.

EFFECTIVE DATES: July 17, 1997, except for Subpart E of Part 54 which will become effective on January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Timothy Peterson, Legal Counsel, Common Carrier Bureau, (202) 418–1500, or Sheryl Todd, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted May 7, 1997, and released May 8, 1997. The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. Pursuant to the Telecommunications Act of 1996, the Commission released a Notice of Proposed Rulemaking and Order Establishing Joint Board, Federal-State Joint Board on Universal Service, CC Docket No. 96–45 on March 8, 1996 (61 FR 10499 (March 14, 1996)), a Recommended Decision on November 8, 1996 (61 FR 63778 (December 2, 1996)), and a Public Notice on November 18, 1996 (61 FR 63778 (December 2, 1996)) seeking comment on rules to implement sections 254 and 214(e) of the Act relating to universal service. As required by the Regulatory Flexibility Act (RFA), the Report and Order contains a Final Regulatory Flexibility Analysis. Pursuant to section 604 of the RFA, the Commission performed a comprehensive analysis of the Report and Order with regard to small entities and small incumbent LECs. The Report and Order also contains new information collection requirements subject to the Paperwork Reduction Act (PRA). The Commission has published a separate notice in the **Federal Register** relating to these information collection requirements (62 FR 28024 (May 22, 1997)).

Summary of the Report and Order:

Principles

1. Pursuant to section 254(b)(7) and consistent with the Joint Board's recommendation, we establish ''competitive neutrality'' as an additional principle upon which we base policies for the preservation and advancement of universal service. Consistent with the Joint Board's recommendation, we define this principle, in the context of determining universal service support, as:

> **Competitive Neutrality**—Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.

2. We agree with the Joint Board that, as a guiding principle, competitive neutrality is consistent with several provisions of section 254 including the explicit requirement of equitable and nondiscriminatory contributions. We also note that section 254(h)(2) requires the Commission to establish competitively neutral rules relating to access to advanced telecommunications and information services for eligible schools, health care providers, and libraries. In addition, we agree that an explicit recognition of competitive neutrality in the collection and distribution of funds and determination of eligibility in universal service support mechanisms is consistent with congressional intent and necessary to promote ''a pro-competitive, de-regulatory national policy framework.''

3. We concur in the Joint Board's recommendation that the principle of competitive neutrality in this context should include technological neutrality. Technological neutrality will allow the marketplace to direct the advancement of technology and all citizens to benefit from such development. By following the principle of technological neutrality, we will avoid limiting providers of universal service to modes of delivering that service that are obsolete or not cost effective. We also agree that the principle of competitive neutrality, including the concept of technological neutrality, should be considered in formulating universal service policies relating to each and every recipient and contributor to the universal service support mechanisms, regardless of size, status, or geographic location. We agree with the Joint Board that promoting competition is an underlying goal of the 1996 Act and that the principle of competitive neutrality is consistent with that goal. Accordingly, we conclude that the principle of competitive neutrality is ''necessary and appropriate for the protection of the public interest'' and is ''consistent with this Act'' as required by section 254(b)(7).

4. We agree with the Joint Board's recommendation that our universal service policies should strike a fair and reasonable balance among all of the principles identified in section 254(b) and the additional principle of competitive neutrality to preserve and advance universal service. Consistent with the recommendations of the Joint Board, we find that promotion of any one goal or principle should be tempered by a commitment to ensuring the advancement of each of the principles enumerated above.

5. We agree with the Joint Board's conclusion that Congress specifically addressed issues relating to individuals with disabilities in section 255 and, therefore, do not establish, at this time, additional principles related to individuals with disabilities for purposes of section 254. In the *Notice of Inquiry* adopted pursuant to section 255 (61 FR 50465 (September 26, 1996)), the Commission sought comment on the implementation and enforcement of section 255. The Commission also recently released a *Notice of Inquiry* seeking comment on improving telecommunications relay service (TRS) for individuals with hearing and speech disabilities (CC Docket No. 90–571). Although we are mindful of the commenters' concerns regarding the affordability of, and access to, telecommunications services by individuals with disabilities, we find that those concerns are more appropriately addressed in the context of the Commission's implementation of

section 255. Therefore, we do not adopt principles related to telecommunications users with disabilities in this proceeding.

6. We have considered the requests to promote access to affordable telecommunications services to other groups and organizations, including minorities and community-oriented organizations, but we decline to adopt these proposals as additional principles. We decline at this time to adopt additional principles the purpose of which would be to extend universal service support to individuals, groups, or locations other than those identified in section 254.

Definition of Universal Service: What Services To Support

7. Designated Services

We generally adopt the Joint Board's recommendation and define the ''core'' or ''designated'' services that will be supported by universal service support mechanisms as: Single-party service; voice grade access to the public switched network; DTMF signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers. In arriving at this definition, we have adopted the Joint Board's analysis and recommendation that, for purposes of section 254(c)(1), the Commission define ''telecommunications services'' in a functional sense, rather than on the basis of tariffed services. We find that this definition of core universal services promotes competitive neutrality because it is technology neutral, and provides more flexibility for defining universal service than would a services-only approach. We also find that all four criteria enumerated in section 254(c)(1) must be considered, but not each necessarily met, before a service may be included within the general definition of universal service, should it be in the public interest. We interpret the statutory language, particularly the word ''consider,'' as providing flexibility for the Commission to establish a definition of services to be supported, after it considers the criteria enumerated in section 254(c)(1) (A) through (D). We conclude that the core services that we have designated to receive universal service support are consistent with the statutory criteria in section 254(c)(1).

8. Single-Party Service

We agree with and adopt the Joint Board's conclusion that single-party service is widely available and that a majority of residential customers subscribe to it, consistent with section 254(c)(1)(B). Moreover, we concur with the Joint Board's conclusion that single-party service is essential to public health and safety in that it allows residential consumers access to emergency services without delay. Single-party service also is generally consistent with the public interest, convenience, and necessity because, by eliminating the sharing required by multi-party service, single-party service significantly increases the consumer's ability to place calls irrespective of the actions of other network users and with greater privacy than party line service can assure. In addition, single-party service is being deployed in public telecommunications networks by telecommunications carriers. We adopt the finding that the term ''single-party service'' means that only one customer will be served by each subscriber loop or access line. Eligible carriers must offer single-party service in order to receive support regardless of whether consumers choose to subscribe to single- or multi-party service. In addition, to the extent that wireless providers use spectrum shared among users to provide service, we find that wireless providers offer the equivalent of single-party service when they offer a dedicated message path for the length of a user's particular transmission. We concur with the Joint Board's recommendation not to require wireless providers to offer a single channel dedicated to a particular user at all times.

9. Voice Grade Access to the Public Switched Network

We conclude that voice grade access includes the ability to place calls, and thus incorporates the ability to signal the network that the caller wishes to place a call. Voice grade access also includes the ability to receive calls, and thus incorporates the ability to signal the called party that an incoming call is coming. We agree that these components are necessary to make voice grade access fully beneficial to the consumer. We find that, consistent with section 254(c)(1), voice grade access to the public switched network is an essential element of telephone service, is subscribed to by a substantial majority of residential customers, and is being deployed in public telecommunications networks by telecommunications carriers. In addition, we find voice grade access to be essential to education, public health, and public safety because it allows consumers to contact essential services such as schools, health care providers, and public safety providers. For this reason, it is also consistent with the public interest, convenience, and necessity.

10. We also adopt the Joint Board's recommendation that voice grade access should occur in the frequency range between approximately 500 Hertz and 4,000 Hertz for a bandwidth of approximately 3,500 Hertz. Although we conclude below that certain higher bandwidth services should be supported under section 254(c)(3) for eligible schools, libraries, and rural health care providers, we decline to adopt, pursuant to section 254(c)(1), a higher bandwidth than that recommended by the Joint Board. We conclude, except as further designated with respect to eligible schools, libraries and health care providers, that voice grade access, and not high speed data transmission, is the appropriate goal of universal service policies at this time because we are concerned that supporting an overly expansive definition of core services could adversely affect all consumers by increasing the expense of the universal service program and, thus, increasing the basic cost of telecommunications services for all.

11. Support for Local Usage

We agree with the Joint Board that the Commission should determine the level of local usage to be supported by federal universal service mechanisms and that the states are best positioned to determine the local usage component for purposes of state universal service mechanisms. Further, we agree that, in order for consumers in rural, insular, and high cost areas to realize the full benefits of affordable voice grade access, usage of, and not merely access to, the local network should be supported.

12. We find, consistent with the Joint Board's conclusion, that we have the authority to support a certain portion of local usage, pursuant to the universal service principles adopted above. In particular, section 254(b)(1) states that ''[q]uality services should be available at just, reasonable, and affordable rates.'' As a result, ensuring affordable ''access'' to those services is not sufficient. Universal service must encompass the ability to use the network, including the ability to place calls at affordable rates.

13. We are also concerned, however, that consumers might not receive the benefits of universal service support unless we determine a minimum amount of local usage that must be included within the supported services. We intend to consider this issue in our Further Notice of Proposed Rulemaking (''FNPRM'') on a forward-looking economic cost methodology, which will

be issued by June 1997. We are making various changes to the existing universal service support mechanisms—including making support portable to competing carriers—that will become effective on January 1, 1998. The Commission will also separately seek further information regarding, for example, local usage, and local usage patterns, in order to determine the appropriate amount of local usage that should be provided by carriers receiving universal service support. We will, by the end of 1997, quantify the amount of local usage that carriers receiving universal service support will be required to provide.

14. Defining minimum levels of usage is critical to the construction of a competitive bidding system for providing universal service to high cost areas. An auction for only the ''access'' portion of providing local service would be neither competitively nor technologically neutral, because competitors and technologies with low ''access'' costs yet high per-minute costs would be unduly favored in such an auction. This could result in awarding universal service support to a less efficient technology, which is the precise result that a competitive bidding system is meant to avoid. In addition, a carrier with low access costs could then charge high per-minute rates to consumers, which would increase consumers' overall bills, rather than reducing them, as is the expected result of competition. Such a result is not consistent with the principle in section 254(b)(1) that these ''services'' are to be ''affordable.''

15. DTMF Signaling

The Joint Board recommended including DTMF signaling or its digital functional equivalent among the supported services, and we adopt this recommendation. We find that the network benefit that emanates from DTMF signaling, primarily rapid call set-up, is consistent with the public interest, convenience, and necessity, pursuant to section 254(c)(1)(D). Although consumers do not elect to subscribe to DTMF signaling, we find that DTMF signaling provides network benefits, such as accelerated call set-up, that are essential to a modern telecommunications network. In addition, we agree with NENA's characterization of DTMF signaling as a potential life- and property-saving mechanism because it speeds access to emergency services. Thus, we find that supporting DTMF signaling is essential to public health and public safety, consistent with section 254(c)(1)(A), and is being deployed in public telecommunications networks by telecommunications carriers, consistent with section 254(c)(1)(C). We also adopt the Joint Board's conclusion that other methods of signaling, such as digital signaling, can provide network benefits equivalent to those of DTMF signaling. In particular, we note that wireless carriers use out-of-band digital signaling mechanisms for call set-up, rather than DTMF signaling. Consistent with the principle of competitive neutrality, we find it is appropriate to support out-of-band digital signaling mechanisms as an alternative to DTMF signaling. Accordingly, we include DTMF signaling and equivalent digital signaling mechanisms among the services supported by federal universal service mechanisms.

16. Access to Emergency Services

In addition, we concur with the Joint Board's conclusion that access to emergency services, including access to 911 service, be supported by universal service mechanisms. We agree with the conclusion that access to emergency service i.e., the ability to reach a public emergency service provider, is ''widely recognized as essential to * * * public safety,'' consistent with section 254(c)(1)(A). Due to its obvious public safety benefits, including access to emergency services among the core services is also consistent with the public interest, convenience, and necessity. Further, consistent with the Joint Board's recommendation and NENA's comments in favor of supporting access to 911 service, we define access to emergency services to include access to 911 service. Noting that nearly 90 percent of lines today have access to 911 service capability, the Joint Board found that access to 911 service is widely deployed and available to a majority of residential subscribers. For these reasons, we include telecommunications network components necessary for access to emergency services, including access to 911, among the supported services.

17. We also include the telecommunications network components necessary for access to E911 service among the services designated for universal service support. Access to E911 is essential to public health and safety because it facilitates the determination of the approximate geographic location of the calling party. We recognize, however, that the Commission does not currently require wireless carriers to provide access to E911 service. As set forth in the Commission's *Wireless E911 Decision* (61 FR 40348 (August 2, 1996)), access to E911 includes the ability to provide Automatic Numbering Information (''ANI''), which permits that the PSAP have call back capability if the call is disconnected, and Automatic Location Information (''ALI''), which permits emergency service providers to identify the geographic location of the calling party. We recognize that wireless carriers are currently on a timetable, established in the *Wireless E911 Decision*, for implementing both aspects of access to E911. For universal service purposes, we define access to E911 as the capability of providing both ANI and ALI. We note, however, that wireless carriers are not required to provide ALI until October 1, 2001. Nevertheless, we conclude that, because of the public health and safety benefits provided by access to E911 services the telecommunications network components necessary for such access will be supported by federal universal service mechanisms for those carriers that are providing it. We recognize that wireless providers will be providing access to E911 in the future to the extent that the relevant locality has implemented E911 service. In addition, because the *Wireless E911 Decision* establishes that wireless carriers are required to provide access to E911 only if a mechanism for the recovery of costs relating to the provision of such services is in place, there is at least the possibility that wireless carriers receiving universal service support will be compensated twice for providing access to E911. We intend to explore whether the possibility is in fact being realized and, if so, what steps we should take to avoid such over-recovery in a Further Notice of Proposed Rulemaking.

18. We support the telecommunications network components necessary for access to 911 service and access to E911 service, but not the underlying services themselves, which combine telecommunications service and the operation of the PSAP and, in the case of E911 service, a centralized database containing information identifying approximate end user locations. The telecommunications network represents only one component of 911 and E911 services; local governments provide the PSAP and generally support the operation of the PSAP through local tax revenues. We conclude that both 911 service and E911 service include information service components that cannot be supported under section 254(c)(1), which describes universal service as ''an evolving level of telecommunications services.'' Accordingly, we include only the telecommunications network components necessary for access to 911

and E911 services among the services that are supported by federal universal service mechanisms.

19. Access to Operator Services

In addition, we adopt the Joint Board's recommendation to include access to operator services in the general definition of universal service. Access to operator services is widely deployed and used by a majority of residential customers. For purposes of defining the core section 254(c)(1) services and consistent with the Joint Board's recommendation, we base our definition of ''operator services'' on the definition the Commission used to define the duties imposed upon LECs by section 251(b)(3), namely, ''any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call.'' Contrary to the suggestion of CWA, there is no evidence on the record to suggest that automated systems provide inadequate access to operator services for consumers in emergency situations. We also do not require initial contact with a live operator for purposes of operator services because we expect that most consumers will more appropriately rely upon their local 911 service in an emergency situation. To the extent that access to operator services enables callers to place collect, third-party billed, and person-to-person calls, among other things, we find that such access may be essential to public health and is consistent with the public interest, convenience, and necessity.

20. Access to Interexchange Service

We adopt the Joint Board's recommendation to include access to interexchange service among the services supported by federal universal service mechanisms. We conclude that access to interexchange service means the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network. This decision is consistent with the principle set forth in section 254(b)(3) that ''consumers * * * should have access to telecommunications and information services including interexchange services.'' In addition, we agree that the majority of residential customers currently have access to interexchange service, thus satisfying a criterion set forth in section 254(c)(1)(B). Access to interexchange service also is widely deployed in public telecommunications networks by telecommunications carriers. Further, as observed by the Joint Board and commenters, access to interexchange service is essential for education, public health, and public safety, particularly for customers who live in rural areas and require access to interexchange service to reach medical and emergency services, schools, and local government offices. For these reasons, access to interexchange service also meets the public interest, convenience, and necessity criterion of section 254(c)(1)(D).

21. We emphasize that universal service support will be available for access to interexchange service, but not for the interexchange or toll service. We find that the record does not support including toll service among the services designated for support, although, as discussed below, we find that the extent to which rural consumers must place toll calls to reach essential services should be considered when assessing affordability. Nevertheless, universal service should not be limited only to ''non-competitive'' services. One of the fundamental purposes of universal service is to ensure that rates are affordable regardless of whether rates are set by regulatory action or through the competitive marketplace. We note that section 254(k), which forbids telecommunications carriers from using services that are not competitive to subsidize competitive services, is not inconsistent with our conclusion that it is permissible to support competitive services.

22. We do not include equal access to interexchange service among the services supported by universal service mechanisms. Equal access to interexchange service permits consumers to access the long-distance carrier to which the consumer is presubscribed by dialing a 1+ number. As discussed below, including equal access to interexchange service among the services supported by universal service mechanisms would require a Commercial Mobile Radio Service (CMRS) provider to provide equal access in order to receive universal service support. We find that such an outcome would be contrary to the mandate of section 332(c)(8), which prohibits any requirement that CMRS providers offer ''equal access to common carriers for the provision of toll services.'' Accordingly, we decline to include equal access to interexchange service among the services supported under section 254(c)(1).

23. We note that the Commission has not required CMRS providers to provide dialing parity to competing providers under section 251(b)(3) because the Commission has not yet determined that any CMRS provider is a LEC. We seek to implement the universal service provisions of section 254 in a manner that is not ''biased toward any particular technologies,'' consistent with the Joint Board's recommendation. In light of the provision of section 332(c)(8) stating that non-LEC CMRS providers are statutorily exempt from providing equal access and because the Commission has not determined that any CMRS providers should be considered LECs, we find that supporting equal access would undercut local competition and reduce consumer choice and, thus, would undermine one of Congress' overriding goals in adopting the 1996 Act. Accordingly, we do not include equal access to interexchange carriers in the definition of universal service at this time.

24. Access to Directory Assistance and White Pages Directories

We also adopt the Joint Board's recommendation to include access to directory assistance, specifically, the ability to place a call to directory assistance, among the core services pursuant to section 254(c)(1). Access to directory assistance enables customers to obtain essential information, such as the telephone numbers of government, business, and residential subscribers. We agree that directory assistance is used by a substantial majority of residential customers, is widely available, is essential for education, public health, and safety, and is consistent with the public interest, convenience, and necessity. Accordingly, we conclude that providing universal service support for access to directory assistance is consistent with the statutory criteria of section 254(c)(1).

25. We further agree with the Joint Board's recommendation not to support white pages directories and listings. We concur with the Joint Board's determination that white pages listings are not ''telecommunications services'' as that term is defined in the Act. As the Joint Board recognized, unlike white pages directories and listings, access to directory assistance is a functionality of the loop and, therefore, is a service in the functional sense.

26. Toll Limitation Services

Additionally, we include the toll limitation services for qualifying low-income consumers among those that will be supported pursuant to section 254(c). We find that including these services within the supported services is essential to the public health and safety because, as discussed below, toll limitation services will help prevent subscribership levels for low-income

consumers from declining. Thus, we find that toll limitation services will promote access to the public switched network for low-income consumers and, therefore, are in the public interest, consistent with the criteria of section 254(c)(1).

27. Access to Internet Services

We agree with the Joint Board's determination that Internet access consists of more than one component. Specifically, we recognize that Internet access includes a network transmission component, which is the connection over a LEC network from a subscriber to an Internet Service Provider, in addition to the underlying information service. We also concur with the Joint Board's observation that voice grade access to the public switched network usually enables customers to secure access to an Internet Service Provider, and, thus, to the Internet. We conclude that the information service component of Internet access cannot be supported under section 254(c)(1), which describes universal service as ''an evolving level of telecommunications services.'' Furthermore, to the extent customers find that voice grade access to the public switched network is inadequate to provide a sufficient telecommunications link to an Internet service provider, we conclude that such higher quality access links should not yet be included among the services designated for support pursuant to section 254(c)(1). We find that a network transmission component of Internet access beyond voice grade access should not be supported separately from voice grade access to the public switched network because the record does not indicate that a substantial majority of residential customers currently subscribe to Internet access by using access links that provide higher quality than voice grade access. In addition, although access to Internet services offers benefits that contribute to education and public health, we conclude that it is not ''essential to education, public health, or public safety'' as set forth in section 254(c)(1)(A). Under the more expansive authority granted in section 254(h), however, we agree that supporting Internet access under that section is consistent with Congress' intent to support Internet access for eligible schools, libraries, and rural health care providers.

28. Other Services

We conclude that, at this time, no other services that commenters have proposed to include in the general definition of universal service substantially meet the criteria set forth in section 254(c)(1). We emphasize that this section also defines universal service as ''evolving'' and, therefore, as described below, the Commission will review the services supported by universal service mechanisms no later than January 1, 2001. In addition, as discussed below, we find that the issues relating to the telecommunications needs of individuals with disabilities, including accessibility and affordability of services, will be addressed in the context of the Commission's implementation of section 255.

29. We are mindful of the concern expressed by commenters that an overly broad definition of universal service might have the unintended effect of creating a barrier to entry for some carriers because carriers must provide each of the core services in order to be eligible for universal service support. We concur with the Joint Board's conclusion that conditioning a carrier's eligibility for support upon its provision of the core services will not impose an anti-competitive barrier to entry. We note that other services proposed by commenters, at a later time, may become more widely deployed than they are at present, or otherwise satisfy the statutory criteria by which we and the Joint Board are guided.

30. Feasibility of Providing Designated Service

We conclude that eligible carriers must provide each of the designated services in order to receive universal service support. In three limited instances, however, we conclude that the public interest requires that we allow a reasonable period during which otherwise eligible carriers may complete network upgrades required for them to begin offering certain services that they are currently incapable of providing. Given the Joint Board's finding that not all incumbent carriers are currently able to offer single-party service, we find that excluding such carriers from eligibility for universal service support might leave some service areas without an eligible carrier, especially in areas where there currently is no evidence of competitive entry. Therefore, as to single-party service, we will permit state commissions, upon a finding of ''exceptional circumstances,'' to grant an otherwise eligible carrier's request that, for a designated period, the carrier will receive universal service support while it completes the specified network upgrades necessary to provide single-party service. This is consistent with the Joint Board's recommendation that state commissions be permitted to grant requests by otherwise eligible carriers for a period to make necessary upgrades if they currently are unable to provide single-party service.

31. We conclude, consistent with the Joint Board's finding that some carriers are not currently capable of providing access to E911 service, that it may be warranted to provide universal service support to carriers that are not required under Commission rules to provide E911 service and to carriers that are completing the network upgrades required for them to provide access to E911 service. Access to E911 will be supported only to the extent that the relevant locality has implemented E911 service. If the relevant locality has not implemented E911 service, otherwise eligible carriers that are covered by the Commission's *Wireless E911 Decision* are not required to provide such access at this time to qualify for universal service support. Even in cases in which the locality has implemented E911 service, some wireless carriers are not currently capable of providing access to E911 service. Although we have directed cellular, broadband PCS, and certain SMR carriers to provide access to E911 service, we set a five-year period during which these carriers must make the technical upgrades necessary to offer access to E911 service. Consequently, requiring carriers to provide access to E911 service at this time may prevent many wireless carriers from receiving universal service support during the period that we have already determined to be appropriate for wireless carriers to complete preparations for their offering E911 service. We find that this would be contrary to the principle that universal service policies and rules be competitively neutral. In light of these considerations, we will make some accommodation during the period in which these carriers are upgrading their systems.

32. The Joint Board envisioned granting a period to make upgrades while still receiving support only if a carrier could meet a ''heavy burden that such a * * * period is necessary and in the public interest'' and if ''exceptional circumstances'' warranted the granting of support during that period. We find that the Joint Board's recommendation provides a reasoned and reasonable approach to ensuring access to single-party service while, at the same time, recognizing that ''exceptional circumstances'' may prevent certain carriers serving rural areas from offering single-party service. We conclude that this approach also makes sense in the context of toll limitation service and access to E911 when a locality has implemented E911 service. Accordingly,

we conclude that a carrier that is otherwise eligible to receive universal service support but is currently incapable of providing single-party service, toll limitation service, or access to E911 in the case where the locality has implemented E911 service may, if it provides each of the other designated services, petition its state commission for permission to receive universal service support for the designated period during which it is completing the network upgrades required so that it can offer these services. A carrier that is incapable of offering one or more of these three specific universal services must demonstrate to the state commission that ''exceptional circumstances'' exist with respect to each service for which the carrier desires a grant of additional time to make network upgrades.

33. We emphasize that this relief should be granted only upon a finding that ''exceptional circumstances'' prevent an otherwise eligible carrier from providing single-party service, toll limitation, or access to E911 when the locality has implemented E911 service. A carrier can show that exceptional circumstances exist if individualized hardship or inequity warrants a grant of additional time to comply with the general requirement that eligible carriers must provide single-party service, toll limitation service, and access to E911 when the locality has implemented E911 service and that a grant of additional time to comply with these requirements would better serve the public interest than strict adherence to the general requirement that an eligible telecommunications carrier must be able to provide these services to receive universal service support. The period during which a carrier could receive support while still completing essential upgrades should extend only as long as the relevant state commission finds that ''exceptional circumstances'' exist and should not extend beyond the time that the state commission deems necessary to complete network upgrades. We conclude that this is consistent with the intent of section 214(e) because it will ensure that ultimately all eligible telecommunications carriers offer all of the services designated for universal service support.

34. We recognize that some state commissions already may have mandated single-party service for telecommunications service providers serving their jurisdictions. If a state commission has adopted a timetable by which carriers must offer single-party service, a carrier may rely upon that previously established timetable and need not request another transition period for federal universal service purposes. Specifically, where a state has ordered a carrier to provide single-party service within a specified period pursuant to a state order that precedes the release date of this Order, the carrier may rely upon the timetable established in that order and receive universal service support for the duration of that period.

35. Extent of Universal Service

The Joint Board recommended that support for designated services be limited to those carried on a single connection to a subscriber's primary residence and to businesses with only a single connection. In light of our determination, however, to adopt a modified version of the existing universal service support system for high cost areas, we conclude, consistent with the proposal of the state Joint Board members, that all residential and business connections in high cost areas that currently receive high cost support should continue to be supported for the periods set forth below. For rural telephone companies this means that both multiple business connections and multiple residential connections will continue to receive universal service support at least until January 1, 2001. We intend, however, to continue to evaluate the Joint Board's recommendation to limit support for primary residential connections and businesses with a single connection as we further develop a means of precisely calculating the forward-looking economic cost of providing universal service in areas currently served by non-rural telephone companies. As we determine how to calculate forward-looking economic cost, or as states do so in state-conducted cost studies, we necessarily will examine the forward-looking economic cost of supporting additional residential connections or multiple connection businesses. Depending on how we determine the forward-looking economic cost of the primary residential connection, for example, there may be little incremental cost to additional residential connections. In that case, for instance, there would be no need to support additional residential connections. We will consider the forward-looking cost of supporting designated services provided to multiple-connection businesses as well. We recognize the arguments raised by the several parties that commented on this aspect of the Joint Board's recommendation, but we do not address the merits of these arguments at this time. We intend to examine the record on this issue in our FNRPM on a forward-looking economic cost methodology.

36. Quality of Service

We concur with the Joint Board's recommendation against the establishment of federal technical standards as a condition to receiving universal service support. Further, we agree with the Joint Board that the Commission should not adopt service quality standards ''beyond the basic capabilities that carriers receiving universal service support must provide.'' Section 254(b)(1) establishes availability of quality services as one of the guiding principles of universal service, but, contrary to CWA's characterization of this section as a statutory requirement, section 254(b)(1) does not mandate specific measures designed to ensure service quality. Rather, section 254(b) sets forth the statutory principles that the Joint Board considered when making its recommendations and, similarly, must guide the Commission as it implements section 254.

37. Based on the Joint Board's recommendation that the Commission not establish federal technical standards as a condition to receiving universal service support, we conclude that the Commission should rely upon existing data, rather than specific standards, to monitor service quality at this time. Several states currently have service quality reporting requirements in place for carriers serving their jurisdictions. We find, consistent with the Joint Board's recommendation, that imposing additional requirements at the federal level would largely duplicate states' efforts. In addition, imposing federal service quality reporting requirements could be overly burdensome for carriers, particularly small telecommunications providers that may lack the resources and staff needed to prepare and submit the necessary data. For this reason, we also decline to expand, solely for universal service purposes, the category of telecommunications providers required to file ARMIS service quality and infrastructure reporting data. Currently, ARMIS filing requirements apply to carriers subject to price cap regulation that collectively serve 95 percent of access lines. We will not extend ARMIS reporting requirements to all carriers because we find that additional reporting requirements would impose the greatest burdens on small telecommunications companies.

38. We will rely upon service quality data provided by the states in combination with those data that the Commission already gathers from price cap carriers through existing data

collection mechanisms in order to monitor service quality trends. We concur with the Joint Board's recommendation that state commissions share with the Commission, to the extent carriers provide such data, information regarding, for example, the number and type of service quality complaints filed with state agencies. We encourage state commissions to submit to the Commission the service quality data they receive from their telecommunications carriers.

39. We conclude that states may adopt and enforce service quality rules that are competitively neutral, pursuant to section 253(b), and that are not otherwise inconsistent with rules adopted herein. We concur with commenters that favor state implementation of carrier performance standards. Relying on data compiled by the National Association of Regulatory Utilities Commissioners, we note that 40 states and the District of Columbia have service quality standards in place for telecommunications companies. Because most states have established mechanisms designed to ensure service quality in their jurisdictions, we find that additional efforts undertaken at the federal level would be largely redundant. We conclude that state-imposed measures to monitor and enforce service quality standards will help ''ensure the continued quality of telecommunications services, and safeguard the rights of consumers,'' consistent with section 253(b). In light of the existing state mechanisms designed to promote service quality, we conclude that state commissions are the appropriate fora for resolving consumers' specific grievances regarding service quality.

40. We agree with the Joint Board's conclusion that, to the extent the Joint Board recommended, and we adopt, specific definitions of the services designated for support, these basic capabilities establish minimum levels of service that carriers must provide in order to receive support. For example, we conclude above that voice grade access to the public switched network should occur in the frequency range between approximately 500 Hertz and 4,000 Hertz for a bandwidth of approximately 3,500 Hertz. Although not a service quality standard per se, this requirement will ensure that all consumers served by eligible carriers receive some minimum standard of service.

41. Reviewing the Definition of Universal Service

The Commission shall convene a Joint Board no later than January 1, 2001, to revisit the definition of universal service, as section 254(c)(2) anticipates. In addition to relying upon existing data collection mechanisms, such as ARMIS reports, the Commission will conduct any surveys or statistical analysis that may be necessary to make the evaluations required by section 254(c)(1) to change the definition of universal service.

Affordability

42. We agree with and adopt the Joint Board's finding that the definition of affordability contains both an absolute component (''to have enough or the means for''), which takes into account an individual's means to subscribe to universal service, and a relative component (''to bear the cost of without serious detriment''), which takes into account whether consumers are spending a disproportionate amount of their income on telephone service. We adopt the recommendation that a determination of affordability take into consideration both rate levels and non-rate factors, such as consumer income levels, that can be used to assess the financial burden subscribing to universal service places on consumers.

43. Subscribership Levels

We also concur in the Joint Board's finding that subscribership levels provide relevant information regarding whether consumers have the means to subscribe to universal service and, thus, represent an important tool in evaluating the affordability of rates. Based on recent nationwide subscribership data, the Joint Board judged that existing local rates are generally affordable. We find that recent subscribership data, indicating that 94.2 percent of all American households subscribed to telephone service in 1996, and the record in this proceeding are consistent with the Joint Board's determination. We recognize that affordable rates are essential to inducing consumers to subscribe to telephone service, and also that increasing the number of people connected to the network increases the value of the telecommunications network. Further, we note that insular areas generally have subscribership levels that are lower than the national average, largely as a result of income disparity, compounded by the unique challenges these areas face by virtue of their locations.

44. We also agree with the Joint Board that subscribership levels are not dispositive of the issue of whether rates are affordable. As the Joint Board concluded, subscribership levels do not address the second component of affordability, namely, whether paying the rates charged for services imposes a hardship for those who subscribe. Accordingly, we conclude that the Commission and states should use subscribership levels, in conjunction with rate levels and certain other non-rate factors, to identify those areas in which the services designated for support may not be affordable.

45. Non-Rate Factors

The record demonstrates that various other non-rate factors affect a consumer's ability to afford telephone service. We agree that the size of a customer's local calling area is one factor to consider when assessing affordability. Specifically, we concur with the Joint Board's finding that the scope of the local calling area ''directly and significantly impacts affordability,'' and, thus, should be a factor to be weighed when determining the affordability of rates. We further agree with the Joint Board that an examination that would focus solely on the number of subscribers to which one has access for local service in a local calling area would be insufficient. Instead, a determination that the calling area reflects the pertinent ''community of interest,'' allowing subscribers to call hospitals, schools, and other essential services without incurring a toll charge, is appropriate. In reaching this conclusion, we agree with commenters that affordability is affected by the amount of toll charges a consumer incurs to contact essential service providers such as hospitals, schools, and government offices that are located outside of the consumer's local calling area. Toll charges can greatly increase a consumer's expenditure on telecommunications services, mitigating the benefits of universal service support. In addition, rural consumers who must place toll calls to contact essential services that urban consumers may reach by placing a local call cannot be said to pay ''reasonably comparable'' rates for local telephone service when the base rates of the service are the same in both areas. Thus, we find that a determination of rate affordability should consider the range of a subscriber's local calling area, particularly whether the subscriber must incur toll charges to contact essential public service providers.

46. In addition, we agree with the Joint Board that consumer income levels should be among the factors considered when assessing rate affordability. We concur with the Joint Board's finding that a nexus exists between income level and the ability to afford universal service. A rate that is affordable to

affluent customers may not be affordable to lower-income customers. In light of the significant disparity in income levels throughout the country, per-capita income of a local or regional area, and not a national median, should be considered in determining affordability. As the Joint Board concluded, determining affordability based on a percentage of the national median income would be inequitable because of the significant disparities in income levels across the country. Specifically, we agree that such a standard would tend to overestimate the price at which services are affordable when applied to a service area where income level is significantly below the national median. Accordingly, we decline to adopt proposals to establish nationwide standards for measuring the impact of customer income levels on affordability.

47. We also agree with the Joint Board that cost of living and population density affect rate affordability. Like income levels, cost of living affects how much a consumer can afford to pay for universal services. The size of a consumer's calling area, which tends to be smaller in areas with low population density, affects affordability. In addition, given that cost of living and population density, like income levels, are factors that vary across local or regional areas, we find that these factors should be considered by region or locality.

48. Finally, we agree with and adopt the Joint Board's finding that legitimate local variations in rate design may affect affordability. Such variations include the proportion of fixed costs allocated between local services and intrastate toll services; proportions of local service revenue derived from per-minute charges and monthly recurring charges; and the imposition of mileage charges to recover additional revenues from customers located a significant distance from the wire center. We find that states, by virtue of their local rate-setting authority, are best qualified to assess these factors in the context of considering rate affordability.

49. Determining Rate Affordability

We agree with the Joint Board that states should exercise initial responsibility, consistent with the standards set forth above, for determining the affordability of rates. We further concur with the Joint Board's conclusion that state commissions, by virtue of their rate-setting roles, are the appropriate fora for consumers wishing to challenge the affordability of intrastate rates for both local and toll services. The unique characteristics of each jurisdiction render the states better suited than the Commission to make determinations regarding rate affordability. Each of the factors proposed by parties and endorsed by the Joint Board with the exception of subscribership levels—namely, local calling area size, income levels, cost of living, and population density—represents data that state regulators, as opposed to the Commission, are best situated to obtain and analyze.

50. As the Joint Board recommended, the Commission will work in concert with states and U.S. territories and possessions informally to address instances of low or declining subscribership levels. Such informal cooperation may consist of sharing data or conducting joint inquiries in an attempt to determine the cause of low or declining subscribership rates in a given state, or providing other assistance requested by a state. We will defer to the states for guidance on how best to implement federal-state collaborative efforts to ensure affordability. We find that this dual approach in which both the states and the Commission play significant roles in ensuring affordability is consistent with the statutory mandate embodied in section 254(i).

51. In addition, where ''necessary and appropriate,'' the Commission, working with the affected state or U.S. territory or possession, will open an inquiry to take such action as is necessary to fulfill the requirements of section 254. We conclude that such action is warranted with respect to insular areas. The record indicates that subscribership levels in insular areas are particularly low. Accordingly, we will issue a Public Notice to solicit further comment on the factors that contribute to the low subscribership levels that currently exist in insular areas, and to examine ways to improve subscribership in these areas.

52. Some commenters have suggested that the Commission provide universal service support for rates that are found to be unaffordable or where subscribership levels decline from current levels. We agree that, if subscribership levels begin to drop significantly from current levels, we may need to take further action. Among the benefits subscribership brings to individuals is access to essential services, such as emergency service providers, and access to entities such as schools, health care facilities and local governments. In addition, subscribers enjoy the increased value of the telephone network, i.e., the large numbers of people who can be reached via the network, that results from high subscribership levels. We agree with Puerto Rico Tel. Co. that, because the Puerto Rico subscribership level remains significantly below the national average, it is not appropriate to delay action until a subscribership level that is already low declines further. As discussed above, we find that further action is warranted with respect to insular areas.

53. In addition, we will continue actively to monitor subscribership across a wide variety of income levels and demographic groups and encourage states to do likewise. The Commission currently uses Census Bureau data to publish reports that illustrate subscribership trends among households, including subscribership by state, as well as nationwide subscribership rates by categories including income level, race, and age of household members, and household size. We find that any response to a decline in subscribership revealed by our analysis of the relevant data should be tailored to those who need assistance to stay connected to the network.

54. We concur with the Joint Board's recommendation to implement a national benchmark to calculate the amount of support eligible telecommunications carriers will receive for serving rural, insular, and high cost areas. The Joint Board declined to establish a benchmark based on income or subscribership and specifically did not equate the benchmark support levels with affordability. We agree. Setting the rural, insular and high cost support benchmark based on income and subscribership would fail to target universal service assistance and could therefore needlessly increase the amount of universal service support. Recent data show that telephone subscribership was 96.2 percent in 1996 for households with annual incomes of at least $15,175 and 85.4 percent for households with annual incomes below $15,175. The Joint Board concluded that, because telephone penetration declines significantly for low-income households, the impact of household income is more appropriately addressed through programs designed to help low-income households obtain and retain telephone service, rather than as part of the high cost support mechanism. Accordingly, we adopt the Joint Board's recommendation to channel support designed to assist low-income consumers through the Lifeline and Link Up programs, rather than through the high cost support methodology.

Carriers Eligible for Universal Service Support

55. Adoption of Section 214(e)(1) Criteria

Consistent with the Joint Board's recommendation, we adopt the statutory criteria contained in section 214(e)(1) as the rules for determining whether a telecommunications carrier is eligible to receive universal service support. Pursuant to those criteria, only a common carrier may be designated as an eligible telecommunications carrier, and therefore may receive universal service support. In addition, each eligible carrier must, throughout its service area: (1) Offer the services that are supported by federal universal service support mechanisms under section 254(c); (2) offer such services using its own facilities or a combination of its own facilities and resale of another carrier's services, including the services offered by another eligible telecommunications carrier; and (3) advertise the availability of and charges for such services using media of general distribution.

56. Statutory Construction of Section 214(e)

We conclude that section 214(e)(2) does not permit the Commission or the states to adopt additional criteria for designation as an eligible telecommunications carrier. As noted by the Joint Board, ''section 214 contemplates that any telecommunications carrier that meets the eligibility criteria of section 214(e)(1) shall be eligible to receive universal service support.'' Section 214(e)(2) states that ''[a] state commission shall * * * designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier * * *.'' Section 214(e)(2) further states that ''* * * the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1).'' Read together, we find that these provisions dictate that a state commission must designate a common carrier as an eligible carrier if it determines that the carrier has met the requirements of section 214(e)(1). Consistent with the Joint Board's finding, the discretion afforded a state commission under section 214(e)(2) is the discretion to decline to designate more than one eligible carrier in an area that is served by a rural telephone company; in that context, the state commission must determine whether the designation of an additional eligible carrier is in the public interest. The statute does not permit this Commission or a state commission to supplement the section 214(e)(1) criteria that govern a carrier's eligibility to receive federal universal service support.

57. In addition, state discretion is further limited by section 253: A state's refusal to designate an additional eligible carrier on grounds other than the criteria in section 214(e) could ''prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service'' and may not be ''necessary to preserve universal service.'' Accordingly, we conclude that the section 253 precludes states from imposing additional prerequisites for designation as an eligible telecommunications carrier. Although section 214(e) precludes states from imposing additional eligibility criteria, it does not preclude states from imposing requirements on carriers within their jurisdictions, if these requirements are unrelated to a carrier's eligibility to receive federal universal service support and are otherwise consistent with federal statutory requirements. Further, section 214(e) does not prohibit a state from establishing criteria for designation of eligible carriers in connection with the operation of that state's universal service mechanism, consistent with section 254(f).

58. Consistent with the findings we make above, we disagree with GTE's assertion that the use of the phrases ''a carrier that receives such support'' and ''any such support * * *'' instead of the phrase ''such eligible carrier'' in section 254(e) indicates that Congress intended to require carriers to meet criteria in addition to the eligibility criteria in section 214(e). We conclude that the quoted language indicates only that a carrier is not entitled automatically to receive universal service support once designated as an eligible telecommunications carrier.

59. The terms of section 214(e) do not allow us to alter an eligible carrier's duty to serve an entire service area. Consequently, we cannot modify the requirements of section 214(e) for carriers whose technology limits their ability to provide service throughout a state-defined service area. We note, however, that any carrier may, for example, use resale to supplement its facilities-based offerings in any given service area.

60. Additional Obligations as a Condition of Eligibility

We reject proposals to impose additional obligations as a condition of being designated an eligible telecommunications carrier pursuant to section 214(e) because section 214(e) does not grant the Commission authority to impose additional eligibility criteria.

61. We emphasize that, even if we had the legal authority to impose additional obligations as a condition of being designated an eligible telecommunications carrier, we agree with the Joint Board that these additional criteria are unnecessary to protect against unreasonable practices by other carriers. As the Joint Board explained, section 214(e) prevents eligible carriers from attracting only the most desirable customers by limiting eligibility to common carriers and by requiring eligible carriers to offer the supported services and advertise the availability of these services ''throughout the service area.''

62. We further conclude that adopting the eligibility criteria imposed by the statute without elaboration is consistent with the Joint Board's recommended principle of competitive neutrality because, once the forward-looking and more precisely targeted high cost methodology is in place, all carriers will receive comparable support for performing comparable functions. Several ILECs assert that the Joint Board's recommendation not to impose additional criteria is in conflict with its recommended principle of competitive neutrality because some carriers, such as those subject to COLR obligations or service quality regulation, perform more burdensome and costly functions than other carriers that are eligible for the same amount of compensation. The statute itself, however, imposes obligations on ILECs that are greater than those imposed on other carriers, yet section 254 does not limit eligible telecommunications carrier designation only to those carriers that assume the responsibilities of ILECs. We find that the imposition of additional criteria, to the extent that they would preclude some carriers from being designated eligible pursuant to section 214(e), would violate the principle of competitive neutrality.

63. Treatment of Particular Classes of Carriers

We agree with the Joint Board's recommendation that any telecommunications carrier using any technology, including wireless technology, is eligible to receive

universal service support if it meets the criteria under section 214(e)(1). We agree that any wholesale exclusion of a class of carriers by the Commission would be inconsistent with the language of the statute and the pro-competitive goals of the 1996 Act. The treatment granted to certain wireless carriers under section 332(c)(3)(A) does not allow states to deny wireless carriers eligible status. We also agree that non-ILECs and carriers subject to price cap regulation should be eligible for support. We agree with the Joint Board that price cap regulation is an important tool for smoothing the transition to competition and that its use should not foreclose price cap companies from receiving universal service support. We find that requiring price cap carriers to cover their costs of providing universal service through internal cross-subsidies would violate the statutory directive that support for universal service be ''explicit.'' Consequently, in our decision here and in the *Access Charge Reform Order*, we adopt a plan to eliminate implicit subsidies as we identify and make explicit universal service support. Because we have determined that we will not exclude price cap companies from eligibility, we agree with the Joint Board that we need not delineate the difference between price cap carriers and other carriers, as proposed in the Further Comment Public Notice.

64. We note that not all carriers are subject to the jurisdiction of a state commission. Nothing in section 214(e)(1), however, requires that a carrier be subject to the jurisdiction of a state commission in order to be designated an eligible telecommunications carrier. Thus tribal telephone companies, CMRS providers, and other carriers not subject to the full panoply of state regulation may still be designated as eligible telecommunications carriers.

65. Advertising

We agree with the Joint Board's analysis and recommendation that we not adopt, at this time, nationwide standards to interpret the requirement of section 214(e)(1)(B) that eligible carriers advertise, throughout their service areas, the availability of, and charges for, the supported services using media of general distribution. We agree that, in the first instance, states should establish any guidelines needed to govern such advertising. We agree that the states, as a corollary to their obligation to designate eligible telecommunications carriers, are in a better position to monitor the effectiveness of carriers' advertising throughout their service areas. We also agree with the Joint Board that competition will help ensure that carriers inform potential customers of the services they offer. Although we decline to adopt nationwide standards for interpreting section 214(e)(1)(B), we encourage states, as they determine whether to establish guidelines pursuant to that section, to consider the suggestion that the section 214(e)(1)(B) requirement that carriers advertise in ''media of general distribution'' is not satisfied by placing advertisements in business publications alone, but instead compels carriers to advertise in publications targeted to the general residential market. We conclude that no further regulations are necessary to define the term ''throughout.'' The dictionary definition —''in or through all parts; everywhere''—requires no further clarification.

66. Relinquishment of Eligible Carrier Designation

We conclude that no additional measures are needed to implement section 214(e)(4), the provision that reserves to the states the authority to act upon an eligible carriers's request to relinquish its designation as an eligible carrier.

67. Facilities Requirement

Section 214(e)(1) requires that, in order to be eligible for universal service support, a common carrier must offer the services supported by federal universal service support mechanisms throughout a service area ''either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier).'' In interpreting the facilities requirement, we first address the meaning of the term ''facilities'' and then address the meaning of the phrase ''own facilities.''

68. Defining the Term ''Facilities'' in Section 214(e)(1)

We interpret the term ''facilities,'' for purposes of section 214(e), to mean any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under section 254(c)(1). We conclude that this interpretation strikes a reasonable balance between adopting a more expansive definition of ''facilities,'' which would undermine the Joint Board's recommendation to exclude resellers from eligible status, and adopting a more restrictive definition of ''facilities,'' which we fear would thwart competitive entry into high cost areas.

69. We adopt this definition of ''facilities,'' in part, to remain consistent with the Joint Board's recommendation that ''a carrier that offers universal service solely through reselling another carrier's universal service package'' should not be eligible to receive universal service support. By encompassing only physical components of the telecommunications network that are used to transmit or route the supported services, this definition, in effect, excludes from eligibility a ''pure'' reseller that claims to satisfy the facilities requirement by providing its own billing office or some other facility that is not a ''physical component'' of the network, as defined in this Order. We find that our determination to define ''facilities'' in this manner is consistent with congressional intent to require that at least some portion of the supported services offered by an eligible carrier be services that are not offered through ''resale of another carrier's services.''

70. Whether the Use of Unbundled Network Elements Qualifies as a Carrier's ''Own Facilities''

We conclude that a carrier that offers any of the services designated for universal service support, either in whole or in part, over facilities that are obtained as unbundled network elements pursuant to section 251(c)(3) and that meet the definition of facilities set forth above, satisfies the facilities requirement of section 214(e)(1)(A).

71. In making this decision, we first look to the language of section 214(e)(1)(A), which references two classes of carriers that are eligible for support—carriers using their ''own facilities'' and carriers using ''a combination of (their) own facilities and resale of another carrier's services.'' Neither the statute nor the legislative history defines the term ''own'' as that term appears within the phrase ''own facilities'' in section 214(e)(1)(A). In addition, neither category in section 214(e)(1)(A) explicitly refers to unbundled network elements. Notwithstanding the lack of an express reference to unbundled network elements in section 214(e), however, we conclude that it is unlikely that Congress intended to deny designation as eligible to a carrier that relies, even in part, on unbundled network elements to provide service, given the central role of unbundled network elements as a means of entry into local markets. Because the statute is ambiguous with respect to whether a carrier providing service through the use of unbundled network elements is providing service through its ''own facilities'' or through

the ''resale of another carrier's services,'' we look to other sections of the Act and to legislative intent to resolve the ambiguity.

72. In so doing, we conclude that Congress did not intend to deny designation as eligible to a carrier that relies exclusively on unbundled network elements to provide service in a high cost area, given that the Act contemplates the use of unbundled network elements as one of the three primary paths of entry into local markets. We have consistently held that Congress did not intend to prefer one form of local entry over another. As we recognized in the *Local Competition Order* (61 FR 45476 (August 29, 1996)), ''[t]he Act contemplates three paths of entry into the local market—the construction of new networks, the use of unbundled elements of the incumbent's network, and resale. The 1996 Act requires us to implement rules that eliminate statutory and regulatory barriers and remove economic impediments to each.'' In the Recommended Decision, the Joint Board explicitly stated that ''[c]ompetitive neutrality'' is ''embodied in'' section 214(e). Indeed, the Joint Board recommended ''that the Commission reject arguments that only those telecommunications carriers that offer universal service wholly over their own facilities should be eligible for universal service [support].''

73. We conclude that the phrase ''resale of another carrier's services'' does not encompass the provision of service through unbundled network elements. The term ''resale'' used in section 251 refers to an ILEC's duty to offer, at wholesale rates, ''any telecommunications service that the carrier provides at retail'' as well as the duty of every LEC not to prohibit ''the resale of its telecommunications services.'' Section 251 makes it clear that an ILEC's duty to offer retail services at wholesale rates is distinct from an ILEC's obligation to provide ''nondiscriminatory access to network elements on an unbundled basis.'' We find that the statute's use, in section 214(e)(1), of the term used in sections 251(b)(1) and 251(c)(4)—''resale''—suggests that Congress contemplated that the provision of services via unbundled network elements was different from the ''resale of another carrier's services.'' In addition, to interpret the phrase ''resale of another carrier's services'' to encompass the provision of a telecommunications service through use of unbundled network elements obtained from an ILEC would require the Commission to find that the provision of nondiscriminatory access to an unbundled network element by an ILEC is the provision of a ''telecommunications service''—an interpretation that is not consistent with the Act. A ''network element'' is defined as a ''facility or equipment used in the provision of a telecommunications service'' that also ''includes features, functions, and capabilities that are provided by means of such facility or equipment * * *.'' A ''network element'' is not a ''telecommunications service.''

74. We conclude that, when a requesting carrier obtains an unbundled element, such element—if it is also a ''facility''—is the requesting carrier's ''own facilit[y]'' for purposes of section 214(e)(1)(A) because the requesting carrier has the ''exclusive use of that facility for a period of time.'' The courts have recognized many times that the word ''own''—as well as its numerous derivations—is a ''generic term'' that ''varies in its significance according to its use'' and ''designate[s] a great variety of interests in property.'' The word ''ownership'' is said to ''var(y) in its significance according to the context and the subject matter with which it is used.'' The word ''owner'' is a broad and flexible word, applying not only to legal title holders, but to others enjoying the beneficial use of property. Indeed, property may have more than one ''owner'' at the same time, and such ''ownership'' does not merely involve title interest to that property.

75. Additionally, we note that section 214(e)(1) uses the term ''own facilities'' and does not refer to facilities ''owned by'' a carrier. We conclude that this distinction is salient based on our finding that, unlike the term ''owned by,'' the term ''own facilities'' reasonably could refer to property that a carrier considers its own, such as unbundled network elements, but to which the carrier does not hold absolute title.

76. In the context of section 214(e)(1)(A), unbundled network elements are the requesting carrier's ''own facilities'' in that the carrier has obtained the ''exclusive use'' of the facility for its own use in providing services, and has paid the full cost of the facility, including a reasonable profit, to the ILEC. The opportunity to purchase access to unbundled network elements, as we explained in the *Local Competition Order,* provides carriers with greater control over the physical elements of the network, thus giving them opportunities to create service offerings that differ from services offered by an incumbent. This contrasts with the abilities of wholesale purchasers, which are limited to offering the same services that an incumbent offers at retail. This greater control distinguishes carriers that provide service over unbundled network elements from carriers that provide service by reselling wholesale service and leads us to conclude that, as between the two terms, carriers that provide service using unbundled network elements are better characterized as providing service over their ''own facilities'' as opposed to providing ''resale of another carrier's services.''

77. Unlike a pure reseller, a carrier that provides service using unbundled network elements bears the full cost of providing that element, even in high cost areas. Section 252(d)(1)(A)(i) requires that the price of an unbundled network element be based on cost; a carrier that purchases access to an unbundled network element incurs all of the forward-looking costs associated with that element. We conclude that universal service support should be provided to the carrier that incurs the costs of providing service to a customer. Because a carrier that purchases access to an unbundled network element incurs the costs of providing service, it is reasonable for us to find that such a carrier should be entitled to universal service support for the elements it obtains.

78. We conclude that interpreting the term ''own facilities'' to include unbundled network elements is the most reasonable interpretation of the statute, given Congress's intent that all three forms of local entry must be treated in a competitively neutral manner. If the term ''own facilities'' is interpreted not to include service provided through unbundled network elements, however, a carrier providing service using unbundled network elements would suffer a substantial cost disadvantage compared with carriers using other entry strategies. In effect, excluding a competitive local exchange carrier (CLEC) that uses exclusively unbundled network elements from being designated an eligible carrier could make it cost-prohibitive for CLECs choosing this entry strategy to serve high cost areas because ILECs serving those areas will receive universal service support. We cannot reconcile these implications with the ''pro-competitive'' goals of the 1996 Act and the goals of universal service and section 254. As a result, the most reasonable interpretation of section 214(e)(1)(A) is that the phrase ''own facilities'' includes the provision of service through unbundled network elements, and that a carrier that uses

exclusively unbundled network elements to serve customers would be entitled to receive the support payment, subject to the cap that we describe below, that would allow it to compete with carriers utilizing other entry strategies.

79. To hold otherwise would threaten the central principles of the universal service system and the 1996 Act. In the *Local Competition Order,* we explicitly stated that, in enacting section 251(c)(3), Congress did not intend to restrict the entry of CLECs that use exclusively unbundled network elements. Indeed, entry by exclusive use of unbundled elements might be common in high cost areas—for example, a carrier considering providing service to a single high-volume customer or only to a portion of a high cost area might be encouraged to offer service using unbundled elements throughout an entire service area if it could compete with the incumbent and other entrants that may already be receiving a payment from the universal service fund.

80. If we interpreted the term ''own facilities'' not to include the use of unbundled network elements, the end result would be that the entry strategy that includes the exclusive use of unbundled network elements would be the only form of entry that would not benefit from, either directly or indirectly, universal service support. A carrier that has constructed all of its facilities would certainly be eligible for support under section 214(e)(1), as would an entrant that offers service through a mix of facilities that it had constructed and resold services. A pure reseller indirectly receives the benefit of the support payment, because, as discussed above, the retail rate of the resold service already incorporates the support paid to the underlying incumbent carrier. Such an environment—in which some forms of entry are eligible for support but one form of entry is not—is not ''competitively neutral.'' In addition, this outcome would create an artificial disincentive for carriers using unbundled elements to enter into high cost areas.

81. Several commenters urge us to adopt an interpretation of the term ''own facilities'' that would exclude the use of unbundled network elements. These commenters assert that, in light of the Joint Board's recommendation that support be ''portable,'' a narrow interpretation of the section 214(e) facilities requirement is necessary to ensure that ILECs receive adequate funds to construct, maintain, and upgrade their telecommunications networks. We are not persuaded by these arguments because we find that the pricing rule in section 252(d)(1) that applies to unbundled network elements assures that the costs associated with the construction, maintenance, and repair of an incumbent's facilities, including a reasonable profit, would already be recovered through the payments made by the carrier purchasing access to unbundled network elements. The carrier purchasing access to those elements will, in turn, receive a universal service support payment. To the extent that these commenters' arguments are premised on their contention that unbundled network element prices do not compensate ILECs for their embedded costs, and that ILECs are constitutionally entitled to recovery of their embedded costs, we will address that issue in a later proceeding in our *Access Charge Reform* docket.

82. Although the states have the ultimate responsibility under section 214(e) for deciding whether a particular carrier should be designated as eligible, we are fully authorized to interpret the statutory provisions that govern that determination. This language appears in a federal statute, establishing a federal universal service program. It is clearly appropriate for a federal agency to interpret the federal statute that it has been entrusted with implementing. Moreover, we believe it is particularly important for us to set out a federal interpretation of the ''own facilities'' language in section 214, particularly as it relates to the use of unbundled network elements. We note that the ''own facilities'' language in section 214(e)(1)(A) is very similar to language in section 271(c)(1)(A), governing Bell operating company (BOC) entry into interLATA services. While we are not interpreting the language in section 271 in this Order, given the similarity of the language in these two sections, we would find it particularly troubling to allow the states unfettered discretion in interpreting and applying the ''own facilities'' language in section 214(e). In order to avoid the potential for conflicting interpretations from different states, we believe it is important to set forth a single, federal interpretation, so that the ''own facilities'' language is consistently construed and applied.

83. Level of Facilities Required To Satisfy the Facilities Requirement

We adopt the Joint Board's conclusion that a carrier need not offer universal service wholly over its own facilities in order to be designated as eligible because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale. We find that the statute does not dictate that a carrier use a specific level of its ''own facilities'' in providing the services designated for universal service support given that the statute provides only that a carrier may use a ''combination of its own facilities and resale'' and does not qualify the term ''own facilities'' with respect to the amount of facilities a carrier must use. For the same reasons, we find that the statute does not require a carrier to use its own facilities to provide each of the designated services but, instead, permits a carrier to use its own facilities to provide at least one of the supported services. By including carriers relying on a combination of facilities and resale within the class of carriers eligible to receive universal service support, and by declining to specify the level of facilities required, we believe that Congress sought to accommodate the various entry strategies of common carriers seeking to compete in high cost areas. We conclude, therefore, that, if a carrier uses its own facilities to provide at least one of the designated services, and the carrier otherwise meets the definition of ''facilities'' adopted above, then the facilities requirement of section 214(e) is satisfied. For example, we conclude that a carrier could satisfy the facilities requirement by using its own facilities to provide access to operator services, while providing the remaining services designated for support through resale.

84. In arriving at this conclusion, we compare Congress's use of qualifying language in the section 271(c)(1)(A) facilities requirement with the absence of such language in the section 214(e) requirement. Section 271(c)(1)(A) provides that a BOC that is seeking authorization to originate in-region, interLATA services must enter into interconnection agreements with competitors that offer ''telephone exchange service either exclusively over their own facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier.'' By contrast, section 214(e) does not mandate the use of any particular level of a carrier's own facilities.

85. Several ILECs assert that eligible carriers that furnish only a *de minimis* level of facilities should not be entitled to receive universal service support. ILECs are concerned that, unless a carrier is required to provide a substantial level of its own facilities throughout a service area, a CLEC may be able to receive a level of support in excess of its actual costs, and thereby gain a competitive advantage over

ILECs. For example, ILECs argue that, because the prices of unbundled network elements may be averaged over smaller geographic areas than universal service support, the cost that a competitive carrier will incur for serving a customer using unbundled network elements will not match the level of universal service support the CLEC will receive for serving that customer.

86. This asymmetry could arise because of the procedures currently used to calculate the cost of serving a customer. Because it is administratively infeasible to calculate the precise cost of providing service to each customer in a service area, and because rate averaging and the absence of competition generally have allowed it, the cost of providing service has been calculated over a geographic region, such as a study area, and the total cost of providing service in that area has been averaged over the number of customers in that area. This average cost provides the basis for calculating universal service support in that area. To illustrate, the average cost of providing service in a study area might be $50.00 per customer, but the cost of providing service might be $10.00 in urban portions of the area, $40.00 in the suburban portions, and $100.00 in outlying regions. Although the cost of providing the supported services will be calculated at the study area level in 1998, the cost of unbundled network elements is calculated by the states, possibly over geographic areas smaller than study areas. Thus, the total support given to a carrier per customer in a study area might be $20.00, but the price of purchasing access to unbundled network elements to serve a customer in that study area might be $10.00, $60.00, or $100.00, depending on where the customer is located. Consequently, a CLEC might pay $10.00 to purchase access to an unbundled network element in order to serve a customer in a city, but receive $20.00 in universal service support.

87. We emphasize that the uneconomic incentives described above are largely connected with the modified existing high cost mechanism that will be in place until January 1, 1999. We also conclude, based on the reasons set forth immediately below, that the situation described by the ILECs will occur, at most, infrequently during this period. We conclude that the ILECs' concerns should be significantly alleviated when the forward-looking and more precisely targeted methodology to calculate high cost support becomes effective. Specifically, in our forthcoming proceeding on the high cost support mechanism that will take effect January 1, 1999, we intend to address fully any potential dissimilarities between the level of disaggregation of universal service support and the level of disaggregation of unbundled network element prices. Nevertheless, we agree with the ILECs that we should limit the ability of competitors to make decisions to enter local markets based on artificial economic incentives created under the modified existing mechanism.

88. To this end, we take the following actions to reduce the incentives that a CLEC may have to enter a rural or non-rural market in an attempt to exploit the asymmetry described above. First, we conclude that a carrier that serves customers by reselling wholesale service may not receive universal service support for those customers that it serves through resale alone. In addition, we conclude below that a CLEC using exclusively unbundled network elements to provide the supported services will receive a level of universal service support not exceeding the price of the unbundled network elements to which it purchases access.

89. In markets served by non-rural carriers, we conclude that the risk of the anticompetitive behavior described above is minimal because, as of January 1, 1999, universal service support for non-rural high cost carriers will be determined using a forward-looking methodology that will more precisely target support. We doubt that carriers will incur the costs necessary to meet the eligibility requirements of section 214(e) in order to exploit this opportunity when the support mechanisms will soon change. Further, the incentive for a CLEC to enter an area served by a non-rural carrier to gain an unfair advantage is diminished because the level of universal service support per customer in these areas is small relative to the start-up costs of attracting customers and the cost of providing service to those customers using unbundled network elements.

90. We also expect that state commissions, in the process of making eligibility determinations, will play an important part in minimizing the risk of anticompetitive behavior as described above. Under section 214(e)(3), a state commission must make a finding that designation of more than one eligible carrier is in the public interest in a service area that is served by a rural telephone company. Accordingly, under section 214(e)(3), a state commission may consider whether a competitive carrier seeking designation as an eligible carrier will be able to exploit unjustly the asymmetry between the price of unbundled network elements and the level of universal service support. Under section 251(f), rural telephone companies are not required to provide nondiscriminatory access to unbundled network elements pursuant to section 251(c)(3) until the relevant state commission determines that a bona fide request under section 251(c) for such access ''is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than sections (b)(7) and (c)(1)(D) thereof).'' Thus, state commissions may also consider whether a CLEC's request for nondiscriminatory access to unbundled network elements is consistent with universal service, and will be able to take into account the arguments of ILECs to the extent that they are not addressed by the measures discussed herein.

91. Location of Facilities for Purposes of Section 214(e)

Although we conclude above that the term ''facilities'' includes any physical components of the telecommunications network that are used in the transmission or routing of the supported services, we find that the statute does not mandate that the facilities be physically located in that service area. We find that it is reasonable to draw a distinction between particular facilities based on the relationship of those facilities to the provision of specific services as opposed to their physical location within a service area both for reasons of promoting economic efficiency as well as competitive neutrality. We conclude that our determination not to impose restrictions based solely on the location of facilities used to provide the supported services is competitively neutral in that it will accommodate the various technologies and entry strategies that carriers may employ as they seek to compete in high cost areas.

92. Eligibility of Resellers

We adopt the Joint Board's analysis and conclusion that section 214(e)(1) precludes a carrier that offers the supported services solely through resale from being designated eligible in light of the statutory requirement that a carrier provide universal service, at least in part, over its own facilities. Under any reasonable interpretation of the term ''facilities,'' a ''pure'' reseller uses none of its own facilities to serve a customer. Rather, a reseller purchases service from a facilities owner and resells that service to a customer. As explained above, resellers should not be entitled to receive universal service support directly from federal universal service

mechanisms because the universal service support payment received by the underlying provider of resold services is reflected in the price paid by the reseller to the underlying provider.

93. We conclude that no party has demonstrated that the statutory criteria for forbearance have been met and therefore we agree with the Joint Board that we cannot exercise our forbearance authority to permit ''pure'' resellers to become eligible for universal service support. In order to exercise our authority under section 10(a) of the Act to forbear from applying a provision of the Act, we must determine that: (1) Enforcement of the provision ''is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;'' (2) enforcement of such provision ''is not necessary for the protection of consumers;'' and (3) ''forbearance from applying such provision * * * is consistent with the public interest.'' In addition, we must consider ''whether forbearance * * * will promote competitive market conditions.'' If pure resellers could be designated eligible carriers and were entitled to receive support for providing resold services, they, in essence, would receive a double recovery of universal service support because they would recover the support incorporated into the wholesale price of the resold services in addition to receiving universal service support directly from federal universal service support mechanisms. Making no finding with respect to the first two criteria, we conclude that it is neither in the public interest nor would it promote competitive market conditions to allow resellers to receive a double recovery. Indeed, allowing such a double recovery would appear to favor resellers over other carriers, which would not promote competitive market conditions. Allowing resellers a double recovery also would be inconsistent with the principle of competitive neutrality because it would provide inefficient economic signals to resellers.

94. We adopt the Joint Board's recommendation that no additional guidelines are necessary to interpret section 254(e)'s requirement that a carrier that receives universal service support shall only use that support for the facilities and services for which it is intended. We agree with the Joint Board's conclusion that the optimal approach to minimizing misuse of universal service support is to adopt mechanisms that will set universal support so that it reflects the costs of providing universal service efficiently. We conclude that we will adopt the Joint Board's recommended approach to minimizing the misuse of support by taking steps to implement forward-looking high cost support mechanisms and implementing the rules set forth in our accompanying *Access Charge Reform Order*. We adopt the Joint Board's recommendation that we rely upon state monitoring of the provision of supported services to ensure that universal service support is used as intended until competition develops. We agree with the Joint Board that, if it becomes evident that federal monitoring is necessary to prevent the misuse of universal service support because states are unable to undertake such monitoring, the Commission, in cooperation with the Joint Board, will consider the need for additional action. In addition, we agree with the Joint Board that no additional rules are necessary to ensure that only eligible carriers receive universal service support because a carrier must be designated as an eligible carrier by a state commission in order to receive funding. Finally, as discussed below, because the services included in the Lifeline program are supported services, we note that only eligible carriers may receive universal service support for these services, as required by section 254(e).

95. State Adoption of Non-Rural Service Areas

We adopt the Joint Board's finding that sections 214(e)(2) and 214(e)(5) require state commissions to designate the area throughout which a non-rural carrier must provide universal service in order to be eligible to receive universal service support. We agree with the Joint Board that, although this authority is explicitly delegated to the state commissions, states should exercise this authority in a manner that promotes the pro-competitive goals of the 1996 Act as well as the universal service principles of section 254. We also adopt the Joint Board's recommendation that states designate service areas that are not unreasonably large. Specifically, we conclude that service areas should be sufficiently small to ensure accurate targeting of high cost support and to encourage entry by competitors. We also agree that large service areas increase start-up costs for new entrants, which might discourage competitors from providing service throughout an area because start-up costs increase with the size of a service area and potential competitors may be discouraged from entering an area with high start-up costs. As such, an unreasonably large service area effectively could prevent a potential competitor from offering the supported services, and thus would not be competitively neutral, would be inconsistent with section 254, and would not be necessary to preserve and advance universal service.

96. We agree with the Joint Board that, if a state commission adopts as a service area for its state the existing study area of a large ILEC, this action would erect significant barriers to entry insofar as study areas usually comprise most of the geographic area of a state, geographically varied terrain, and both urban and rural areas. We concur in the Joint Board's finding that a state's adoption of unreasonably large service areas might even violate several provisions of the Act. We also agree that, if a state adopts a service area that is simply structured to fit the contours of an incumbent's facilities, a new entrant, especially a CMRS-based provider, might find it difficult to conform its signal or service area to the precise contours of the incumbent's area, giving the incumbent an advantage. We therefore encourage state commissions not to adopt, as service areas, the study areas of large ILECs. In order to promote competition, we further encourage state commissions to consider designating service areas that require ILECs to serve areas that they have not traditionally served. We recognize that a service area cannot be tailored to the natural facilities-based service area of each entrant, we note that ILECs, like other carriers, may use resold wholesale service or unbundled network elements to provide service in the portions of a service area where they have not constructed facilities. Specifically, section 254(f) prohibits states from adopting regulations that are ''inconsistent with the Commission's rules to preserve and advance universal service.'' State designation of an unreasonably large service area could also violate section 253 if it ''prohibit[s] or ha[s] the effect of prohibiting the ability of an entity to provide any interstate or intrastate telecommunications service,'' and is not ''competitively neutral'' and ''necessary to preserve and advance universal service.''

97. Authority To Alter Rural Service Areas

We find that, in contrast with non-rural service areas, section 214(e)(5) requires the Commission and the states to act in concert to alter the service areas for areas served by rural carriers. We conclude that the plain language of section 214(e)(5) dictates that neither

the Commission nor the states may act alone to alter the definition of service areas served by rural carriers. In addition, we conclude that the language ''taking into account'' indicates that the Commission and the states must each give full consideration to the Joint Board's recommendation and must each explain why they are not adopting the recommendations included in the most recent Recommended Decision or the recommendations of any future Joint Board convened to provide recommendations with respect to federal universal service support mechanisms. Furthermore, we conclude that the ''pro-competitive, de-regulatory'' objectives of the 1996 Act would be furthered if we minimize any procedural delay caused by the need for federal-state coordination on this issue. Therefore, we conclude that we should determine, at this time, the procedure by which the state commissions, when proposing to redefine a rural service area, may obtain the agreement of the Commission.

98. Under the procedures we adopt, after a state has concluded that a service area definition different from a rural telephone company's study area would better serve the universal service principles found in section 254(b), either the state or a carrier must seek the agreement of the Commission. Upon the receipt of the proposal, the Commission will issue a public notice on the proposal within 14 days. If the Commission does not act upon the proposal within 90 days of the release date of the public notice, the proposal will be deemed approved by the Commission and may take effect according to the state procedure. If the Commission determines further consideration is necessary, it will notify the state commission and the relevant carriers and initiate a proceeding to determine whether it can agree to the proposal. A proposal subject to further consideration by the Commission may not take effect until both the state commission and this Commission agree to establish a different definition of a rural service area, as required by section 214(e)(5). Similarly, if the Commission initiates a proceeding to consider a definition of a rural service area that is different from the ILEC's study area, we shall seek the agreement of the relevant state commission by submitting a petition to the relevant state commission according to that state commission's procedure. No definition of a rural service area proposed by the Commission will take effect until both the state commission and this Commission agree to establish a different definition. In keeping with our intent to use this procedure to minimize administrative delay, we intend to complete consideration of any proposed definition of a service area promptly.

99. Adoption of Study Areas

We find that retaining the study areas of rural telephone companies as the rural service areas is consistent with section 214(e)(5) and the policy objectives underlying section 254. We agree that, if competitors, as a condition of eligibility, must provide services throughout a rural telephone company's study area, the competitors will not be able to target only the customers that are the least expensive to serve and thus undercut the ILEC's ability to provide service throughout the area. In addition, we agree with the Joint Board that this decision is consistent with our decision to use a rural ILEC's embedded costs to determine, at least initially, that company's costs of providing universal service because rural telephone companies currently average such costs at the study-area level. Some wireless carriers have expressed concern that they might not be able to provide service throughout a rural telephone company's study area because that study area might be noncontiguous. In such a case, we note that this carrier could supplement its facilities-based service with service provided via resale. In response to the concerns expressed by wireless carriers, however, we also encourage states, as discussed more fully below, to consider designating rural service areas that consist of only the contiguous portions of ILEC study areas. Further, we agree that any change to a study area made by the Commission should result in a corresponding change to the corresponding rural service area. Thus, we encourage a carrier seeking to alter its study area to also request a corresponding change in its service area, preferably as a part of the same regulatory proceeding. If the carrier is not initiating any proceedings with this Commission, it should seek the approval of the relevant state commission first, and then either the state commission or the carrier should seek Commission agreement according to the procedures described above. We agree with the Joint Board that this differing treatment of rural carriers sufficiently protects smaller carriers and is consistent with the Act.

100. We also conclude that universal service policy objectives may be best served if a state defines rural service areas to consist only of the contiguous portion of a rural study area, rather than the entire rural study area. We conclude that requiring a carrier to serve a non-contiguous service area as a prerequisite to eligibility might impose a serious barrier to entry, particularly for wireless carriers. We find that imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service. Therefore, we encourage states to determine whether rural service areas should consist of only the contiguous portions of an ILEC's study area, and to submit such a determination to the Commission according to the procedures we describe above. We note that state commissions must make a special finding that the designation is in the public interest in order to designate more than one eligible carrier in a rural service area, and we anticipate that state commissions will be able to consider the issue of contiguous service areas as they make such special findings.

101. We agree with the Joint Board's analysis and conclusion that it would be consistent with the Act for the Commission to base the actual level of universal service support that carriers receive on the cost of providing service within sub-units of a state-defined service area, such as a wire center or a census block group (CBG). We reject Bell Atlantic's argument that the language in section 214(e)(5) gives the states exclusive authority to establish non-rural service areas ''for the purpose of determining universal service obligations and support mechanisms.'' As the Joint Board concluded, the quoted language refers to the designation of the area throughout which a carrier is obligated to offer service and advertise the availability of that service, and defines the overall area for which the carrier may receive support from federal universal service support mechanisms. Bell Atlantic is therefore incorrect when it argues that the approach recommended by the Joint Board ignores the phrase ''and support mechanisms.'' The universal service support a carrier will receive will be based on the Commission's determination of the cost of providing the supported services in the service area designated by a state commission.

102. We conclude that, consistent with our decision to use a modification of the existing high cost mechanisms until January 1, 1999, the Commission will continue to use study areas to calculate the level of high cost support that carriers receive. Because we are continuing to use study areas to calculate high cost support until January 1, 1999, if a state commission follows our admonition to designate a service

area that is not unreasonably large, that service area will likely be smaller than the federal support areas during that period. We conclude that the decision to continue to use study areas to calculate the level of high cost support is nonetheless consistent with the Act for two reasons. First, as the Joint Board found, the Act does not prohibit the Commission from calculating support over a geographic area that is different from a state-defined service area. Second, so long as a carrier does not receive support for customers located outside the service area for which a carrier has been designated eligible by a state commission, our decision is consistent with section 214(e)(5)'s requirement that the area for which a carrier should receive universal service support is a state-designated service area. We agree with the Joint Board, however, that calculating support over small geographic areas will promote efficient targeting of support. We therefore adopt the Joint Board's recommendation and conclude that, after January 1, 1999, we will calculate the amount of support that carriers receive over areas no larger than wire centers. We will further define support areas as part of our continuing effort to perfect the method by which we calculate forward-looking economic costs.

103. Unserved Areas

We agree with the Joint Board that we should not adopt rules at this time governing how to designate carriers for unserved areas. We conclude that the record remains inadequate for us to fashion a cooperative federal-state program to select carriers for unserved areas, as proposed in the NPRM. We conclude that, if, in the future, it appears that a cooperative federal-state program is needed, we will then revisit this issue and work with state commissions and the Joint Board to create a program. We seek information that will allow us to determine whether additional measures are needed. Therefore, we strongly encourage state commissions to file with the Common Carrier Bureau reports detailing the status of unserved areas in their states. In order to raise subscribership to the highest possible levels, we seek to determine how best to provide service to currently-unserved areas in a cost-effective manner. We seek the assistance of state commissions with respect to this issue.

104. Implementation

The administrator of the universal service support mechanisms shall not disburse funds to a carrier providing service to customers until the carrier has provided, to the administrator, a true and correct copy of the decision of a state commission designating that carrier as an eligible telecommunications carrier. A state commission seeking to alter a rural service area has the choice of either filing itself, or requiring an affected eligible telecommunications carrier to file, a petition with the Commission seeking the latter's agreement with the newly defined rural service area. We delegate authority to the Common Carrier Bureau to propose and act upon state proposals to redefine a rural service area.

Rural, Insular, and High Cost

105. Use of Forward-Looking Economic Cost

We agree with the Joint Board's recommendation that the proper measure of cost for determining the level of universal service support is the forward-looking economic cost of constructing and operating the network facilities and functions used to provide the supported services as defined per section 254(c)(1). We agree that, in the long run, forward-looking economic cost best approximates the costs that would be incurred by an efficient carrier in the market. The use of forward-looking economic costs as the basis for determining support will send the correct signals for entry, investment, and innovation.

106. We agree with the Joint Board that the use of forward-looking economic cost will lead to support mechanisms that will ensure that universal service support corresponds to the cost of providing the supported services, and thus, will preserve and advance universal service and encourage efficiency because support levels will be based on the costs of an efficient carrier. Because forward-looking economic cost is sufficient for the provision of the supported services, setting support levels in excess of forward-looking economic cost would enable the carriers providing the supported services to use the excess to offset inefficient operations or for purposes other than ''the provision, maintenance, and upgrading of facilities and services for which the support is intended.''

107. We also agree that a forward-looking economic cost methodology is the best means for determining the level of universal service support. We find that a forward-looking economic cost methodology creates the incentive for carriers to operate efficiently and does not give carriers any incentive to inflate their costs or to refrain from efficient cost-cutting. Moreover, a forward-looking economic cost methodology could be designed to target support more accurately by calculating costs over a smaller geographical area than the cost accounting systems that the ILECs currently use.

108. Embedded Cost

Several ILECs have asserted that only a universal service mechanism that calculates support based on a carrier's embedded cost will provide sufficient support. As we discussed, the use of forward-looking economic cost will provide sufficient support for an efficient provider to provide the supported services for a particular geographic area. Thus, we conclude that the universal service support mechanisms should be based on forward-looking economic cost, and we reject the arguments for basing the support mechanisms on a carrier's embedded cost.

109. To the extent that it differs from forward-looking economic cost, embedded cost provide the wrong signals to potential entrants and existing carriers. The use of embedded cost would discourage prudent investment planning because carriers could receive support for inefficient as well as efficient investments. The Joint Board explained that when ''embedded costs are above forward-looking costs, support of embedded costs would direct carriers to make inefficient investments that may not be financially viable when there is competitive entry.'' The Joint Board also explained that if embedded cost is below forward-looking economic cost, support based on embedded costs would erect an entry barrier to new competitors, because revenue per customer and support, together, would be less than the forward-looking economic cost of providing the supported services. Consequently, we agree with the conclusion that support based on embedded cost could jeopardize the provision of universal service. We also agree that the use of embedded cost to calculate universal service support would lead to subsidization of inefficient carriers at the expense of efficient carriers and could create disincentives for carriers to operate efficiently.

110. ''Legacy'' Cost

Several commenters assert that the use of forward-looking economic cost necessitates the establishment of a separate mechanism to reimburse ILECs for their ''legacy cost,'' which they define to include the under-depreciated portion of the plant and equipment.

Several ILECs contend that unless we explicitly provide a mechanism for them to recover their under-depreciated costs, the use of forward-looking economic cost to determine universal service support would constitute a taking under the Fifth Amendment. No carrier, however, has presented any specific evidence that the use of forward-looking economic cost to determine support amounts will deprive it of property without just compensation. Indeed, the mechanisms we are creating today provide support to carriers in addition to other revenues associated with the provision of service.

111. Construction Costs

US West proposes to establish a separate support mechanism for the cost of constructing facilities. Under US West's proposal, the carrier that first constructed the facility to serve an end user would receive support for its construction costs, even if the end user switched to another carrier. The second carrier to serve the end user would receive support only for its operational expenses. Under the US West proposal, only the carrier that constructed first, generally an ILEC, except in currently unserved areas, would receive support to cover the facilities' construction costs. We observe that allowing only the ILEC to receive support for the construction of the facilities used to provide universal service would, however, discourage new entrants from constructing additional facilities in high cost areas, thereby discouraging facilities-based competition, in contravention of Congress's explicit goals. Further investigation is needed to determine whether there are special circumstances, such as the need to attract carriers to unserved areas or to upgrade facilities, in which it may or may not be reasonable to compensate one-time costs with one-time payments. Because we believe this issue should be examined further, we will consider this proposal in a future proceeding.

112. Determination of Forward-Looking Economic Cost for Non-Rural Carriers

Having adopted the Joint Board recommendation that universal service support be based upon forward-looking economic cost, we next consider how such cost should be determined. The Joint Board found that cost models provide an ''efficient method of determining forward-looking economic cost, and provide other benefits, such as the ability to determine costs at smaller geographic levels than would be practical using the existing cost accounting system.'' The Joint Board also found that because they are not based on any individual company's costs, cost models provide a competitively neutral estimate of the cost of providing the supported services. Based on those conclusions, the Joint Board recommended that the amount of universal service support a carrier would receive should be calculated by subtracting a benchmark amount from the cost of service for a particular geographic area, as determined by the forward-looking economic cost model.

113. The Joint Board discussed the three cost models that had been presented to it during the proceeding, but did not endorse a specific model. The Joint Board concluded that, before a specific model could be selected, several issues would need to be resolved, including how the various assumptions among the models regarding basic input levels were determined, which input levels were reasonable, what were the relationships among the inputs, why certain functionalities included in one model were not present in the other models, and which of the unique set of engineering design principles for each model were most reasonable.

114. Three different forward-looking cost models were submitted to the Commission for consideration in response to the January 9 Public Notice: the BCPM; the Hatfield model; and the TECM. These three models use many different engineering assumptions and input values to determine the cost of providing universal service. For example, Hatfield 3.1 uses loading coils in its outside plant to permit the use of longer copper loops, thereby reducing the amount of fiber required for outside plant. In contrast, the BCPM relies more heavily on fiber and avoids the use of loading coils; this assumption increases the cost of service that BCPM predicts. Another example is that Hatfield designs the interoffice network required to provide local service in a multiple switch environment, while the BCPM accounts for this interoffice service by allowing the user to input a switch investment percentage.

115. There has been significant progress in the development of the two major models—the BCPM and Hatfield 3.1—since the Joint Board made its recommendation. For example, the ability of both models to identify which geographic areas are high cost for the provision of universal service has been improved. The BCPM uses seven different density groups, rather than the six zones used in the BCM2, to determine for a given CBG the mixture of aerial, buried, and underground plant, feeder fill factors, distribution fill factors, and the mix of activities in placing plant, such as aerial placement or burying, and the cost per foot to install plant. Hatfield also increased the number of density zones, going from six density zones in Hatfield Version 2.2.2 to nine in Hatfield 3.1.

116. While acknowledging remaining problems with the models in their report to the Commission, the state members of the Joint Board recommend that the Commission reject the TECM and select in this Order one of the remaining models to determine the needed level of universal service support in order to focus the efforts of industry participants and regulators. Specifically, three of the state members recommend that the Commission select the BCPM as the platform from which to seek further refinement to the modeling process. The state members of the Joint Board recommend that the non-rural carriers move to the use of a model over a three-year period. According to the state members, such a period will allow for continued evaluation of the model's accuracy and permit any needed improvements to be made before non-rural carriers receive support based solely on the model. The state members of the Joint Board also recommend that the Commission and Joint Board members and staff work with the administrator to monitor the use of the model.

117. We agree with the state members that the TECM should be excluded from further consideration for use as the cost model because the proponents have never provided nationwide estimates of universal service support using that model. We also agree with the state members that there are many issues that still need to be resolved before a cost model can be used to determine support levels. In particular, the majority state members note that the model input values should not be accepted. Instead, they suggest specific input values for the cost of equity, the debt-equity ratio, depreciation lives, the cost of switches, the cost of digital loop carrier equipment and the percentage of structures that should be shared. The majority state members are also concerned with the models' logic for estimating building costs. They see no justification for tying building costs to the number of switched lines as Hatfield 3.1 does and they suggest that using BCPM's technique of estimating building costs as a percent of switch costs is not logical. In light of the wide divergence and frequent changes in data provided to us, we agree with the recommendation of the dissenting state members of the Joint Board that we cannot at this time reasonably apply either of the models currently before us

to calculate forward-looking economic costs of providing universal service.

118. The proposed cost models also use widely varying input values to determine the cost of universal service, and in many cases the proponents have not filed the underlying justification for the use of those values. For example, BCPM no longer uses ARMIS expenses as the basis for its expense estimates. Instead, BCPM bases expenses on a survey of eight ILECs. Neither the survey instrument nor the individual carrier responses to the survey have been filed with the Commission. The proponents have not provided supporting information underlying their determinations of expenses. This lack of support fails to meet the Joint Board's criterion for evaluation that the underlying data and computations should be available to all interested parties. We agree with the state members of the Joint Board that this lack of support makes it impossible to determine whether the estimated expenses are the minimum necessary to provide service. The Hatfield 3.1 model also is based on information that has not been fully made available to the Commission and all interested parties. For example, the Hatfield 3.1 model adjusts the number of supported lines assigned to a CBG on the basis of an undisclosed algorithm. This algorithm has not been filed with the Commission. The application of this algorithm, however, increased the number of households in one state by 34 percent. Moreover, in regard to the fiber/copper cross-over point, the proponents of the Hatfield 3.1 model have submitted no studies to show that the decision concerning the cross-over point between the use of copper and fiber that they chose represents the least-cost configuration, as required by the Joint Board.

119. Despite significant and sustained efforts by the commenters and the Commission, the versions of the models that we have reviewed to date have not provided dependable cost information to calculate the cost of providing service across the country. The majority state members emphasize that their recommendation to use the BCPM is not an endorsement of all aspects of the model, but rather that they regard the model as the best platform at this time from which the Commission, state commissions, and interested parties can make collective revisions. Indeed, the report finds that neither the Hatfield 3.1 model nor the BCPM meets the criteria set out by the Joint Board pertaining to openness, verifiability, and plausibility. The report also discusses several specific issues that the majority state members of the Joint Board contend must be addressed before the BCPM can be considered for use in determining support levels, including the dispersion of population within a CBG, the plant-specific operating expenses used by the model, and interoffice local transport investment. We agree with the state members that there are significant unresolved problems with each of these cost models, such as the input values for switching costs, digital loop carrier equipment, depreciation rates, cost of capital, and structure sharing. We also agree with them that line count estimates should be more accurate and reflect actual ILEC counts.

120. Based on these problems with the models, we conclude that we cannot use any of the models at this time as a means to calculate the forward-looking economic cost of the network on which to base support for universal service in high cost areas. Consequently, we believe that it would be better to continue to review both the BCPM and Hatfield models. Further review will allow the Commission and interested parties to compare and contrast more fully the structure and the input values used in these models. We find that continuing to examine the various models will not delay our implementation of a forward-looking economic cost methodology for determining support for rural, insular, and high cost areas. As discussed above, we will issue a FNPRM on a forward-looking cost methodology for non-rural carriers by the end of June 1997. We anticipate that by the end of the year we will choose a specific model that we will use as the platform for developing that methodology. We anticipate that we will seek further comment on that selection and the refinements necessary to adopt a cost methodology by August 1998 that will be used for non-rural carriers starting on January 1, 1999. Consequently, as we explain below, we will continue using mechanisms currently in place to determine universal service support until January 1, 1999, while we resolve the issues related to the forward-looking economic cost models.

121. We also agree with the dissenting state members of the Joint Board that our actions are consistent with the requirements of section 254 because we have identified the services to be supported by federal universal service support mechanisms, and we are setting forth a specific timetable for implementation of our forward-looking cost methodology. Moreover, our actions here are consistent with section 254's requirement that support should be explicit. Making ''implicit'' universal service subsidies ''explicit'' ''to the extent possible'' means that we have authority at our discretion to craft a phased-in plan that relies in part on prescription and in part on competition to eliminate subsidies in the prices for various products sold in the market for telecommunications services. Consequently, we reject the arguments that section 254 compels us immediately to remove all costs associated with the provision of universal service from interstate access charges. Under the timetable we have set forth here, we will over the next year identify implicit interstate universal support and make that support explicit, as further provided by section 254(e).

122. As the basis for calculating federal universal service support in their states, we will use forward-looking economic cost studies conducted by state commissions that choose to submit such cost studies to determine universal service support. As discussed further below, we today adopt criteria appropriate for determining federal universal service support to guide the states as they conduct those studies. We ask states to elect, by August 15, 1997, whether they will conduct their own forward-looking economic cost studies. States that elect to conduct such studies should file them with the Commission on or before February 6, 1998. We will then seek comment on those studies and determine whether they meet the criteria we set forth. The Commission will review the studies and comments received, and only if we find that the state has conducted a study that meets our criteria will we approve those studies for use in calculating federal support for non-rural eligible telecommunications carriers rural, insular, and high cost areas to be distributed beginning January 1, 1999. We intend to work closely with the states as they conduct these forward-looking economic cost studies. We will also work together with the states and the Joint Board to develop a uniform cost study review plan that would standardize the format for presentation of cost studies in order to facilitate review by interested parties and by the Commission.

123. If a state elects not to conduct its own forward-looking economic cost study or that the state-conducted study fails to meet the criteria we adopt today, the Commission will determine the forward-looking economic cost of providing universal service in that state according to the Commission's forward-looking cost methodology. We will seek the Joint Board's assistance in developing our method of calculating forward-looking economic cost, which

we intend to develop by building on the work already done by the Joint Board, its staff, and industry proponents of various cost models. We will issue a FNPRM by the end of June 1997 seeking additional information on which to base the development of a reliable means of determining the forward-looking economic cost of providing universal service. We shall also separately seek information on issues such as the actual cost of purchasing switches, the current cost of digital loop carriers, and the location of customers in the lowest density areas.

124. Criteria for Forward-Looking Economic Cost Determinations

Whether forward-looking economic cost is determined according to a state-conducted cost study or a Commission-determined methodology, we must prescribe certain criteria to ensure consistency in calculations of federal universal service support. Consistent with the eight criteria set out in the Joint Board recommendation, we agree that all methodologies used to calculate the forward-looking economic cost of providing universal service in rural, insular, and high cost areas must meet the following criteria:

(1) The technology assumed in the cost study or model must be the least-cost, most-efficient, and reasonable technology for providing the supported services that is currently being deployed A model, however, must include the ILECs' wire centers as the center of the loop network and the outside plant should terminate at ILECs' current wire centers. The loop design incorporated into a forward-looking economic cost study or model should not impede the provision of advanced services. For example, loading coils should not be used because they impede the provision of advanced services. We note that the use of loading coils is inconsistent with the Rural Utilities Services guidelines for network deployment by its borrowers. Wire center line counts should equal actual ILEC wire center line counts, and the study's or model's average loop length should reflect the incumbent carrier's actual average loop length.

(2) Any network function or element, such as loop, switching, transport, or signaling, necessary to produce supported services must have an associated cost.

(3) Only long-run forward-looking economic cost may be included. The long-run period used must be a period long enough that all costs may be treated as variable and avoidable. The costs must not be the embedded cost of the facilities, functions, or elements. The study or model, however, must be based upon an examination of the current cost of purchasing facilities and equipment, such as switches and digital loop carriers (rather than list prices).

(4) The rate of return must be either the authorized federal rate of return on interstate services, currently 11.25 percent, or the state's prescribed rate of return for intrastate services. We conclude that the current federal rate of return is a reasonable rate of return by which to determine forward looking costs. We realize that, with the passage of the 1996 Act, the level of local service competition may increase, and that this competition might increase the ILECs' cost of capital. There are other factors, however, that may mitigate or offset any potential increase in the cost of capital associated with additional competition. For example, until facilities-based competition occurs, the impact of competition on the ILEC's risks associated with the supported services will be minimal because the ILEC's facilities will still be used by competitors using either resale or purchasing access to the ILEC's unbundled network elements. In addition, the cost of debt has decreased since we last set the authorized rate of return. The reduction in the cost of borrowing caused the Common Carrier Bureau to institute a preliminary inquiry as to whether the currently authorized federal rate of return is too high, given the current marketplace cost of equity and debt. We will re-evaluate the cost of capital as needed to ensure that it accurately reflects the market situation for carriers.

(5) Economic lives and future net salvage percentages used in calculating depreciation expense must be within the FCC-authorized range. We agree with those commenters that argue that currently authorized lives should be used because the assets used to provide universal service in rural, insular, and high cost areas are unlikely to face serious competitive threat in the near term. To the extent that competition in the local exchange market changes the economic lives of the plant required to provide universal service, we will re-evaluate our authorized depreciation schedules. We intend shortly to issue a notice of proposed rule making to further examine the Commission's depreciation rules.

(6) The cost study or model must estimate the cost of providing service for all businesses and households within a geographic region. This includes the provision of multi-line business services, special access, private lines, and multiple residential lines. Such inclusion of multi-line business services and multiple residential lines will permit the cost study or model to reflect the economies of scale associated with the provision of these services.

(7) A reasonable allocation of joint and common costs must be assigned to the cost of supported services. This allocation will ensure that the forward-looking economic cost does not include an unreasonable share of the joint and common costs for non-supported services.

(8) The cost study or model and all underlying data, formulae, computations, and software associated with the model must be available to all interested parties for review and comment. All underlying data should be verifiable, engineering assumptions reasonable, and outputs plausible.

(9) The cost study or model must include the capability to examine and modify the critical assumptions and engineering principles. These assumptions and principles include, but are not limited to, the cost of capital, depreciation rates, fill factors, input costs, overhead adjustments, retail costs, structure sharing percentages, fiber-copper cross-over points, and terrain factors.

(10) The cost study or model must deaverage support calculations to the wire center serving area level at least, and, if feasible, to even smaller areas such as a Census Block Group, Census Block, or grid cell. We agree with the Joint Board's recommendation that support areas should be smaller than the carrier's service area in order to target efficiently universal service support. Although we agree with the majority of the commenters that smaller support areas better target support, we are concerned that it becomes progressively more difficult to determine accurately where customers are located as the support areas grow smaller. As SBC notes, carriers currently keep records of the number of lines served at each wire center, but do not know which lines are associated with a particular CBG, CB, or grid cell. Carriers, however, would be required to provide verification of customer location when they request support funds from the administrator.

125. In order for the Commission to accept a state cost study submitted to us for the purposes of calculating federal universal service support, that study must be the same cost study that is used by the state to determine intrastate universal service support levels pursuant to section 254(f). A state need not perform a new cost study, but may submit a cost study that has already been performed for evaluation by the Commission. We also encourage a state, to the extent possible and consistent

with the above criteria, to use its ongoing proceedings to develop permanent unbundled network element prices as a basis for its universal service cost study. This would reduce duplication and diminish arbitrage opportunities that might arise from inconsistencies between the methodologies for setting unbundled network element prices and for determining universal service support levels. In particular, we wish to avoid situations in which, because of different methodologies used for pricing unbundled network elements and determining universal service support, a carrier could receive support for the provision of universal service that differs from the rate it pays to acquire access to the unbundled network elements needed to provide universal service. Consequently, to prevent differences between the pricing of unbundled network elements and the determination of universal service support, we urge states to coordinate the development of cost studies for the pricing of unbundled network elements and the determination of universal service support.

126. Development and Selection of a Suitable Forward-Looking Support Mechanism for Rural Carriers

Consistent with our plan for non-rural carriers, we shall commence a proceeding by October 1998 to establish forward-looking economic cost mechanisms for rural carriers. Although a precise means of determining forward-looking economic cost for non-rural carriers will be prescribed by August 1998 and will take effect on January 1, 1999, rural carriers will begin receiving support pursuant to support mechanisms incorporating forward-looking economic cost principles only when we have sufficient validation that forward-looking support mechanisms for rural carriers produce results that are sufficient and predictable. Consistent with the Joint Board's recommendation that mechanisms for determining support for rural carriers incorporate forward-looking cost principles, rather than embedded cost, we will work closely with the Joint Board, state commissions, and interested parties to develop support mechanisms that satisfy these principles.

127. To ensure that the concerns of rural carriers are thoroughly addressed, Pacific Telecom suggests that a task force be established specifically to study the development and impact of support mechanisms incorporating forward-looking economic cost principles for rural carriers. State Joint Board members and USTA have also recommended the formation of a rural task force to study and develop a forward-looking economic cost methodology for rural carriers. The state Joint Board members contend that such a task force ''should provide valuable assistance in identifying the issues unique to rural carriers and analyzing the appropriateness of proxy cost models for rural carriers.'' We support this suggestion. Such a task force should report its findings to the Joint Board. We encourage the Joint Board to establish the task force soon, so that its findings can be included in any Joint Board report to the Commission prior to our issuance of the FNPRM on a forward-looking economic cost methodology for rural carriers by October 1998. Although the Joint Board has the responsibility to appoint the members of the task force, we suggest that it include a broad representation of industry, including rural carriers, as well as a representative from remote and insular areas. We also suggest that the meetings and records of the task force be open to the public.

128. Specifically, through the FNPRM, we will seek to determine what mechanisms incorporating forward-looking economic cost principles would be appropriate for rural carriers. We require that mechanisms developed and selected for rural carriers reflect the higher operating and equipment costs attributable to lower subscriber density, small exchanges, and lack of economies of scale that characterize rural areas, particularly in insular and very remote areas, such as Alaska. We also require that cost inputs be selected so that the mechanisms account for the special characteristics of rural areas in its cost calculation outputs. We recognize the unique situation faced by carriers serving Alaska and insular areas may make selection of cost inputs for those carriers especially challenging. Thus, if the selected mechanisms include a cost model, the model should use flexible inputs to accommodate the variation in cost characteristics among rural study areas due to each study area's unique population distribution. Moreover, the Commission, working with the Joint Board, state commissions, and other interested parties, will determine whether calculating the support using geographic units other than CBGs would more accurately reflect a rural carrier's costs. The Commission will likewise consider whether such mechanisms should include a ''maximum shift or change'' feature to ensure that the amount of support each carrier receives will not fluctuate more than an established amount from one year to the next, similar to the provision in § 36.154(f)(1) of the Commission's rules to mitigate separations and high cost fund changes.

129. The Commission with the Joint Board's assistance will also consider whether a competitive bidding process could be used to set support levels for rural carriers. The record does not support adoption of competitive bidding as a support mechanism at this time. The FNPRM will examine the development of such a competitive bidding process that will meet the requirements of both sections 214(e) and 254.

130. Applicable Benchmarks

The Joint Board recommended that the Commission adopt a benchmark based on nationwide average revenue per line to calculate the support eligible telecommunications carriers would receive for serving rural, insular, and high cost areas. The Joint Board recommended that the support that an eligible telecommunications carrier receives for serving a supported line in a particular geographic area should be the cost of providing service calculated using forward-looking economic cost minus a benchmark amount. The benchmark is the amount subtracted from the cost of providing service that is the basis for determining the support provided from the federal universal service support mechanisms.

131. The Joint Board recommended setting the benchmark at the nationwide average revenue per line, because ''that average reflects a reasonable expectation of the revenues that a telecommunications carrier would be reasonably expected to use to offset its costs, as estimated in the proxy model.'' Because it recommended that eligible residential and single-line business be supported, with single-line businesses receiving less support, the Joint Board recommended defining two benchmarks, one for residential service and a second for single-line business service. Because they found that a revenue-based benchmark will require periodic review and more administrative oversight than a cost-based benchmark, however, the majority state members of the Joint Board recommended, in their second report to the Commission the use of a benchmark based on the nationwide average cost of service as determined by the cost model.

132. We agree with the Joint Board's recommendation, and intend to establish a nationwide benchmark based on average revenues per line for local, discretionary, interstate^A and intrastate access services, and other telecommunications revenues that will be used with either a cost model or a

cost study to determine the level of support carriers will receive for lines in a particular geographic area. A non-rural eligible telecommunications carrier could draw from the federal universal service support mechanism for providing supported services to a subscriber only if the cost of serving the subscriber, as calculated by the forward-looking cost methodology, exceeds the benchmark. We note that a majority of the commenters support the use of a benchmark based on revenues per line. We also agree with the Joint Board that there should be separate benchmarks for residential service and single-line business service.

133. Consistent with the Joint Board's recommendation, we shall include revenues from discretionary services in the benchmark. We agree with Time Warner that a determination of the amount of support a carrier needs to serve a high cost area should reflect consideration of the revenues that the carrier receives from providing other local services, such as discretionary services. As the Joint Board noted, those revenues offset the costs of providing local service. Setting the benchmark at a level below the average revenue per line, including discretionary services, would allow a carrier to recover the costs of discretionary services from customers purchasing these discretionary services and from the universal service mechanisms. This unnecessary payment would increase the size of the universal service support mechanisms, and consequently require larger contributions from all telecommunications carriers. We agree that competition could reduce revenues from a particular service, we anticipate that the development of competition in the local market will also lead to the development of new services that will produce additional revenues per line and to reductions in the costs of providing the services generating those revenues. We will also review the benchmark at the same time we review the means for calculating forward-looking economic cost. Thus, at these periodic reviews, we can adjust both the forward-looking cost methodology and the benchmark to reflect the positive effects of competition.

134. We include revenues from discretionary services in the benchmark for additional reasons. The costs of those services are included in the cost of service estimates calculated by the forward-looking economic cost models that we will be evaluating further in the FNPRM. Revenues from services in addition to the supported services should, and do, contribute to the joint and common costs they share with the supported services. Moreover, the former services also use the same facilities as the supported services, and it is often impractical, if not impossible, to allocate the costs of facilities between the supported services and other services. For example, the same switch is used to provide both supported services and discretionary services. Consequently, in modeling the network, the BCPM and the Hatfield 3.1 models use digital switches capable of providing both supported services and discretionary services. Therefore, it would be difficult for the models to extract the costs of the switch allocated to the provision of discretionary services.

135. We also include both interstate and intrastate access revenues in the benchmark, as recommended by the Joint Board. Access to IXCs and to other local wire centers is provided by a part of the switch known as the port. The methodologies filed in this proceeding include the costs of the port as costs of providing universal service. The BCPM, however, subtracts a portion of port costs allocated to toll calls. Hatfield 3.1, in contrast, includes all port costs in the costs of providing supported services. Both methodologies exclude per-minute costs of switching that are allocated to toll calls. Therefore, the methodologies filed in this proceeding do not include all access costs in the costs of providing universal service. Access charges to IXCs, however, have historically been set above costs as one implicit mechanism supporting local service. We therefore conclude that, unless and until both interstate and intrastate access charges have been reduced to recover only per-minute switch and transport costs, access revenues should be included in the benchmark. Accordingly, we reject the proposals by some commenters to exclude revenues from discretionary and access services in calculating the benchmark.

136. We also agree with the Joint Board that setting the benchmark at nationwide average revenue per line is reasonable because that average reflects a reasonable expectation of the revenues that a telecommunications carrier could use to cover its costs, as estimated by the forward-looking cost methodology we are adopting. A nationwide benchmark will also be easy to administer and will make the support levels more uniform and predictable than a benchmark set at a regional, state, or sub-state level would make them. A nationwide benchmark, as the Joint Board noted, will also encourage carriers to market and introduce new services in high costs areas as well as urban areas, because the benchmark will vary depending upon the average revenues from carriers serving all areas. For that reason, contrary to the contentions of some commenters, we conclude that a nationwide benchmark will not harm carriers serving rural areas but rather encourage them to introduce new services. We note that support levels for rural carriers will be unaffected by the benchmark unless and until they begin to transition to a forward-looking cost methodology, which would occur no earlier than 2001. Further, we note that the states have discretion to provide universal service support beyond that included in the federal universal service support mechanism.

137. We agree the Joint Board's recommendation to adopt two separate benchmarks, one for residential service and a second for single-line business services. Because business service rates are higher than residential service rates, we consider those additional revenue derived from business services when developing the benchmark. We note that the only parties who have opposed adopting separate benchmarks contend that, because ILECs do not keep separate records for residential and business revenues, separate benchmarks would be administratively difficult. We do not believe, however, that using two revenue benchmarks will be administratively difficult. For purposes of universal service support, the eligible telecommunications carrier need not determine the exact revenues per service, but only the number of eligible residential and business connections it serves in a particular support area. To calculate support levels, the administrator will take the cost of service, as derived by the forward-looking cost methodology, and subtract the applicable benchmark and multiply that number by the number of eligible residential or business lines served by the carrier in that support area.

138. The majority state members depart from the Joint Board recommendation and now suggest the use of a cost-based benchmark. They contend that it may be difficult to match the revenue used in a benchmark with the cost of service included in the model. They also argue that a revenue benchmark would require periodic review and more regulatory oversight than a cost-based benchmark. Although we recognize there may be some difficulties in using a revenue-based benchmark, we agree with the Joint Board that a cost-based benchmark should not be relied upon at this time. As the Joint Board noted, it is best to compare the revenue to the cost to determine the needed support rather

than to examine only the cost side of the equation. A cost-based benchmark, as Time Warner states, does not reflect the revenue already available to a carrier for covering its costs for the supported services. Even in some areas with above average costs, revenue can offset high cost without resort to subsidies, resulting in maintenance of affordable rates. We also agree with the majority state members of the Joint Board that a cost-based benchmark will not completely satisfy the objective of ensuring that only a reasonable allocation of joint and common costs are assigned to the cost of the supported services. Although the majority state members of the Joint Board now express concern about the difficulty in matching the service revenue and the cost of services included in a model, we remain confident that we can do that. We also do not find that it will be administratively difficult to establish and maintain a revenue-based benchmark, and intend to review the benchmark when we review the forward-looking economic cost methodology. Consequently, we will not adopt a cost-based benchmark at this time, but will, as the majority state members of the Joint Board suggest, address in the FNPRM the specific benchmark that should be used.

139. As stated above, we have determined that the revenue benchmark should be calculated using local service, access, and other telecommunications revenues received by ILECs, including discretionary revenue. Based on the data we have received in response to the data request from the Federal-State Joint Board in CC Docket 80–286 (80–286 Joint Board) on universal service issues, it appears that the benchmark for residential services should be approximately $31 and for single-line businesses should be approximately $51. We recognize, as did the Joint Board, that the precise calculation of the level of the benchmark must be consistent with the means of calculating the forward-looking economic costs of constructing and operating the network. Thus, we do not adopt a precise calculation of the benchmark at this time, but will do so after we have had an opportunity to review state cost studies and the study or model that will serve as the methodology for determining forward looking economic costs in those states that do not conduct cost studies. We will also seek further information, particularly to clarify the appropriate amounts of access charge revenue and intraLATA toll revenue that should be included in the revenue benchmark.

140. We have determined to assess contributions for the universal service support mechanisms for rural, insular, and high cost areas solely from interstate revenues. We have adopted this approach because the Joint Board did not recommend that we should assess intrastate as well as interstate revenues for the high cost support mechanisms and because we have every reason to believe that the states will participate in the federal-state universal service partnership so that the high cost mechanisms will be sufficient to guarantee that rates are just, reasonable, and affordable. Support for rural, insular, and high cost areas served by non-rural carriers distributed through forward-looking economic cost based mechanisms need only support interstate costs. We will monitor the high cost mechanisms to determine whether additional federal support becomes necessary.

141. Accordingly, we must determine the federal and state shares of the costs of providing high cost service. We have concluded that the federal share of the difference between a carrier's forward looking economic cost of providing supported services and the national benchmark will be 25 percent. Twenty-five percent is the current interstate allocation factor applied to loop costs in the Part 36 separations process, and because loop costs will be the predominant cost that varies between high cost and non-high cost areas, this factor best approximates the interstate portion of universal service costs.

142. Prior to the adoption of the 25 percent interstate allocation factor for loop costs, the Commission allocated most non-traffic sensitive (NTS) plant costs on the basis of a usage-based measure, called the Subscriber Plant Factor (SPF). In 1984, the Commission and the 80–286 Joint Board recognized that there was no purely economic method of allocating NTS costs on a usage-sensitive basis. Therefore, the Commission adopted a fixed interstate allocation factor to separate loop costs between the interstate and intrastate jurisdictions. In establishing a 25 percent interstate allocation factor for loop costs, the Commission was guided by the following four principles adopted by the 80–286 Joint Board: ''(1) Ensure the permanent protection of universal service; (2) provide certainty to all parties; (3) be administratively workable; and (4) be fair and equitable to all parties.'' Because we find that the four principles adopted by the 80-286 Joint Board are consistent with the principles set out in section 254(b) and because universal service support is largely attributable to high NTS loop costs, we find that applying the 25 percent interstate allocation factor historically applied to loop costs in the Part 36 separations process is appropriate here.

143. We believe that the states will fulfill their role in providing for the high cost support mechanisms. Indeed, we note that there is evidence that such state support is substantial, as states have used a variety of techniques to maintain low residential basic service rates, including geographic rate averaging, higher rates for business customers, higher intrastate access rates, higher rates for intrastate toll service, and higher rates for discretionary services. The Commission does not have any authority over the local rate setting process or the implicit intrastate universal service support reflected in intrastate rates. We believe that it would be premature for the Commission to substitute explicit federal universal service support for implicit intrastate universal service support before states have completed their own universal service reforms through which they will identify the support implicit in existing intrastate rates and make that support explicit. Although we are not, at the outset, providing federal support for intrastate, as well as interstate, costs associated with providing universal services, we will monitor the high cost mechanisms to ensure that they are sufficient to ensure just, reasonable, and affordable rates. We expect that the Joint Board and the states will do the same and we hope to work with the states in further developing a unified approach to the high cost mechanisms.

144. Non-Rural Carriers

We will continue to use the existing high cost support mechanisms for non-rural carriers through December 31, 1998, by which time we will have a forward-looking cost methodology in place for non-rural carriers. We are also adopting rules that will make this support portable, or transferable, to competing eligible telecommunications carriers when they win customers from ILECs or serve previously unserved customers. We also shall limit the amount of corporate operations expenses that an ILEC can recover through high cost loop support. We shall also extend the indexed cap on the growth of the high cost loop fund. These modifications to the existing mechanisms shall take effect on January 1, 1998.

145. Although the Joint Board defined universal service to include support for single residential and business lines only, we join the state members of the Joint Board in recognizing that an

abrupt withdrawal of support for multiple lines may significantly affect the operations of carriers currently receiving support for businesses and residential customers using multiple lines. Again, because we will only continue to use the existing support mechanisms for 1998, we find that non-rural carriers should continue to receive high cost assistance and LTS for all lines. We shall continue to evaluate whether support for second residential lines, second residences, and multiple line businesses should be provided under the forward-looking economic cost methodology.

146. Alternative Options

We have considered different methods for calculating support until a forward-looking economic cost methodology for non-rural carriers becomes effective. First, we could extend application of the Joint Board's recommendation for rural carriers to non-rural carriers and provide high loop cost support and LTS benefits on a per-line basis for all high cost carriers, based on amounts received for each line that are set at previous years' embedded costs. We decline to take that approach, however, because we, like the state members of the Joint Board, are concerned that a set per-line support level may not provide carriers adequate support because such support does not take into consideration any necessary and efficient facility upgrades by the carrier.

147. A second alternative would be to calculate costs based on the models before us, either by choosing a model or taking an average from the results of the models. As we have stated, flaws in and unanswered questions about the models that have been submitted in this proceeding prevent us from choosing one now to determine universal service support levels. For example, the proponents use widely divergent input values for structure sharing and switch costs to determine the cost of providing service. We agree with the commenters that these variations account for a large part of the difference in results between the models. We also agree with the state members of the Joint Board that the current versions of the models are flawed in how they distribute households within a CBG. The BCPM and Hatfield models also inaccurately determine the wire centers serving many customers. These inaccuracies can create great variance in the costs of service determined by the models. For those reasons, we find that it would better serve the public interest not to use the current versions of the models, but to continue to work with the model proponents, industry, and the state commissions to improve the models before we select one to determine universal service support.

148. At this point we conclude that we should not select one model over another because both models lack a compelling design algorithm that specifies where within a CBG customers are located. The BCPM model continues to uniformly distribute customers within the CBG, and therefore spreads customers across empty areas and generates lot sizes that appear to be larger than the actual lot sizes. On the other hand, the clustering algorithm used in the Hatfield 3.1 model requires that 85 percent of the population live within two or four clusters within a CBG. This requirement could misrepresent actual population locations when the population is clustered differently.

149. A third alternative is the proposal made by BANX to base universal support on prices for unbundled network elements. We reject this alternative because the record before us indicates that the states have yet to set prices for all of the unbundled network elements needed to provide universal service, including loop, inter-office transport, and switching.

150. We conclude that the public interest is best served by using high cost mechanisms that allow carriers to continue receiving support at current levels while we continue to work with state regulators to select a forward-looking economic cost methodology. This approach will ensure that carriers will not need to adjust their operations significantly in order to maintain universal service in their service areas pending adoption of a forward-looking economic cost methodology.

151. Indexed Cap

In order to allow an orderly conversion to the new universal service mechanisms, the Joint Board on June 19, 1996 recommended extending the interim cap limiting growth in the Universal Service Fund until the effective date of the rules the Commission adopts pursuant to section 254 and the Joint Board's recommendation. We adopted that recommendation on June 26, 1996. Because we will continue to use the existing universal service mechanisms, with only minor modifications, until the forward-looking economic cost mechanisms become effective, we clarify that the indexed cap on the Universal Service Fund will remain in effect until all carrier receive support based on a forward-looking economic cost mechanism. We anticipate that non-rural carriers will begin receiving universal service support based on the forward-looking economic cost mechanisms on January 1, 1999.

152. Continued use of this indexed cap will prevent excessive growth in the size of the fund during the period preceding the implementation of a forward-looking support mechanisms. We find that a cap will encourage carriers to operate more efficiently by limiting the amount of support they receive. From our experience with the indexed cap on the current high cost support mechanisms, implemented pursuant to the recommendations of the Joint Board in the 80–286 proceeding, we find that the indexed cap effectively limits the overall growth of the fund, while protecting individual carriers from experiencing extreme reductions in support.

153. Corporate Operations Expense

In order to ensure that carriers use universal service support only to offer better service to their customers through prudent facility investment and maintenance consistent with their obligations under section 254(k), we shall limit the amount of corporate operations expense that may be recovered through the support mechanisms for high loop costs. A limitation on the inclusion of such expenses was proposed in the *80–286 NPRM*. Commenters in this proceeding and the 80–286 proceeding generally support limiting the amount of corporate operations expense that can be recovered through the high cost mechanisms because costs not directly related to the provision of subscriber loops are not necessary for the provision of universal service. Most commenters suggest that there be a cap on the amount of corporate operations expense that a carrier is allowed to recover through the universal service mechanism, but some assert that these expenses should not be allowed at all. We agree with the commenters that these expenses do not appear to be costs inherent in providing telecommunications services, but rather may result from managerial priorities and discretionary spending. Consequently, we intend to limit universal service support for corporate operations expense to a reasonable per-line amount, recognizing that small study areas, based on the number of lines, may experience greater amounts of corporate operations expense per line than larger study areas.

154. We conclude that, for each carrier, the amount of corporate operations expense per line that is supported through our universal service

mechanisms should fall within a range of reasonableness. We shall define this range of reasonableness for each study area as including levels of reported corporate operations expense per line up to a maximum of 115 percent of the projected level of corporate operations expense per line. The projected corporate operations expense per line for each service area will be based on the number of access lines and calculated using a formula developed from a statistical study of data submitted by NECA in its annual filing.

155. Furthermore, we will grant study area waivers only for expenses that are consistent with the principle in section 254(e) that carriers should use universal service support for the ''provision, maintenance, and upgrading of facilities and services for which the support is intended.'' Consistent with our limitation on corporate operations expense discussed above, we believe that corporate operations expense in excess of 115 percent of the projected levels are not necessary for the provision of universal service, and therefore, absent exceptional circumstances, we will not grant waivers to provide additional support for such expenses. To the extent a carrier's corporate operations expense is disallowed pursuant to these limitations, the national average unseparated cost per loop shall be adjusted accordingly.

156. Portability of Support

Under section 254(e), eligible telecommunications carriers are to use universal service support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. When a line is served by an eligible telecommunications carrier, either an ILEC or a CLEC, through the carrier's owned and constructed facilities, the support flows to the carrier because that carrier is incurring the economic costs of serving that line.

157. In order not to discourage competition in high cost areas, we adopt the Joint Board's recommendation to make carriers' support payments portable to other eligible telecommunications carriers prior to the effective date of the forward-looking mechanism. A competitive carrier that has been designated as an eligible telecommunications carrier shall receive universal service support to the extent that it captures subscribers' lines formerly served by an ILEC receiving support or new customer lines in that ILEC's study area. At the same time, the ILEC will continue to receive support for the customer lines it continues to serve. We conclude that paying the support to a CLEC that wins the customer's lines or adds new subscriber lines would aid the emergence of competition. Moreover, in order to avoid creating a competitive disadvantage for a CLEC using exclusively unbundled network elements, that carrier will receive the universal service support for the customer's line, not to exceed the cost of the unbundled network elements used to provide the supported services. The remainder of the support associated with that element, if any, will go the ILEC to cover the ILEC's economic costs of providing that element in the service area for universal service support.

158. During the period in which the existing mechanisms are still defining high cost support for non-rural carriers, we find that the least burdensome way to administer the support mechanism will be to calculate an ILEC's per-line support by dividing the ILEC's universal service support payment under the existing mechanisms by the number of loops served by that ILEC. That amount will be the support for all other eligible telecommunications carriers serving customers within that ILEC's study area.

159. As previously stated, we conclude that carriers that provide service throughout their service area solely through resale are not eligible for support. In addition, we clarify the Joint Board's recommendation on eligibility and find that carriers that provide service to some customer lines through their own facilities and to others through resale are eligible for support only for those lines they serve through their own facilities. The purpose of the support is to compensate carriers for serving high cost customers at below cost prices. When one carrier serves high cost lines by reselling a second carrier's services, the high costs are borne by the second carrier, not by the first, and under the resale pricing provision the second carrier receives revenues from the first carrier equal to end-user revenues less its avoidable costs. Therefore it is the second carrier, not the first, that will be reluctant to serve absent the support, and therefore it should receive the support.

160. Use of Embedded Cost to Set Support Levels for Rural Carriers

We adopt the Joint Board's recommendation that, after a reasonable period, support for rural carriers also should be based on their forward-looking economic cost of providing services designated for universal service support. Although it recommended using forward-looking economic cost calculated by using a cost model to determine high cost support for all eligible telecommunications carriers, the Joint Board found that the proposed models could not at this time precisely model small, rural carriers' cost. The Joint Board expressed concern that, if the proposed models were applied to small, rural carriers, the models' imprecision could significantly change the support that such carriers receive, providing carriers with funds at levels insufficient to continue operations or, at the other extreme, a financial windfall. The Joint Board noted that, compared to the large ILECs, small, rural carriers generally serve fewer subscribers, serve more sparsely populated areas, and do not generally benefit from economies of scale and scope as much as non-rural carriers. Rural carriers often also cannot respond to changing operating circumstances as quickly as large carriers. We agree with the Joint Board that rural carriers not use a cost model or other means of determining forward-looking economic cost immediately to calculate their support for serving rural high cost areas, but we do support an eventual shift from the existing system.

161. Use of a Forward-Looking Economic Cost Methodology by Small Rural Carriers

We acknowledge commenters' concerns that the proposed mechanisms incorporating forward-looking economic cost methodologies filed in this proceeding should not in their present form be used to calculate high cost support for small, rural carriers. At present, we recognize that these mechanisms cannot presently predict the cost of serving rural areas with sufficient accuracy. Consistent with the Joint Board's recommendation, we anticipate, however, that forward-looking support mechanisms that could be used for rural carriers within the continental United States will be developed within three years of release of this Order. We conclude that a forward-looking economic cost methodology consistent with the principles we set forth in this section should be able to predict rural carriers' forward-looking economic cost with sufficient accuracy that carriers serving rural areas could continue to make infrastructure improvements and charge affordable rates. We conclude that calculating support using such a forward-looking economic cost methodology would comply with the Act's requirements that support be specific, predictable, and sufficient and that rates for consumers in rural and high cost areas be affordable and reasonably comparable to rates charged for similar services in urban areas.

Moreover, such a mechanism could target support by calculating costs over a smaller geographical area than the study areas currently used. In addition, we find that the use of mechanisms incorporating forward-looking economic cost principles would promote competition in rural study areas by providing more accurate investment signals to potential competitors. Accordingly, we find that, rather than causing rural economies to decline, as some commenters contend, the use of such a forward-looking economic cost methodology could bring greater economic opportunities to rural areas by encouraging competitive entry and the provision of new services as well as supporting the provision of designated services. Because support will be calculated and then distributed in predictable and consistent amounts, such a forward-looking economic cost methodology would compel carriers to be more disciplined in planning their investment decisions.

162. Conversion to a Forward-Looking Economic Cost Methodology

Consistent with the Joint Board, we recognize that new universal service funding mechanisms could significantly change (but not necessarily diminish) the amount of support rural carriers receive. Moreover, we agree that compared to large ILECs, rural carriers generally serve fewer subscribers, serve more sparsely populated areas, and do not generally benefit as much from economies of scale and scope. For many rural carriers, universal service support provides a large share of the carriers' revenues, and thus, any sudden change in the support mechanisms may disproportionately affect rural carriers' operations. Accordingly, we adopt the Joint Board's recommendation to allow rural carriers to continue to receive support based on embedded cost for at least three years. Once a forward-looking economic cost methodology for non-rural carriers is in place, we shall evaluate mechanisms for rural carriers. Rural carriers will shift gradually to a forward-looking economic cost methodology to allow them ample time to adjust to any changes in the support calculation.

163. Treatment of Rural Carriers

We conclude that a gradual shift to a forward-looking economic cost methodology for small, rural carriers is consistent with the Act and our access charge reform proceeding. Section 251(f)(1) grants rural telephone companies an exemption from section 251(c)'s interconnection requirements, under specific circumstances, because Congress recognized that it might be unfair to both the carriers and the subscribers they serve to impose all of section 251's requirements upon rural companies. Furthermore, the companion *Access Charge Reform Order* limits application of the rules adopted in that proceeding to price-cap ILECs. The *Access Charge Reform Order* concludes that access reform for non-price-cap ILECs, which tend to be small, rural carriers, will occur separately from reform for price-cap ILECs because small, rural ILECs, which generally are under rate-of-return regulation, may not be subject to some of the duties under section 251 (b) and (c) and will likely not have competitive entry into their markets as quickly as price cap ILECs will experience. Because the Commission's access reform proceeding does not propose generally to change access charge rules for non-price-cap ILECs, we find without merit Minnesota Coalition's argument that the current embedded-cost support mechanisms must be maintained because changes to part 69 may cause rural carriers' revenues to decrease. Consistent with our approach towards non-price-cap ILECs in access charge reform, we conclude that rural carriers' unique circumstances warrant our implementation of separate mechanisms.

164. Supported Lines

In the process of selecting a forward-looking economic cost methodology for calculating universal service support for carriers serving high cost areas, we will determine whether lines other than primary residential and single business connections should be eligible for support. For this reason, we conclude that rural carriers should continue to receive high cost loop assistance, DEM weighting, and LTS support for all their working loops until they move to a forward-looking economic cost methodology. State members of the Joint Board concur with this determination.

165. Modifications to Existing Support Mechanisms

The Joint Board recommended that for the three years beginning January 1, 1998, high cost support for rural ILECs be calculated based on high cost loop support, DEM weighting, and LTS benefits for each line based on historic support amounts. We are persuaded, however, by the commenters and the recent State High Cost Report that, even in the absence of new plant construction, this may not provide rural carriers adequate support for providing universal service because support to offset cost increases in maintenance expenses due to natural disasters or inflation would not be available. We also find that, in order to maintain the quality of the service they offer their customers, carriers may not be able to avoid upgrading their facilities. We find that, consistent with the State High Cost Report, the level of support recommended by the Joint Board may not permit carriers to afford prudent facility upgrades.

166. The state members recommend that the Commission adopt an industry proposal regarding the determination of the needed amount of support for rural carriers rather than the recommendation of the Joint Board. Expressing concern that setting high cost support, DEM weighting, and LTS at the current per-line amount could discourage carriers from investing in their networks, the state members endorse a proposal that would: (1) Use a carrier's embedded costs as compared to the 1995 nationwide average loop cost, adjusted annually to reflect inflation, to determine whether a carrier receives high cost support; (2) use the 1995 interstate allocation factor for DEM weighting; and (3) freeze the percentage of the NECA pool that is associated with LTS at 1996 levels. The state Joint Board members further recommend that, during the period before rural carriers begin to draw support based solely on a forward-looking cost methodology, each carrier continue to receive support based on all of the carrier's working lines, not just the eligible residential and single-line business lines. The state members of the Joint Board also depart from the Joint Board's recommendation that rural carriers not be allowed to elect to draw support solely based on forward-looking economic costs until January 1, 2001, when all rural carriers would begin using a forward-looking cost study for calculating their high cost support.

167. We are persuaded by commenters stating that rural carriers require more time to adjust to any change in universal service support than large carriers do. While giving rural carriers ample time to plan for changes from the current methodology, we shall retain many features of the current support mechanisms for them until they move to a forward-looking economic cost methodology. Because we believe that rural carriers must begin immediately to plan their network maintenance and development more carefully, we will use some attributes of the ILEC Associations' proposal to limit the growth of the size of the current high cost support mechanisms beginning in 2000. We will use those mechanisms until they are replaced by

the forward-looking economic cost methodology. The ILEC Associations' proposal would control the growth in support received by the carriers but still leave support to cover, at least partially, costs of essential plant investment. Because they find this proposal to offer a better initial mechanism for rural carriers than the Joint Board's recommendations, state Joint Board members also support the ILEC Associations' proposal. Starting on January 1, 1998, rural carriers shall receive high cost loop support, DEM weighting assistance, and LTS benefits on the basis of the modification of the existing support mechanism, described below. In addition, the other modifications to the existing mechanisms set forth shall also take effect on January 1, 1998.

168. High Cost Loop Support

We agree with the state members of the Joint Board that rural carriers may require a greater amount of support than fixed support mechanisms would provide. Consequently, we decline to adopt the Joint Board's recommendation to base support for high cost loops on costs reported in 1995. In order to maintain existing facilities and make prudent facility upgrades until such time as forward-looking support mechanisms are in place, we direct that the use of the current formula to calculate high cost loops for rural ILECs continue for two years. Thus from January 1, 1998 through December 31, 1999, rural carriers will calculate support using the current formulas.

169. Beginning January 1, 2000, however, rural carriers shall receive high loop cost support for their average loop costs that exceed 115 percent of an inflation-adjusted nationwide average loop cost. The inflation-adjusted nationwide average cost per loop shall be the 1997 nationwide average cost per loop as increased by the percentage in change in Gross Domestic Product Chained Price Index (GDP–CPI) from 1997 to 1998. We index loop costs to inflation in order to limit the growth in the fund because, historically, small carriers' costs have risen faster than the national average cost per loop. As a result, small carriers have drawn increased support from the fund. We are using the GDP–CPI of the year for which costs are reported because the support mechanisms reflect a two-year lag between the time when the costs on which support is based are incurred and the distribution of support. We are using the 1997 nationwide average loop cost per loop as the benchmark because the 1998 nationwide average loop costs would not be calculated until September 1999. The percentage of the above-average loop cost that rural carriers may recover from the support mechanisms during 2000 will remain consistent with the current provisions concerning support for high loop costs in the Commission's rules. We note that this modification to the existing benchmark for calculating high cost loop support enjoys wide support among ILEC commenters and is supported by the state Joint Board members in their report. We also conclude that rural carriers should continue to receive this support through the jurisdictional separations process, by allocating to the interstate jurisdiction the amount of a recipient's universal service support for loop costs.

170. Indexed Cap

Until rural carriers calculate their support using a forward-looking economic cost methodology, we shall continue to prescribe a cap on the growth of the fund to support high cost loops served by either non-rural and rural carriers equal to the annual average growth in lines. Because beginning January 1, 1999, non-rural carriers will no longer receive support under the existing universal service mechanisms, it is necessary to recalculate the cap based on the costs of the rural carriers that will remain under the modified existing support mechanisms. This overall cap will prevent excessive growth in the size of the fund during the period preceding the implementation of a forward-looking support mechanisms. We conclude that a cap will encourage carriers to operate more efficiently by limiting the amount of support they receive. We also conclude that excessive growth in high loop cost support would make the change to forward-looking support mechanisms more difficult for rural carriers if those support mechanisms provide significantly different levels of support. From our experience with the indexed cap on the current high cost support mechanisms, implemented pursuant to the recommendations of the 80–286 Joint Board proceeding, we conclude that the indexed cap effectively limits the overall growth of the fund, while protecting individual carriers from experiencing extreme reductions in support.

171. DEM Weighting Support

We adopt the Joint Board's recommendation that a subsidy corresponding in amount to that generated formerly by DEM weighting be recovered from the new universal service support mechanisms. Accordingly, the local switching costs assigned to the interstate jurisdiction beginning in 1998 will include an amount based on the modified DEM weighting factor. We will not, however, set DEM weighting support on a per-line basis and calculate support for high switching costs based on the amount by which revenues collected by each carrier exceed what would be collected without DEM weighting for calendar year 1996. We conclude that setting support at those levels may not provide rural carriers with sufficient resources to enable the carriers to make prudent upgrades to their switching facilities so that they may continue to offer quality service to their customers. As we have discussed above, we do not believe that the fixed per-line support recommended by the Joint Board would provide rural carriers adequate support for providing universal service because support to offset increases in maintenance expenses due to natural disasters or inflation would not be available. We adopt a modified version of the ILEC Associations' proposal to provide DEM weighting benefits prior to the conversion to a forward-looking economic cost methodology.

172. Beginning on January 1, 1998, and continuing until a forward-looking economic cost methodology for them becomes effective, rural carriers will receive local switching support based on weighting of their interstate DEM factors. Assistance for the local switching costs of a qualifying carrier will be calculated by multiplying the carrier's annual unseparated local switching revenue requirement by a local switching support factor, where the local switching support factor is the difference between the 1996 weighted and unweighted interstate DEM factors. If the number of a carrier's lines increases during 1997 or any successive year, either through the purchase of exchanges or through other growth in lines, such that the current DEM weighting factor would be reduced, the carrier must apply the lower weighting factor to the 1996 unweighted interstate DEM factor in order to derive the local switching support factor used to calculate universal service support. We conclude that this mechanism will provide support for carriers to make prudent upgrades to their switching equipment needed to maintain, if not improve, the quality of service to their customers.

173. Long Term Support (LTS)

Consistent with the Joint Board's recommendation, beginning in 1998, rural carriers will recover from the new universal service support mechanisms LTS at a level sufficient to protect their

customers from the effects of abrupt increases in the NECA CCL rates. We agree with those commenters contending that the Joint Board's recommendation that the mechanisms compensate each common line pool member on the basis of its interstate common line revenue requirement relative to the total interstate common line revenue requirement does not consider each carrier's revenues from other sources, such as SLCs and CCL charges. Accordingly, we decline to adopt the Joint Board's recommendation to calculate the support for LTS on a fixed per-line basis. Instead, we adopt a modified per-line support mechanisms for providing LTS.

174. Beginning on January 1, 1998, we shall allow a rural carrier's annual LTS to increase from its support for the preceding calendar year based on the percentage of increase of the nationwide average loop cost. LTS is a carrier's total common line revenue requirement less revenues received from SLCs and CCL charges. This approach ties increases in LTS to changes in common line revenue requirements. Alternative options suggested are not sufficient because they depend on an ability to determine a nationwide CCL charge, which will no longer be possible if the non-pooling carriers switch to a per-line rather than a per-minute CCL charge.

175. Corporate Operations Expense

As we described earlier, for universal service support, we will not prescribe support for corporate operations expense for each carrier study area, as measured on an average monthly per-line basis, in excess of 115 percent of an amount projected for a service area of its sizes. The projected amount will be defined by a formula based upon a statistical study that predicts corporate operations expense based on the number of access lines.

176. Sale of Exchanges

Until support for all carriers is based on a forward-looking economic cost methodology, we conclude that potential universal service support payments may influence unduly a carrier's decision to purchase exchanges from other carriers. In order to discourage carriers from placing unreasonable reliance upon potential universal service support in deciding whether to purchase exchanges from other carriers, we conclude that a carrier making a binding commitment on or after May 7, 1997 to purchase a high cost exchange should receive the same level of support per line as the seller received prior to the sale. For example, if a rural carrier purchases an exchange from a non-rural carrier that receives support based on the forward-looking economic cost methodology, the loops of the acquired exchange shall receive per-line support based on the forward-looking economic cost methodology of the non-rural carrier prior to the sale, regardless of the support the rural carrier purchasing the lines may receive for any other exchanges. Likewise, if a rural carrier acquires an exchange from another rural carrier, the acquired lines will continue to receive per-line support of the selling company prior to the sale. If a carrier has entered into a binding commitment to buy exchanges prior to May 7, 1997, that carrier will receive support for the newly acquired lines based upon an analysis of the average cost of all its lines, both those newly acquired and those it had prior to execution of the sales agreement. This approach reflects the reasonable expectations of such purchasers when they entered into the purchase and sale agreements. After support for all carriers is based on the forward-looking economic cost methodology, carriers shall receive support for all exchanges, including exchanges acquired from other carriers, based on the forward-looking economic cost methodology.

177. Early Use of Forward-Looking Economic Cost Methodology

Consistent with the recommendations in the State High Cost Report, at this time, we find that, because of the current methodologies' high margin of error for rural areas, we should not permit rural carriers to begin to use the forward-looking economic cost methodology when the non-rural ILECs do. We conclude that a forward-looking economic cost methodology developed for non-rural carriers will require further review before being applied to rural carriers. We conclude that a forward-looking economic cost methodology for rural carriers should not be implemented until there is greater certainty that the mechanisms account reasonably for the cost differences in rural study areas.

178. Certification as a Rural Carrier

Consistent with the Joint Board's recommendation, we define ''rural carriers'' as those carriers that meet the statutory definition of a ''rural telephone company.'' (47 U.S.C. 153(37)). In order for the administrator to calculate support payments, a carrier must notify the Commission and its state commission, that for purposes of universal service support determinations, it meets the definition of a ''rural carrier.'' Carriers should make such a notification each year prior to the beginning of the payout period for that year. We find that a self-certification process, coupled with random verification by the Commission and the availability of the section 208 compliance process, would ensure that support is distributed to a carrier without delay and still provide adequate protection against abuse.

179. Portability of Support

We adopt the Joint Board's recommendation to make rural carriers' support payments portable. A CLEC that qualifies as an eligible telecommunications carrier shall receive universal service support to the extent that it captures subscribers formerly served by carriers receiving support based on the modified existing support mechanisms or adds new customers in the ILEC's study area. We conclude that paying the support to a competitive eligible telecommunications carrier that wins the customer or adds a new subscriber would aid the entry of competition in rural study areas.

180. We shall calculate an ILEC's per-line support by dividing the ILEC's universal service support payment by the number of loops in the ILEC's most recent annual loop count to calculate universal service support for all eligible telecommunications carriers serving customers within that ILEC's study area. Moreover, in order to avoid creating a competitive disadvantage for an eligible CLEC using exclusively unbundled network elements to provide service, that carrier will receive the universal service support for the customer, not to exceed the cost of the unbundled network elements used to provide the supported services. If the service is provided in part through facilities constructed and deployed by the CLEC and in part through unbundled network elements, then support will be allocated between the ILEC and the CLEC depending on the amount of support assigned to each element and whether the carrier constructed the facilities used to provide service or purchased access to an unbundled network element.

181. We conclude that determining a rural ILEC's per-line support by dividing the ILECs' universal service support payment by the number of loops served by that ILEC to calculate universal service support for all eligible telecommunications carriers serving customers within that rural ILEC's study area will be the least burdensome way to administer the support mechanisms and will provide the competing carrier with an incentive to operate efficiently. Besides using a forward-looking or embedded costs system, the alternative

for calculating support levels for competing eligible telecommunications carriers consists of requiring the CLECs to submit cost studies. Compelling a CLEC to use a forward-looking economic cost methodology without requiring the ILEC's support to be calculated in the same manner, however, could place either the ILEC or the CLEC at a competitive disadvantage. We thus disagree with commenters that assert that providing support to eligible CLECs based on the incumbents' embedded costs would violate section 254(e).

182. Alaska and Insular Areas

The Joint Board recommended that, because of the unique circumstances faced by rural carriers providing service in Alaska and insular areas, those carriers should not be required to shift to support mechanisms based on the forward-looking economic cost at the same time that other rural carriers are so required. The Joint Board noted that carriers serving insular areas have higher shipping costs for equipment and damage caused by tropical storms, while carriers serving Alaska have limited construction periods and serve extremely remote rural communities. Therefore, the Joint Board recommended that rural carriers in Alaska and insular areas continue to receive support based on the fixed support amounts. The Joint Board further recommended that the Commission revisit at a future date the issue of when to move such carriers to a forward-looking economic cost methodology. Given the plan we adopt in this Order, we find that we do not need to resolve the issue of rural carriers serving Alaska and insular areas at this time because we have not set a timeframe for rural carriers to move to the forward-looking economic cost methodology. We will revisit this question when we decide the schedule for other rural carriers moving to the forward-looking economic cost methodology. We agree with the Joint Board that non-rural carriers serving Alaska and insular areas should move to the forward-looking economic cost methodology at the same time as other non-rural carriers. We note, however, that we retain the ability to grant waivers of this requirement in appropriate cases.

183. We note that the forward-looking economic cost models that have been presented to us so far do not include any information on Alaska or the insular areas. We anticipate that information for non-rural carriers serving Alaska and insular areas will be included in future versions of the models. If such information is not available in a timely manner, we recognize that we may need to adjust the schedule for non-rural carriers serving Alaska and insular areas to move to support based forward-looking economic cost. We will evaluate that situation as we proceed with our determination of a forward-looking economic cost methodology through the FNPRM. We also note that, in the absence of such information in the models, the commissions for Alaska and the insular areas may still submit a state cost study to the Commission.

184. We agree with Guam Tel. Authority that, under the principle set out in section 254(b)(3) this carrier should be eligible for universal service support and clarify the procedures to be used for any carriers, such as Guam Tel. Authority, that may not have historical costs studies on which to base the set support amounts. Guam Tel. Authority, or any other carrier serving an insular area that is not currently included in the existing universal service mechanism, shall receive support based on an estimate of annual amount of their embedded costs. Such carriers must submit verifiable embedded-cost data to the fund administrator.

185. Use of Competitive Bidding Mechanisms

In the NPRM, the Commission sought comment on whether competitive bidding could be used to determine universal service support in rural, insular, and high cost areas. Specifically, the Commission asked whether relying on competitive bidding would be consistent with section 214(e), the provision of the statute that specifies the circumstances under which telecommunications carriers are eligible to receive universal service support. Under a competitive bidding mechanism eligible telecommunications carriers would bid on the amount of support per line that they would receive for serving a particular geographic area.

186. The Joint Board identified many advantages arising from the use of a competitive bidding system. We agree with the Joint Board and the commenters that a compelling reason to use competitive bidding is its potential as a market-based approach to determining universal service support, if any, for any given area. The Joint Board and some commenters also noted that by encouraging more efficient carriers to submit bids reflecting their lower costs, another advantage of a properly structured competitive bidding system would be its ability to reduce the amount of support needed for universal service. In that regard, the bidding process should also capture the efficiency gains from new technologies or improved productivity, converting them into cost savings for universal service. We find that competitive bidding warrants further consideration.

187. We agree with the commenters that suggest we issue a notice to examine issues related to the use of competitive bidding to set universal service support levels for rural, insular, and high cost areas. We find that the record in this proceeding does not contain discussion of those issues adequate for us to define at this time a competitive bidding mechanism that is also consistent with the requirements of sections 214(e) and 254. Overall, there is even less discussion in the comments on the Recommended Decision addressing the use of competitive bidding by the Commission than in the comments filed in response to the NPRM and the Common Carrier Bureau's Public Notice.

188. It is unlikely that there will be competition in a significant number of rural, insular, or high cost areas in the near future. Consequently, it is unlikely that competitive bidding mechanisms would be useful in many areas in the near future. Given the limited utility of a competitive bidding process in the near term, it is important that we not rush to adopt competitive bidding procedures before we complete a thorough and complete examination of the complex and unique issues involved with developing bidding mechanisms for awarding of universal service support. Furthermore, as envisioned in the proposals made to the Commission thus far, competitive bidding will be a complement to, not a substitute for, an alternative forward-looking economic cost methodology. We will seek to define a role for a competitive bidding mechanism as part of the forward-looking economic cost methodology by which support to non-rural carriers for their provision of universal service is defined after December 31, 1998.

189. We shall therefore issue a FNPRM examining specifically the use of competitive bidding to define universal service support for rural, insular, and high cost areas. Our goal will be to develop a record on specific competitive bidding mechanisms sufficient to enable us to adopt one, if we also find it to be in the public interest. A separate proceeding will allow commenters to focus on the issues posed by a decision to use competitive bidding for universal service support in light of our actions in this Order.

Support for Low-Income Consumers

190. Authority to Revise Lifeline and Link Up Programs

We agree with the Joint Board that section 254(j) allows us to adopt certain changes to the Lifeline program in order to make it consistent with the goals of the 1996 Act. We thus concur with the Joint Board's finding that Congress did not intend for section 254(j) to codify every detail of the existing Lifeline program, but that it intended to give the Joint Board and the Commission permission to leave the Lifeline program in place without modification, despite Lifeline's inconsistency with other portions of the 1996 Act.

191. Our authority to alter the existing low-income assistance programs must be understood in light of our general authority to preserve and advance universal service under section 254. We find that section 254 clarifies the scope of the Commission's universal service responsibilities in several fundamental respects. Most notably, universal service as defined by section 254 is both intrastate and interstate in nature. This feature of universal service is evident, for example, in the case of low-income support programs. Affordability of basic telephone service is necessary to ensure that low-income consumers have access not only to intrastate services but to interstate telecommunications as well.

192. Thus, we agree with the Joint Board that state and federal governments have overlapping obligations to strengthen and advance universal service. We further conclude that section 254 grants us authority to ensure that states satisfy these obligations. That authority is reflected, among other places, in Congress's directive that the Commission ensure that support is ''sufficient'' to meet universal service obligations. Although states also must ensure that their support mechanisms are ''sufficient,'' they may only do so to the extent that such mechanisms are not ''inconsistent with the Commission's rules to preserve and advance universal service.''

193. In fulfilling our responsibility to preserve and advance universal service, we find that the 1996 Act clarifies not only the scope of the Commission's authority, but also the specific nature of our obligations. With respect to the Lifeline and Link-Up programs, we observe that the Act evinces a renewed concern for the needs of low-income citizens. Thus, for the first time, Congress expresses the principle that rates should be ''affordable,'' and that access should be provided to ''low-income consumers'' in all regions of the nation. These principles strengthen and reinforce the Commission's preexisting interest in ensuring that telecommunications service is available ''to all the people of the United States.'' Under these directives, all consumers, including low-income consumers, are equally entitled to universal service as defined by this Commission under section 254(c)(1).

194. We adopt the recommendation of the Joint Board to reject the view offered by some commenters that section 254(j) prevents the Commission from making any change to the Lifeline program. We find that Congress did not intend to codify the existing Lifeline program so as to immunize it from any future changes or improvements. We therefore conclude that Congress intended section 254(j) to permit the Commission to leave the Lifeline program in place, notwithstanding that the program may conflict with the pro-competitive provisions of the 1996 Act.

195. Moreover, by its own terms, section 254(j) applies only to changes made pursuant to section 254 itself. Our authority to restrict, expand, or otherwise modify the Lifeline program through provisions other than section 254 has been well established over the past decade. In 1985, we created Lifeline under the general authority of sections 1, 4(i), 201, and 205 of the Act. Since then, we have relied on those provisions to modify the program on several occasions. We must assume that Congress was aware of the Commission's authority under Titles I and II to amend Lifeline. Consequently, we agree with the Joint Board that we retain the authority to revise the Lifeline program.

196. We also agree with the Joint Board that we are not barred from relying on the authority of section 254 itself when modifying the Lifeline program. Although section 254(j) provides that nothing in section 254 ''shall affect'' the Lifeline program, nonetheless, like the Joint Board, we do not believe that section 254(j) can reasonably be read to prevent us from changing Lifeline to bring it into conformity with the principles of section 254. Section 254 clearly gives the Commission independent statutory authority to establish federal mechanisms to provide universal service support to low-income consumers, and section 254(j) in no way can be read to usurp the Commission's authority under section 254 to establish such mechanisms. Were section 254 to be interpreted to prohibit us from revising our rules establishing the Lifeline program, we could, pursuant to section 254, establish new low-income universal service support mechanisms and then, acting pursuant to sections 1, 4(i), and 201, simply abolish the Lifeline program as duplicative.

197. Section 254(j) indicates that Congress did not intend to require a change to the Lifeline program in adopting the new universal service principles. Presumably, Congress did not want to be viewed as mandating modifications to this worthy and popular program. Congress did not intend, however, to prevent the Commission from making changes to Lifeline that are sensible and clearly in the public interest. Thus, we agree with the Joint Board that it ''has the authority to recommend, and the Commission has authority to adopt, changes to the Lifeline program to make it more consistent with Congress's mandates in section 254 if such changes would serve the public interest.''

198. In this section, we make changes to the Lifeline program that we believe are necessary, are in the public interest, and advance universal service. We emphasize that, in doing so, we are relying principally upon our preexisting authority under Titles I and II of the Communications Act (particularly sections 1, 4(i), 201, and 205). To the extent that we act on the basis of the principles of section 254(b), however, we rely on the authority of that section as well.

199. We share the Joint Board's concern over the low subscribership levels among low-income consumers and agree that changes in the current Lifeline program are warranted. We are particularly concerned that two factors deter subscribership among low-income consumers. First, several states do not participate in the Lifeline program, and therefore low-income consumers in those regions do not have access to Lifeline. Second, some low-income consumers in states that participate in the Lifeline program receive no assistance because not all carriers in those areas are obligated to offer Lifeline. We find that the unavailability of Lifeline to low-income consumers in these areas runs counter to our duty to ''make available, so far as possible, to all the people of the United States * * * a rapid, efficient Nationwide * * * wire and radio communication service.'' The unavailability of Lifeline to many low-income consumers also conflicts with the statutory principle that access to telecommunications services should be extended to ''(c)onsumers in all regions of the Nation, including low-income consumers.'' For these reasons, we revise the Lifeline program pursuant to our authority under sections 1, 4(i), 201, 205, and 254 to promote access to

telecommunications service for all consumers.

200. Carriers' Obligation to Offer Lifeline

We concur with the Joint Board's conclusion that, to increase subscribership among low-income consumers, we should modify the Lifeline program so that qualifying low-income consumers can receive Lifeline service from all eligible telecommunications carriers. Our determination arises from a concern that, in certain regions of the nation, carriers may not offer Lifeline service unless compelled to do so. In requiring all eligible telecommunications carriers to offer Lifeline service to qualifying low-income consumers, we make Lifeline part of our universal service support mechanisms. We emphasize that in imposing this obligation, we are acting under our general authority in sections 1, 4(i), 201, and 205 of the Act, as well as our authority under section 254.

201. Expanding Lifeline to Every State and Modifying Matching Requirements

We also agree with the Joint Board that the Lifeline program should be amended so that qualifying low-income consumers throughout the nation can receive Lifeline service. Presently, only 44 states (including the District of Columbia and the U.S. Virgin Islands) participate in Lifeline. Because the Lifeline program currently requires states to make a matching reduction in intrastate rates in order to qualify for the SLC waiver, a state's decision not to participate means that federal support will not be available in that state. We agree with the Joint Board that a baseline amount of federal support should be available in all states irrespective of whether the state generates support from the intrastate jurisdiction. We agree with the Joint Board, however, that state participation in Lifeline historically has been an important aspect of the program. As a result, we agree with the Joint Board that matching incentives should not be eliminated entirely. We will provide a baseline federal support amount to qualifying low-income consumers in all states, with a matching component above the baseline level.

202. Lifeline Support Amount

In determining the appropriate amount of support for Lifeline, the Joint Board indicated that it was uncertain whether a federal support amount equal to the level of the SLC (currently a maximum of $3.50), absent any state support, would be a sufficient baseline federal support amount. Although the Lifeline program currently provides federal support in the form of a SLC waiver (i.e., up to $3.50), that support must be matched by equal or greater reductions in intrastate rates. Thus, Lifeline customers currently receive overall reductions in their charges of $7.00 or more, depending upon state participation. Our revised Lifeline program will be available in all states, irrespective of state participation. Thus, the baseline support must provide a sufficient level of support even in states that generate no support from the intrastate jurisdiction. The Joint Board therefore proposed a baseline amount of $5.25 in federal support, which is half-way between the current maximum federal support level of $3.50 and the $7.00 reduction in charges that a Lifeline customer would receive assuming full state matching. In general, we believe that the record supports adopting the Joint Board's proposal. We conclude that the $5.25 amount represents a sound compromise and a pragmatic balancing of the goals of extending Lifeline to states that currently do not participate and maintaining incentives for states to provide matching funds.

203. Lifeline consumers will continue to receive the $3.50 in federal support that is currently available. Further, we will provide for additional federal support in the amount of $1.75 above the current $3.50 level. For Lifeline consumers in a given state to receive the additional $1.75 in federal support, that state need only approve the reduction in the portion of the intrastate rate paid by the end user; no state matching is required. The requirement of state consent before we make available federal Lifeline support in excess of the federal SLC is consistent with our overall deference to the states in areas of traditional state expertise and authority. Because the states need not provide matching funds to receive this amount, but only approve the reduction of $1.75 in the portion of the intrastate rate that is paid by the end user, we believe that the states will participate in this aspect of the program.

204. We also adopt the Joint Board's recommendation that we ''provide for additional federal support equal to one half of any support generated from the intrastate jurisdiction, up to a maximum of $7.00 in federal support.'' Thus, if a state provides the minimum amount of matching support to receive the full federal support amount, the total reduction in end user charges would increase from $7.00 under the current system to $10.50. We believe that this increase in total support will affect positively the low subscribership levels among low-income consumers that concerned the Joint Board. As with the $1.75 in federal support above $3.50, states will have to approve this reduction in intrastate rates provided by the additional federal support amount.

205. The Joint Board observed that many states currently generate their matching funds through the state rate-regulation process. These states allow incumbent LECs to recover the revenue the carriers lose from charging Lifeline customers less by charging other subscribers more. Florida PSC points out that this method of generating Lifeline support from the intrastate jurisdiction could result in some carriers (i.e., ILECs) bearing an unreasonable share of the program's costs. We see no reason at this time to intrude in the first instance on states' decisions about how to generate intrastate support for Lifeline. We do not currently prescribe the methods states must use to generate intrastate Lifeline support, nor does this Order contain any such prescriptions. Many methods exist, including competitively neutral surcharges on all carriers or the use of general revenues, that would not place the burden on any single group of carriers. We note, however, that states must meet the requirements of section 254(e) in providing equitable and non-discriminatory support for state universal service support mechanisms.

206. We conclude that we must seek further guidance from the Joint Board on how to ensure the integrity of the Lifeline program in light of changes we make today to our access charge rules. In the *Access Charge Reform Order,* as part of our effort to implement the Joint Board's suggestion that the current per-minute CCL charge be modified to reflect the non-traffic sensitive nature of loop costs, we implement a flat charge per primary residential line that is to be assessed against the PIC. If the customer does not select a PIC, however, the presubscribed interexchange carrier charge (PICC) will be assessed against the end user.

207. We wish to ensure that these changes to our Part 69 rules, which were not contemplated when the Joint Board made its recommendations, will not have an adverse impact on Lifeline customers. Specifically, we are concerned that the PICC may be assessed against Lifeline customers who elect to receive toll blocking (for which federal support will now be provided) because they will have no PIC associated with their lines. Accordingly, we seek further guidance from the Joint Board on how to maintain the integrity of the Lifeline program and ensure

competitive neutrality in light of these changes to our part 69 rules.

208. Making Lifeline Competitively Neutral

In this Order, we endorse the Joint Board's recommendation that we adopt the principle of ''competitive neutrality'' and conclude that universal service support mechanisms and rules should not unfairly advantage one provider, nor favor one technology. Consistent with this principle, we agree that the funding mechanisms for Lifeline should be made more competitively neutral. We find no statutory justification for continuing to fund the federal Lifeline program through charges levied only on some IXCs. As required by section 254, all carriers that provide interstate telecommunications service now will contribute on an equitable and nondiscriminatory basis.

209. In addition, we concur with the Joint Board's recommendation that all eligible telecommunications carriers, not just ILECs, should be able to receive support for serving qualifying low-income consumers. Currently, only ILECs, which charge SLCs and waive such charges for low-income consumers, can receive support under most circumstances. We find, however, that eligible telecommunications carriers other than ILECs also should have the opportunity to compete to offer Lifeline service to low-income consumers and in turn receive support in a manner similar to the current program. Support will be provided directly to carriers under administrative procedures determined by the universal service administrator in direct consultation with the Commission.

210. We acknowledge that the distribution of support to non-ILEC carriers cannot be achieved simply by waiving the SLC. Carriers other than ILECs do not participate in the formal separations process that our rules mandate for ILECs and hence do not charge SLCs nor distinguish between the interstate and intrastate portion of their charges and costs. With respect to these carriers, we conclude that Lifeline support must be passed through directly to the consumer in the form of a reduction in the total amount due. Indeed, sections 254(e) and (k) require eligible telecommunications carriers to pass through Lifeline support directly to consumers. Furthermore, we do not believe that requiring carriers to pass through the support amount conflicts with our desire to establish mechanisms that are respectful of traditional state authority. Rather, we note that a portion of every carrier's charge can be attributed to the interstate jurisdiction, whether or not the carrier formally participates in the separations procedure.

211. The interstate portion of ILECs' rates to recover loop costs is, almost without exception, greater than the amount of the SLC cap for residential subscribers; we are therefore confident that this amount is a reasonable proxy for the interstate portion of other eligible telecommunications carriers' costs. Thus, we conclude that we may require an amount equal to the SLC cap for primary residential and single-line business connections to be deducted from carriers' end-user charges without infringing on state ratemaking authority. Furthermore, we find that providing the same amount of Lifeline support to all eligible telecommunications carriers, including those that do not charge SLCs, advances competitive neutrality. In sum, we conclude that breaking the link between Lifeline and the Commission's part 69 rules will promote competitive neutrality by allowing eligible carriers that are not required to charge SLCs, such as CLECs and wireless providers, to receive federal support for providing Lifeline.

212. The precise mechanisms for distributing and collecting Lifeline funds will be determined by the universal service administrator in direct consultation with the Commission. In general, however, any carrier seeking to receive Lifeline support will be required to demonstrate to the public utility commission of the state in which it operates that it offers Lifeline service in compliance with the rules we adopt today. These rules require that carriers offer qualified low-income consumers the services that must be included within Lifeline service, as discussed more fully below, including toll-limitation service. ILECs providing Lifeline service will be required to waive Lifeline customers' federal SLCs and, conditioned on state approval, to pass through to Lifeline consumers an additional $1.75 in federal support. ILECs will then receive a corresponding amount of support from the new support mechanisms. Other eligible telecommunications carriers will receive, for each qualifying low-income consumer served, support equal to the federal SLC cap for primary residential and single-line business connections, plus $1.75 in additional federal support conditioned on state approval. The federal support amount must be passed through to the consumer in its entirety. In addition, all carriers providing Lifeline service will be reimbursed from the new universal service support mechanisms for their incremental cost of providing toll-limitation services to Lifeline customers who elect to receive them. The remaining services included in Lifeline must be provided to qualifying low-income consumers at the carrier's lowest tariffed (or otherwise generally available) rate for those services, or at the state's mandated Lifeline rate, if the state mandates such a rate for low-income consumers.

213. We believe that we have the authority under sections 1, 4(i), 201, 205, and 254 to extend Lifeline to include carriers other than eligible telecommunications carriers. We agree with the Joint Board, however, and decline to do so at the present time. Elsewhere in this Order, we express our intention to incorporate Lifeline into our broader universal service mechanisms adopted in this proceeding. We believe that a single support mechanism with a single administrator following similar rules will have significant advantages in terms of administrative convenience and efficiency. Furthermore, in deciding which carriers may participate in Lifeline, we note that section 254(e) allows universal service support to be provided only to carriers deemed eligible pursuant to section 214(e).

214. We further observe that a large class of carriers that will not be eligible to receive universal service support—those providing service purely by reselling another carrier's services purchased on a wholesale basis pursuant to section 251(c)(4)—will nevertheless be able to offer Lifeline service. The *Local Competition Order* provides that all retail services, including below-cost and residential services, are subject to wholesale rate obligations under section 251(c)(4). Resellers therefore could obtain Lifeline service at wholesale rates that include the Lifeline support amounts and can pass these discounts through to qualifying low-income consumers. We are hopeful that states will take the steps required to ensure that low-income consumers can receive Lifeline service from resellers. Further, we find that we can rely on the states to ensure that at least one eligible telecommunications carrier is certified in all areas. As a result, low-income consumers always will have access to a Lifeline program from at least one carrier. We will reassess this approach in the future if it appears that the revised Lifeline program is not being made available to low-income consumers nationwide.

215. Consumer Qualifications for Lifeline.

We agree with the Joint Board that the Commission should maintain this basic framework for administering Lifeline qualification in states that provide intrastate support for the Lifeline program. State agencies or telephone companies currently determine consumer qualifications for Lifeline pursuant to standards set by narrowly targeted programs approved by the Commission. We believe such criteria leave states sufficient flexibility to target support based on that state's particular needs and circumstances. We also concur with the recommendation that the Commission require states that provide intrastate matching funds to base eligibility criteria solely on income or factors directly related to income (such as participation in a low-income assistance program). Currently, some states only make Lifeline assistance available to low-income individuals who, for example, are elderly or have disabilities. We agree that the goal of increasing low-income subscribership will best be met if the qualifications to receive Lifeline assistance are based solely on income or factors directly related to income.

216. We also adopt the Joint Board's recommendation that the Commission apply a specific means-tested eligibility standard, such as participation in a low-income assistance program, in states that choose not to provide matching support from the intrastate jurisdiction. Specifically, we find that the default Lifeline eligibility standard in non-participating states will be participation in Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance or section 8, or Low Income Home Energy Assistance Program (LIHEAP). We find that, in the interest of administrative ease and avoiding fraud, waste, and abuse, the named subscriber to the local telecommunications service must participate in one of these assistance programs to qualify for Lifeline. We specifically decline to base eligibility solely on a program, such as Aid to Families with Dependent Children (AFDC), that will be altered significantly by the recently-enacted welfare reform law. Because we agree that individuals who are eligible for assistance from low-income assistance programs also should be eligible for Lifeline, participation in at least one of the programs mentioned above shall be the federal eligibility standard applied in states that do not participate in Lifeline. We conclude that basing Lifeline eligibility on participation in any of these low-income assistance programs will achieve our goal of wide Lifeline participation by low-income consumers, because the eligibility criteria for several of these programs vary. Therefore, basing Lifeline eligibility on participation in any of these programs will reach more low-income consumers than basing Lifeline eligibility solely on one of the programs. We further conclude that if participation in Medicaid, food stamps, SSI, public housing assistance or section 8, or LIHEAP becomes an unworkable standard, as evidenced, for instance, by a disproportionately low number of Lifeline consumers in states where such a standard is used, the Commission shall revise the standard.

217. We clarify that the Joint Board's recommendation, which we adopt, requires states to base eligibility on income or factors directly related to income and merely suggests using participation in a low-income assistance program as the criterion. Thus, states may choose their eligibility criteria as long as those criteria measure income or factors directly related to income. We have no reason to conclude, at this time, that states will not take the required steps to reconcile Lifeline qualification with changes in welfare laws. We have tied the default Lifeline qualification standards (which will apply in states that do not provide intrastate funds) to programs that commenters believe to be unaffected or minimally affected by the new welfare legislation. We will, however, continue to monitor the situation and may make further changes in the future if it appears that changes to other programs unduly limit Lifeline eligibility.

218. We agree that states providing matching intrastate Lifeline support should continue to have the discretion to determine the appropriateness of verification of Lifeline customers' qualification for the program. Because these states are generating support from the intrastate jurisdiction, they have an incentive to control fraud, waste, and abuse of the support mechanism. Because states that are generating matching intrastate support have a strong interest in controlling the size of the support mechanism, we do not find at this time that imposing stricter federal verification requirements is necessary to ensure that the size of the support mechanisms remains at reasonable levels. We will revisit this conclusion, however, to ensure the sustainability and predictability of the sizing of the support mechanisms. In light of these conclusions, we find it no longer necessary to reduce the level of Lifeline support in states that choose not to require that consumer qualification be verified.

219. With respect to verification in states in which the federal default qualification criteria apply, we will require carriers to obtain customers' signatures on a document certifying under penalty of perjury that the customer is receiving benefits from one of the programs included in the default standard, identifying the program or programs from which the customer receives benefits, and agreeing to notify the carrier if the customer ceases to participate in such program or programs.

220. Link Up

We agree with the Joint Board that the Link Up funding mechanisms should be removed from the jurisdictional separations rules and that the program should be funded through equitable and non-discriminatory contributions from all interstate telecommunications carriers. Funding the program through contributions from all interstate carriers will allow for explicit and competitively neutral support mechanisms.

221. We also adopt the Joint Board's recommendation that we amend our Link Up program so that any eligible telecommunications carrier may draw support from the new Link Up support mechanism if that carrier offers to qualifying low-income consumers a reduction of its service connection charges equal to one half of the carrier's customary connection charge or $30.00, whichever is less. Support shall be available only for the primary residential connection. When the carrier offers eligible customers a deferred payment plan for connection charges, we agree with the Joint Board that we should preserve the current rule providing support to reimburse carriers for waiving interest on the deferred charges. In the absence of evidence that increasing the level of Link Up support for connecting each eligible customer would significantly promote universal service goals, we will maintain the present level of support for Link Up, as the Joint Board recommended. To ensure that the opportunity for carrier participation is competitively neutral, we adopt the Joint Board's recommendation to eliminate the requirement that the commencement-of-service charges eligible for support be filed in a state tariff.

222. For the sake of administrative simplicity, we revise our rules to require that the same qualification requirements that apply to Lifeline in each state, including its verification standards, also shall apply to Link Up in that state. This step will advance administrative

simplicity while states assess their approaches to universal service and while we seek further recommendations from the Joint Board. We further observe that this rule will change nothing in the majority of states, which already use the same eligibility criteria for both programs. This change, however, will base states' ability to set Link Up eligibility criteria on whether they participate in Lifeline. Accordingly, we eliminate the requirement that states verify Link Up customers' qualifications for the program and instead rely on the states to determine whether the costs of verification outweigh the potential for fraud, waste, and abuse. Because only those states generating intrastate Lifeline support will make this determination, they will have an independent incentive to control fraud, waste, and abuse. In states that do not participate in Lifeline, the federal default Lifeline qualifications also will apply to Link Up.

223. We also adopt the Joint Board's recommendation that states shall be prohibited from restricting the number of service connections per year for which low-income consumers who relocate can receive Link Up support. Commenters observe that this rule is vital for migrant farmworkers and low-income individuals who have difficulty maintaining a permanent residence, and we agree that this rule will help ensure that consumers in all regions of the nation have access to affordable telecommunications services and that rates for such services are reasonable.

224. Services for Low-Income Consumers

We agree with the Joint Board that we should ensure, through universal service support mechanisms, that low-income consumers have access to certain services. The current Lifeline program does not require that low-income consumers receive a particular level of telecommunications services. Thus, we amend the Lifeline program to provide that Lifeline service must include the following services: Single-party service; voice grade access to the public switched telephone network; DTMF or its functional digital equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll-limitation services. In determining the specific services to be provided to low-income consumers, we adopt the Joint Board's reasoning that section 254(b)(3) calls for access to services for ''[c]onsumers in all regions of the Nation, including low-income consumers'' and that universal service principles may not be realized if low-income support is provided for service inferior to those supported for other subscribers. All these services, with the exception of toll limitation, also will be supported by universal service support mechanisms for rural, insular, and high cost areas, and we therefore find that low-income consumers should receive support for these services.

225. We further agree with the Joint Board's recommendation that Lifeline consumers also should receive, without charge, toll-limitation services. Studies demonstrate that a primary reason subscribers lose access to telecommunications services is failure to pay long distance bills. Because voluntary toll blocking allows customers to block toll calls, and toll control allows customers to limit in advance their toll usage per month or billing cycle, these services assist customers in avoiding involuntary termination of their access to telecommunications services. The Joint Board concluded, however, that low-income consumers may not be able to afford voluntary toll-limitation services in a number of jurisdictions. Therefore, we are confident that providing voluntary toll limitation without charge to low-income consumers, should encourage subscribership among low-income consumers. Furthermore, we find that toll-limitation services are ''essential to education, public health or public safety'' and ''consistent with the public interest, convenience, and necessity'' for low-income consumers in that they maximize the opportunity of those consumers to remain connected to the telecommunications network.

226. We also adopt the Joint Board's recommendation that carriers providing voluntary toll limitation should be compensated from universal service support mechanisms for the incremental cost of providing toll-limitation services. We find that recovery of the incremental costs of toll-limitation services is adequate cost recovery that does not place an unreasonable burden on the support mechanisms. By definition, incremental costs include the costs that carriers otherwise would not incur if they did not provide toll-limitation service to a given customer, and carriers will be compensated for their costs in providing such service. Because low-income consumers may otherwise be unlikely to purchase toll-limitation services, we do not find it is necessary to support the full retail charge for toll-limitation services the carrier would charge other consumers. We therefore also conclude that universal service support should not contribute to the service's joint and common costs. We require that Lifeline subscribers receive toll-limitation services without charge.

227. We emphasize that Lifeline consumers' acceptance of toll blocking is voluntary, and that Lifeline consumers are free to select toll control, which limits rather than prevents consumers' ability to place toll calls from carriers providing such a service. Both toll blocking and toll control are forms of toll-limitation service that would be supported by federal universal service mechanisms.

228. We will authorize state commissions to grant carriers that are technically incapable of providing toll-limitation services a period of time during which they may receive universal service support for serving Lifeline consumers while they complete upgrading their switches so that they can offer such services. The Joint Board observed that most carriers currently are capable of providing toll-blocking service, and some carriers are capable of providing toll control. Eligible telecommunications carriers with deployed switches that are incapable of providing toll-limitation services, however, shall not be required to provide such services to customers served by those switches until those switches are upgraded. We adopt the Joint Board's recommendation, however, that, when they make any switch upgrades, eligible telecommunications carriers currently incapable of providing toll-limitation services must add the capability to their switches to provide at least toll blocking in any switch upgrades (but Lifeline support in excess of the incremental cost of providing toll blocking shall not be provided for such switch upgrades). This is not an exception to eligible telecommunications carriers' general obligation to provide toll-limitation services; rather, it is a transitional mechanism to allow eligible telecommunications carriers a reasonable time in which to replace existing equipment that technically prevents the provision of the service.

229. We concur with the Joint Board that support should not be provided for toll-limitation services for consumers other than low-income consumers. Subscribership levels fall well below the national average only among low-income consumers, and, as the Joint Board observed, a principal reason for this disparity appears to be service termination due to failure to pay toll charges. Therefore, to the extent carriers are capable of providing them, toll-limitation services should be supported only for low-income consumers at this time.

230. No Disconnection of Local Service for Non-Payment of Toll Charges

We also adopt the Joint Board's recommendation that we should prohibit eligible telecommunications carriers from disconnecting Lifeline service for non-payment of toll charges. Studies suggest that disconnection for non-payment of toll charges is a significant cause of low subscribership rates among low-income consumers. Furthermore, the no-disconnect rule advances the principles of section 254 that ''quality services should be available at just, reasonable, and affordable rates'' and that access to telecommunications services should be provided to ''consumers in all regions of the nation, including low-income consumers.'' We therefore believe that such a rule is within the ambit of our authority in section 254. We further find, consistent with these principles, that an eligible telecommunications carrier may not deny a Lifeline consumer's request for re-establishment of local service on the basis that the consumer was previously disconnected for non-payment of toll charges.

231. We also find that our adoption of a no-disconnect rule will make the market for billing and collection of toll charges more competitively neutral. Currently, the ILEC is the only toll charge collection agent that can offer the penalty of disconnecting a customer's local telephone service for non-payment of other charges. ILECs have maintained this special prerogative, although the interstate long distance market and the local exchange markets legally have been separated for over a decade, and interstate billing and collection activities have been deregulated since 1986. Because the practice of disconnecting local service for non-payment of toll charges essentially is a vestige of the monopoly era, we find our rule prohibiting that practice will further advance the pro-competitive, deregulatory goals of the 1996 Act.

232. We agree with several commenters and limit the federal rule to Lifeline subscribers at this time, because only low-income consumers experience dramatically lower subscribership levels that can be attributed to toll charges. If we subsequently find that subscribership levels among non-Lifeline subscribers begin to decrease, we will consider whether this rule should apply to all consumers. In the interest of comity, however, we leave to the states' discretion whether such a rule should apply to other consumers at this time.

233. We further conclude that carriers offering Lifeline service must apply partial payments received from Lifeline consumers first to local service charges and then to toll charges, in keeping with our goal of maintaining low-income consumers' access to local telecommunications services. We find that this rule furthers the principle in section 254 that access to telecommunications services should be provided to ''consumers in all regions of the nation, including low-income consumers'' and is within our authority in section 1 to make communications services available to as many people as possible. Whether a Lifeline consumer's long distance and local service providers are the same or different entities shall not affect the application of this rule. While a carrier providing both local and long distance service to the same consumer must be able to distinguish between the services' respective charges to comply with our rule, we find that any administrative burden this initially may cause is outweighed by the benefit of maintaining Lifeline consumers' access to local telecommunications services.

234. We also do not condition the rule prohibiting disconnection of local service for non-payment of toll charges on the consumer's agreement to accept toll-limitation services. Proponents of this condition essentially argue that without this condition carriers will experience higher levels of uncollectible toll expenses. We are not convinced that toll limitation is necessary, however, because toll-service providers already have available the functional equivalent of toll limitation. That is, we observe that our rule prohibiting disconnection of Lifeline service will not prevent toll-service providers from discontinuing toll service to customers, including Lifeline customers, who fail to pay their bills. Although this may have been impossible with the switching technology used in the past, it is achievable now. In virtually all cases, IXCs receive calling party information with each call routed to them and could refuse to complete calls from subscriber connections with arrearages.

235. Despite the benefits of a no-disconnect rule for Lifeline consumers, we agree with the Joint Board that state utilities regulators should have the ability, in the first instance, to grant carriers a limited waiver of the requirement under limited, special circumstances. Accordingly, we adopt the Joint Board's recommendation that carriers may file waiver requests with their state commissions. To obtain a waiver, the carrier must make a three-pronged showing. First, the carrier must show that it would incur substantial costs in complying with such a requirement. Such costs could relate to burdens associated with technical or administrative issues, for example. For example, some carriers providing both local and long distance service to the same consumer may find it particularly burdensome to distinguish between local and long distance charges. Second, the carrier must demonstrate that it offers toll-limitation services to its Lifeline subscribers. We find that, if a carrier is permitted by its state commission to disconnect local service for non-payment of toll bills, its Lifeline consumers should at least be able to control their toll bills through toll limitation. Third, the carrier must show that telephone subscribership among low-income consumers in its service area in the state from which it seeks the waiver, is at least as high as the national subscribership level for low-income consumers. Carriers must make this showing because, we conclude, applying a no-disconnect policy to carriers serving areas with subscribership levels below the national average will help to improve such particularly low subscribership levels. This waiver standard is therefore extremely limited, and a carrier must meet a heavy burden to obtain a waiver. Furthermore, such waivers should be for no more than two years, but they may be renewed. If a party believes that a state commission has made an incorrect decision regarding a waiver request, or if a state commission does not make a decision regarding a waiver request within 30 days of its submission, such party may file an appeal with the Commission. The party must file the appeal with the Commission within 30 days of either the state commission's decision or the date on which the state commission should have rendered its decision. Furthermore, a state commission choosing not to act on waiver requests promptly should refer any such requests to the Commission. We agree with the Joint Board that carriers must offer Lifeline customers toll limitation without charge and without time restrictions in order to meet the second prong of the waiver requirement.

236. Prohibition on Service Deposits

Pursuant to the Joint Board's recommendation and many commenters' urging, we adopt a rule prohibiting eligible telecommunications carriers from requiring a Lifeline subscriber to pay service deposits in order to initiate service if the subscriber voluntarily elects to receive toll blocking. We find that eliminating service deposits for Lifeline customers upon their acceptance of toll blocking is

consistent with section 254(b) and within our general authority under sections 1, 4(i), 201, and 205 of the Act. Section 201 of the Act gives the Commission authority to regulate common carriers' rates and service offerings, and section 1 directs that the Commission's regulations provide as many people as possible with the ability to obtain telecommunications services at reasonable rates. We find that, because carriers' high service deposits deter subscribership among low-income consumers, it is within our authority to prohibit carriers from charging service deposits for Lifeline consumers who accept toll blocking. Research suggests that carriers often require customers to pay high service deposits in order to initiate service, particularly when customers have had their service disconnected previously. Therefore, we prohibit eligible telecommunications carriers from requiring Lifeline service subscribers to pay service deposits in order to initiate service if the subscriber voluntarily chooses to receive toll blocking. As we have stated, universal service support shall be provided so that toll blocking is made available to all Lifeline consumers at no additional charge. During the period of time when carriers incapable of providing toll-limitation services are permitted to upgrade their switches to become capable of providing such services, however, Lifeline subscribers may be required to pay service deposits.

237. Carriers may protect themselves against consumers' failure to pay local charges by requesting advance payments in the amount of one month's charges, as most ILECs currently do. We would consider an advance-payment requirement exceeding one month to be an improper deposit requirement, however. That is, while carriers could charge one month's advance payment, they may take action against consumers only after such charges have been incurred (through disconnection or collection efforts, for example). Assessing charges on consumers before any overdue payments are owed could make access to telecommunications services prohibitively expensive for low-income consumers.

238. Other Services

In response to the NPRM, some commenters suggest that low-income consumers should receive free access to information about telephone service and that compensation for providing such information should come from support mechanisms. These commenters appear to be concerned that low-income consumers will be unable to place calls to gain telephone service information if the calls otherwise would be an in-region toll call, or if the state's Lifeline program allows only a limited number of free calls. Similarly, NAD suggests that universal service support mechanisms should provide support so that TTY users can make free relay calls to numbers providing LEC service information. We agree with the Joint Board's recommendation that the states are able to determine, pursuant to section 254(f), whether to require carriers to provide Lifeline customers with free access to information about telephone service. The states are most familiar with the number of consumers in their respective states affected by charges for these calls and may impose such a requirement on carriers pursuant to section 254(f) through state universal service support mechanisms. Additionally, we find that the record on free access to telephone service information does not adequately explain how to support access to such information in a competitively neutral way, so that consumers are assured access to such information from all eligible service providers. We agree with the Joint Board that the same concerns militate against providing federal support for low-income consumers with disabilities making relay calls to gain access to LEC service information.

239. We concur with the Joint Board that, given the present structure of residential interexchange rates, the record does not support providing universal service support for usage of interexchange and advanced services for low-income consumers. We will, however, continue to monitor the interexchange services market to determine whether additional measures are necessary for low-income consumers. We observe that Lifeline services will be provided by telecommunications carriers that have been certified as eligible for universal service support pursuant to section 214(e). Such carriers will be obligated to provide certain services, including access to interexchange service, to consumers in rural, insular, and high cost areas, and we decline to specify a different level of service for low-income consumers.

240. Some commenters disagree with the Joint Board's recommendation that issues relating to special-needs equipment for consumers with disabilities should not be addressed in this proceeding because Congress provided for disabled individuals' access to telecommunications services separately in section 255. We agree with the Joint Board, however, that these matters are best addressed in a proceeding to implement section 255. We observe that we have taken a first step toward the implementation of section 255 with the release of a *Notice of Inquiry* on September 19, 1996 and January 14, 1997. Congress specifically identified other categories of users for whom support should be provided pursuant to section 254, such as low-income consumers, consumers in rural, insular, and high cost areas, schools and libraries, and rural health care providers. Similarly, Congress clearly addressed access by disabled individuals in section 255.

241. We generally agree with commenters that argue that low-income subscribership levels might increase if there were more information available to low-income consumers about the existence of assistance programs. We agree with the Joint Board, however, that the states are in a better position than the Commission to supply such information, particularly given the flexibility states have to target low-income universal service programs to the particular needs of their residents. Furthermore, while we conclude that support from federal universal service support mechanisms will not be given to carriers distributing such information, we note that eligible telecommunications carriers will be required to advertise the availability of, and charges for, Lifeline pursuant to their obligations under section 214(e)(1).

242. Implementation of Revised Lifeline and Link Up Programs

Although we find that the changes to Lifeline and Link Up we now adopt will make both programs consistent with the Act and our objective of increasing subscribership among low-income consumers, we find that the public interest would not be served by disrupting the existing Lifeline and Link Up services that ILECs currently offer in most areas of the country. We therefore must select a date on which the current Lifeline and Link Up programs will terminate and the new programs begin.

243. Because the new universal service support mechanisms must be in place in order to fund the revised Lifeline and Link Up programs, we conclude that the new Lifeline and Link Up funding mechanisms will commence on January 1, 1998. Additionally, support for toll limitation for Lifeline subscribers shall begin at that same time, because support for this service also should come from the new support mechanisms.

Issues Unique to Insular

244. In the Recommended Decision, the Joint Board recognized the special circumstances faced by carriers and

consumers in the insular areas of the United States, particularly the Pacific Island territories. The Joint Board recommended that all of the universal service mechanisms adopted in this proceeding should be available in those areas. Thus, low-income residents living in insular areas, such as American Samoa and the U.S. Virgin Islands, would benefit from the Lifeline and Link-up programs, and schools, libraries, and rural health care providers in insular areas would benefit from the programs the Joint Board recommended for providing services to those institutions pursuant to section 254(h). Likewise, carriers in insular areas would be potentially eligible for universal service support if they serve high cost areas. We agree and adopt these recommendations of the Joint Board and conclude, in accordance with section 254, that insular areas shall be eligible for the universal service programs adopted in this Order.

245. The Joint Board also recommended that the Commission work with an affected state if subscribership levels in that state fall from the current levels on a statewide basis. The record indicates that subscribership levels in insular areas are particularly low. Accordingly, we will issue a Public Notice to solicit further comment on the factors that contribute to the low subscribership levels that currently exist in insular areas, and to examine ways to improve subscribership in these areas.

246. Regarding support for toll-free access and access to information services in insular areas, the Joint Board recommended that the Commission take no specific action at this time, but revisit this issue at a later date. The Joint Board's recommendation reflects the fact that Guam and CNMI will be included in the NANP by July 1, 1997, and that the Commission will require interstate carriers serving the Pacific Island territories to integrate their rates with the rates for services that they provide to other states no later than August 1, 1997. The Joint Board noted that those changes will affect decisions by the carriers' business customers and information service providers on whether to locate in a certain area or to provide toll-free access to that area.

247. We agree with the Joint Board's recommendation that we take no action regarding support for toll-free access and access to information services for the Pacific Island territories now, but revisit whether we should provide such support after those islands are included in NANP and interexchange carriers have integrated the islands into their rate structures. We agree with the Joint Board that it is too early to assess whether there should be universal service support for toll-free access and information services in the Pacific Island territories or whether a decision not to provide support for these services would violate either section 202 or section 254(b)(3).

248. We anticipate that, when final rate-integration plans are filed, on or before June 1, 1997, the Pacific Island territories will be included in the nationwide service offerings of toll-free access service providers. Because they will be part of the NANP by the time that the rate integration plans become effective in August, these islands should be included in any nationwide service offering made after that time. Subscribers to toll-free access service will, of course, continue to be able to offer their customers toll-free access to the subscribers' businesses on less than a nationwide basis, such as in regional or statewide toll-free service areas. Thus we do not find it necessary to adopt a specific requirement that carriers providing toll-free access service include the Pacific Island territories in their ''nation-wide'' service area, as suggested by the Governor of Guam.

249. We agree with the commenters that there should be some period in which residents of CNMI and Guam can continue to have access to toll-free numbers while the market adjusts to the inclusion of those islands in the NANP and rate integration. We note that under the industry plan for introducing the new numbering plan areas (NPAs) for CNMI and Guam there is a twelve-month ''permissive dialing'' period during which callers may use either the NANP numbers or continue to use the international numbering plan to place calls to and from the islands. We find it in the public interest to permit the continued use of 880 and 881 numbers by end users in the Pacific Island territories to place toll-free calls during that ''permissive dialing'' period—until July 1, 1998. We believe that such a period provides ample time for toll-free access customers to evaluate the costs and benefits of including the Pacific Island territories in their toll-free access service areas and to decide whether to include the islands in their area covered by the toll-free dialing service agreements with their service providers. We also note that the islands will be included in the NANP a month before the rate-integration plans must become effective. Without this transition period, there would be a month during which consumers could not use 880 or 881 numbers and during which toll-free access customers might not have the benefit of integrated rates to the islands.

250. Toll-free service is currently provided in CNMI and Guam as inbound foreign-billed service. This service allows a calling party who is in another NANP country to pay for a call from his or her location to the United States, where the call is linked to the toll-free service. For customers in CNMI and Guam, it means that they pay the portion of the 880/881 call from their location to Hawaii, where it is linked to the toll-free service.

251. According to a resolution of the Industry Numbering Committee (INC), however, the use of 880 and 881 numbers for inbound foreign-billed 800-type service was to be restricted to calls placed from foreign locations within the NANP to toll-free dialing numbers in the United States. Thus, consumers in CNMI and Guam would be unable to make 880/881 calls once those territories are included in the NANP. We find that the circumstances in these territories warrant exercise of our regulatory powers over numbering pursuant to section 251(e) of the Act to supersede this industry agreement by providing for the transition period described above that will allow end users in CNMI and Guam the continued use of 880/881 numbers to place toll-free calls. This action is related to the implementation of the 1996 Act, and is extremely limited in scope—applying only to 880 and 881 calls from CNMI and Guam and only until July 1, 1998, which will coincide with the permissive dialing period established by the Administrator of the NANP. We also note that none of the parties that filed comments in this proceeding have objected to the proposal made by the Governor of Guam and CNMI to continue the use of the 880/881 numbers from CNMI and Guam during this period. We also find that this action is in keeping with the Joint Board's intent that we allow the telecommunications markets in CNMI and Guam time to adjust to the inclusion of the islands in the NANP before we revisit whether to provide universal service support for toll-free access services from those areas.

252. We also find that the use of 880 and 881 numbers for a limited transition period does not violate section 228 of our rules regarding pay-per-call services. Calls using 880 and 881 do not fall within the definition of ''pay-per-call'' because they are not accessed through a 900 number, and the calling party is only charged for the transmission, or part of the transmission, of the call. Although the 880 or 881 number provides a link to a toll-free number, it is not a toll-free number itself. Those numbers are not

advertised as toll-free numbers and it is understood, particularly by consumers in the Pacific Island territories who have been using the numbers over the past few years, that there is a charge associated with the use of the numbers. Therefore, we conclude that the use of an 880 or 881 number does not violate the restrictions on the use of toll-free numbers in section 228 or our rules.

253. We thus agree with CNMI that there is no legal restriction on using 880 and 881 numbers for calls from CNMI and Guam to toll-free access numbers within the NANP. Indeed, because we find the temporary use of those numbers for access to toll-free services in the Pacific Island territories to be in the public interest, at least for a short period, we shall permit carriers originating calls from the Pacific Island territories to toll-free access services within the NANP to continue using 880 and 881 numbers to provide access to those services until July 1, 1998. Consumers on those islands should thus be able to continue to use 880/881 to access toll-free numbers during that period. We anticipate that by July 1, 1998, the businesses subscribing to toll-free access services will have made a business decision as to whether to include the Pacific Island territories in their toll-free access service plans. As recommended by the Joint Board, we will then revisit the issue of whether universal service support is needed for toll-free access and access to information services from the Pacific Island territories.

Schools and Libraries

254. Telecommunications Services

We adopt the Joint Board's recommendation to provide schools and libraries with the maximum flexibility to purchase from telecommunications carriers whatever package of commercially available telecommunications services they believe will meet their telecommunications service needs most effectively and efficiently.

255. The establishment of a single set of priorities for all schools and libraries would substitute our judgment for that of individual school administrators throughout the nation, preventing some schools and libraries from using the services that they find to be the most efficient and effective means for providing the educational applications they seek to secure. Given the varying needs and preferences of different schools and libraries and the relative advantages and disadvantages of different technologies, we agree that individual schools and libraries are in the best position to evaluate the relative costs and benefits of different services and technologies. We also agree that our actions should not disadvantage schools and libraries in states that have already aggressively invested in telecommunications technologies in their state schools and libraries. Because we will require schools and libraries to pay a portion of the costs of the services they select, we agree with the Joint Board that allowing schools and libraries to choose the services for which they will receive discounts is most likely to maximize the value to them of universal service support and to minimize inefficient uses of services.

256. Permitting schools and libraries full flexibility to choose among telecommunications services also eliminates the potential risk that new technologies will remain unavailable to schools and libraries until the Commission has completed a subsequent proceeding to review evolving technological needs. Thus, in an environment of rapidly changing and improving technologies, empowering schools and libraries, regardless of wealth and location, to choose the telecommunications services they will use as tools for educating their students will enable them to use and teach students to use state-of-the-art telecommunications technologies as those technologies become available.

257. We limit section 254(c)(3) telecommunications services to those that are commercially available, and we find no reason to interpret section 254(c)(3) to require us to adopt a more narrow definition of eligible services. We observe that a state preferring a program that targets a narrower or broader set of services may make state funds available to schools or libraries that purchase those services.

258. Eligible Services

We also follow the Joint Board's recommendation that schools and libraries receive rate discounts from telecommunications carriers for basic ''conduit'' access to the Internet. We conclude that sections 254(c)(3) and 254(h)(1), in the context of the broad policies set forth in section 254(h)(2), authorize us to permit schools and libraries to receive the telecommunications and information services provided by telecommunications carriers needed to use the Internet at discounted rates.

259. We observe that section 254(c)(3) grants us authority to ''designate additional services for support'' and section 254(h)(1)(B) authorizes us to fund any section 254(c)(3) services. The generic universal service definition in section 254(c)(1) and the rate provision regarding special services for rural health care providers in section 254(h)(1)(A) are both explicitly limited to telecommunications services. In the education context, however, the statutory references are to the broad class of ''services,'' rather than the narrower class of ''telecommunications services.'' Specifically, section 254(c)(3) refers to ''additional services,'' while section 254(h)(1)(B) refers to ''any of its services''; neither provision refers to the narrower class of telecommunications services. In addition, sections 254 (a)(1) and (a)(2) mandate that the Commission define the ''services that are supported by Federal universal service support mechanisms'' but does not limit support to telecommunications services. The use of the broader term ''services'' in section 254(a) provides further validation for the inclusion of services in addition to telecommunications services in sections 254(c)(3) and 254(h)(1)(B).

260. We reject BellSouth's argument that the fact that section 254(h) is entitled ''Telecommunications Services for Certain Providers'' leads to the conclusion that the only services covered by that section are telecommunications services. To the contrary, within section 254(h) Congress specified which services must be ''telecommunications services'' in order to be eligible for support. As noted above, the rate provision regarding special services for rural health care providers, section 254(h)(1)(A), is explicitly limited to ''telecommunications services.'' Thus, the term used in section 254(h)(1)(B), ''any of its *services* that are within the definition of universal service under section (c)(3),'' cannot be read as a generic reference to the heading of that section. Rather, the varying use of the terms ''telecommunications services'' and ''services'' in sections 254(h)(1)(A) and 254(h)(1)(B) suggests that the terms were used consciously to signify different meanings. In addition, the mandate in section 254(h)(2)(A) to enhance access to ''advanced telecommunications and information services,'' particularly when read in conjunction with the legislative history as discussed below, suggests that Congress did not intend to limit the support provided under section 254(h) to telecommunications services. We conclude, therefore, that we can include the ''information services,'' *e.g.*, protocol conversion and information storage, that are needed to access the Internet, as well as internal connections, as ''additional services'' that section

254(h)(1)(B), through section 254(c)(3), authorizes us to support.

261. In this regard, section 254(h)(2)(A), which directs the Commission to establish competitively neutral rules to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services, informs our interpretation of sections 254(c)(3) and 254(h)(1)(B) as allowing schools and libraries to receive discounts on rates from telecommunications carriers for Internet access. Given the directive of section 254(h)(2)(A) that the Commission enhance the access that schools and libraries have to ''information services,'' as described in the legislative history, i.e., actual educational content, we conclude that there should be discounts for access to these services provided by telecommunications carriers under the broad provisions of sections 254(c)(3) and 254(h)(1)(B).

262. We conclude that we are authorized to provide discounts on the data links and associated services necessary to provide classrooms with access to those educational materials, even though these functions meet the statutory definition of ''information services'' because of their inclusion of protocol conversion and information storage. Without the use of these ''information service'' data links, schools and libraries would not be able to obtain access to the ''research information, (and) statistics'' available free of charge on the Internet. We note that these information services are essential for effective transmission service, i.e., ''conduit'' service; they are not elements of the content services provided by information publishers. We conclude that our authority under sections 254(c)(3) and 254(h)(1)(B) is broad enough to achieve these section 254(h)(2)(A) goals.

263. We find that this approach of providing discounts for basic conduit access to the Internet should not favor Internet access when provided as pure conduit versus Internet access bundled with minimal content; rather, this approach should simply encourage schools and libraries to select the most cost-effective form of transmission access, separate of content.

264. We also offer a more precise definition of what ''information services'' will be eligible for discounts under this program in response to commenters who challenge the feasibility of using the ''basic, conduit'' Internet access terminology that the Joint Board used to describe what aspects of Internet access are eligible for support. We note that Congress described the conduit services we seek to cover in another context in the 1996 Act. That is, in listing exceptions to the definition of ''electronic publishing'' in section 274 of the Act, Congress described certain services that are precisely the types of ''conduit'' services that we agree with the Joint Board should be available to eligible schools and libraries at a discount. We adopt the descriptions of those services here because we find that they provide the additional clarification of conduit services that commenters request. We conclude that eligible schools and libraries will be permitted to apply their relevant discounts to information services provided by entities that consist of:

(i) The transmission of information as a common carrier;

(ii) The transmission of information as part of a gateway to an information service, where that transmission does not involve the generation or alteration of the content of information but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services that do not affect the presentation of such information services to users; and

(iii) Electronic mail services [e-mail].

As recommended by the Joint Board, other information services, such as voice mail, shall not be eligible for support at this time.

265. We also follow the Joint Board's recommendation to grant schools and libraries discounts on access to the Internet but not on separate charges for particular proprietary content or other information services. The Joint Board recommended that we solve the problem of bundling content and ''conduit'' (access) to the Internet by not permitting schools and libraries to purchase a package including content and conduit, unless the bundled package included minimal content and provided a more cost-effective means of securing non-content access to the Internet than other non-content alternatives. We agree with this approach.

266. Therefore, consistent with the Joint Board's recommendation, schools and libraries that purchase, from a telecommunications carrier, access to the Internet including nothing more than the services listed above will be eligible for support based on the purchase price. In addition, if it is more cost-effective for it to purchase Internet access provided by a telecommunications carrier that bundles a minimal amount of content with such Internet access, a school or library may purchase that bundled package and receive support for the portion of the package price that represents the price for the services listed above.

267. This approach will create three possible scenarios for schools and libraries. First, if the telecommunications carrier bundles access with a package of content that is otherwise available free of charge on the Internet because the content is advertiser-supported, bundling that content with Internet access will not permit the telecommunications carrier to recover any additional remuneration other than the fee for the access. Second, if the telecommunications carrier offers other Internet users access to its proprietary content for a price, it may treat the difference between that price and the price it charges for its access only package as the price of non-content Internet access. Third, if a telecommunications carrier providing Internet access offers a bundled package of content that it does not offer on an unbundled basis and thus, the fair price of the conduit element cannot be ascertained readily, the school or library may receive support for such an Internet access package only if it can affirmatively show that the price of the carrier's Internet access package was still the most cost-effective manner for the school or library to secure basic, conduit access to the Internet.

268. Eligible Providers

Section 254(e) states that only an ''eligible telecommunications carrier'' under section 214(e) may receive universal service support. Section 254(h)(1)(B)(ii), however, states that telecommunications carriers providing services to schools and libraries may receive reimbursement from universal service support mechanisms, notwithstanding the provisions of section 254(e). Consequently, we agree in concluding that Congress intended that any telecommunications carrier, even one that does not qualify as an ''eligible telecommunications carrier,'' should be eligible for support for services provided to schools and libraries.

269. Support for Internal Connections

Congress intended that telecommunications and other services be provided directly to classrooms. Therefore, eligible schools and libraries may, under sections 254(c)(3) and 254(h)(1), secure support for installation and maintenance of internal connections, among other services and

functionalities provided by telecommunications carriers.

270. We find that the Act permits universal service support for an expanded range of services beyond telecommunications services. Specifically, we conclude that the installation and maintenance of internal connections fall within the broad scope of the universal service support provisions of sections 254 (c)(3) and (h)(1)(B), in the context of the broad goals of section 254(h)(2)(A). Nothing in section 254 excludes internal connections from the scope of ''additional services'' for schools and libraries that can be designated for support under section 254(c)(3) or the corresponding services for which schools and libraries can receive discounts under section 254(h)(1)(B). Consistent with our finding that a broad set of services should be supported, we also find that we should not limit support to just those services that are offered on a common carrier basis.

271. We agree with the Joint Board's response to those parties arguing that the physical facilities providing intraschool and intralibrary connections are ''goods'' or ''facilities'' rather than section 254(c)(3) ''services.'' The Joint Board observed that not only are the installation and maintenance of such facilities services, but the cost of the actual facilities may be relatively small compared to the cost of labor involved in installing and maintaining internal connections. The Joint Board noted that the D.C. Circuit has repeatedly referred to the installation and maintenance of inside wiring as services. The Joint Board also noted that adopting the opposite view would treat internal connections as a facility ineligible for support if a school purchased it but as a service eligible for support if a school leased the facility from a third party. Given that the provision of internal connections is a service, we conclude that we have authority to provide discounts on the installation and maintenance of internal connections under sections 254(c)(3) and 254(h)(1)(B).

272. We find further that the broad purposes of section 254(h)(2) support our authority for providing discounts for the installation and maintenance of internal connections by telecommunications carriers under sections 254(c)(3) and 254(h)(1)(B). As the Joint Board explained, section 254(h)(2)(A) states that ''[t]he Commission shall establish competitively neutral rules * * * to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms * * * and libraries.'' The Joint Board recognized that a primary way to give ''classrooms'' access to advanced telecommunications and information services is to connect computers in each classroom to a telecommunications network. We interpret the scope of sections 254(c)(3) and 254(h)(1)(B) as broad enough to cover the provision of discounts on internal connections provided by telecommunications carriers. Telecommunications carriers might well, of course, subcontract this business to non-telecommunications carriers.

273. We also agree with the Joint Board that the legislative history supports our finding that the installation and maintenance of internal connections are eligible for support. We note that, in its Joint Explanatory Statement, Congress explicitly refers repeatedly to ''classrooms.'' Reading these references, we conclude that Congress contemplated extending discounted service all the way to the individual classrooms of a school, not merely to a single computer lab in each school or merely to the schoolhouse door.

274. As the Joint Board recognized, finding internal connections ineligible for support would skew the choices of schools and libraries to favor technologies such as wireless, in which internal connections are inseparable from external connection, over technologies such as conventional wireline, in which a distinction can be (and for unrelated reasons sometimes is) drawn, even when the latter would be the more economically efficient choice. We conclude that schools, school districts, and libraries are in the best position and should, therefore, be empowered to make their own decisions regarding which technologies would best accommodate their needs, how to deploy those technologies, and how to best integrate these new opportunities into their curriculum. Moreover, a situation in which certain technologies were favored over others would violate the overall principle of competitive neutrality adopted for purposes of section 254. Of course, we by no means wish to discourage wireless technologies where they are the efficient solution; data suggest that wireless connections would already be the more efficient eligible ''telecommunications service'' for connecting schools to telephone carrier offices or Internet service providers for more than 25 percent of public schools.

275. In addition to our direct coverage of non-telecommunications carriers below, we expect non-telecommunications carriers to compete to provide internal connections to schools and libraries by entering partnerships and joint ventures with telecommunications carriers. Thus, without regard to our decision below to provide discounts for services to eligible schools and libraries provided by non-telecommunications carriers, we conclude that our decision to provide discounts for services to eligible schools and libraries provided by telecommunications carriers is competitively neutral and will facilitate, not impede, the development of the internal connections market.

276. Extent of Support for Internal Connections

We agree that it is often difficult to distinguish between ''internal connections,'' which would be eligible for discounts, and computers and other peripheral equipment, which would not be eligible. We find that a given service is eligible for support as a component of the institution's internal connections only if it is necessary to transport information all the way to individual classrooms. That is, if the service is an essential element in the transmission of information within the school or library, we will classify it as an element of internal connections and will permit schools and libraries to receive a discount on its installation and maintenance for which the telecommunications carrier may be compensated from universal service support mechanisms.

277. Applying this standard, we find that support should be available to fund discounts on such items as routers, hubs, network file servers, and wireless LANs and their installation and basic maintenance because all are needed to switch and route messages within a school or library. Their function is solely to transmit information over the distance from the classroom to the Internet service provider, when multiple classrooms share the use of a single channel to the Internet service provider. We also find that ''internal connections'' would include the software that file servers need to operate and that we should place no specific restrictions on the size, i.e., type, of the internal connections network covered. We conclude that support should be available to fund discounts on basic installation and maintenance services necessary to the operation of the internal connections network. We expressly deny support, however, to finance the purchase of equipment that

is not needed to transport information to individual classrooms. A personal computer in the classroom, for example, does not provide such a necessary transmission function and would not be supported, consistent with the Joint Board's recommendation. A personal computer is not intended to transmit information over a distance, unless it is programmed to operate as a network switch or network file server.

278. We recognize that some providers may offer a bundled package of services and facilities, only some of which are eligible for support. For example, some file servers may also be built to provide storage functions to supplement personal computers on the network. We do not intend to provide a discount on such CPE capabilities. We could address the issue of bundling by allowing the bundling of eligible and ineligible services, but requiring that reimbursement not be requested for more than the fair market value of the eligible services. Such an approach would be similar to our handling of discounts when eligible schools and libraries and other, ineligible entities form consortia through which to receive their telecommunications services. In the case of service bundling, however, neither party to the transaction would have any incentive to ensure that the allocation of costs established in the contract was fair and nonarbitrary. In consortia, by contrast, the members each have an incentive to ensure that they are assigned a fair allocation of costs.

279. We conclude that eligible schools and libraries may not receive support for contracts that provide only a single price for a package that bundles services eligible for support with those that are not eligible for support. Schools and libraries may contract with the same entity for both supported and unsupported services and still receive support only if any purchasing agreement covering eligible services specifically prices those services separately from ineligible services so that it will be easy to identify the purchase amount that is eligible for a discount. Consequently, where the service provider indicates separately what the prices of the eligible and ineligible offerings would be if offered on an unbundled basis, the service provider must indicate the ''price reduction'' that would apply if the services are purchased together. The provider would then be able to apply the appropriate universal service support discount to the price for the eligible services after reducing the price to reflect a proportional amount of the ''price reduction'' the provider applied.

280. Finally, we agree with those commenters asserting that schools and libraries should not be forced by the provider of internal connections to select a particular provider for other services. With respect to wireline internal connections, or inside wiring, we have previously addressed the rights of carriers and customers to carrier-installed inside wiring. In the *Detariffing Recon. Order* (51 FR 8498 (March 12, 1986)), we restricted the carriers' ability to interfere with customer access to inside wiring. We observe that the federal antitrust laws prohibit any provider of internal connections with monopoly power from using that power to distort competition in related markets. Similarly, we agree with WinStar that, if a carrier does not currently charge for the use of internal connections, it should not be entitled to begin charging for such use if the school or library selects an alternate service provider, because that would distort the competitive neutrality supported strongly by both Congress and the Joint Board.

281. Pre-Discount Price

The pre-discount price is the price of services to schools and libraries prior to the application of a discount. That is, the pre-discount price is the total amount that carriers will receive for the services they sell to schools and libraries: the sum of the discounted price paid by a school or library and the discount amount that the carrier can recover from universal service support mechanisms for providing such services.

282. Competitive Environment

As the Joint Board recognized, in a competitive marketplace, schools and libraries will have both the opportunity and the incentive to secure the lowest price charged to similarly situated non-residential customers for similar services, and providers of telecommunications services, Internet access, and internal connections will face competitive pressures to provide that price.

283. We agree with the Joint Board that we should encourage schools and libraries to aggregate their demand with others to create a consortium with sufficient demand to attract competitors and thereby negotiate lower rates or at least secure efficiencies, particularly in lower density regions. We concur with the Joint Board's finding that aggregation into consortia can also promote more efficient shared use of facilities to which each school or library might need access.

284. Thus, we agree with the Joint Board's objectives in recommending that eligible schools and libraries be permitted to aggregate their telecommunications needs with those of both eligible and ineligible entities, including health care providers and commercial banks, because the benefits from such aggregation outweigh the administrative difficulties. We are concerned, however, that permitting large private sector firms to join with eligible schools and libraries to seek prices below tariffed rates could compromise both the federal and state policies of non-discriminatory pricing. Thus, although we find congressional support for permitting eligible schools and libraries to secure prices below tariffed rates, we find no basis for extending that exception to enable all private sector firms to secure such prices.

285. For this reason, we adopt a slightly modified version of the Joint Board's recommendation. We conclude that eligible schools and libraries will generally qualify for universal service discounts and prices below tariffed rates for interstate services, only if any consortia they join include only other eligible schools and libraries, rural health care providers, and public sector (governmental) customers. Eligible schools and libraries participating in consortia that include ineligible private sector members will not be eligible to receive universal service discounts unless the pre-discount prices of any interstate services that such consortia receive from ILECs are generally tariffed rates. We conclude that this approach satisfies both the purpose and the intent of the Joint Board's recommendation because it should allow the consortia containing eligible schools and libraries to aggregate sufficient demand to influence existing carriers to lower their prices and should promote efficient use of shared facilities. This approach also includes the large state networks upon which many schools and libraries rely for their telecommunications needs among the entities eligible to participate in consortia. We recognize that state laws may differ from federal law with respect to non-discriminatory pricing requirements.

286. We adopt the Joint Board's finding that fiscal responsibility compels us to require that eligible schools and libraries seek competitive bids for all services eligible for section 254(h) discounts. Competitive bidding is the most efficient means for ensuring that eligible schools and libraries are informed about all of the choices available to them. Absent competitive bidding, prices charged to schools and

libraries may be needlessly high, with the result that fewer eligible schools and libraries would be able to participate in the program or the demand on universal service support mechanisms would be needlessly great. We discuss, in greater detail below, the procedures for undertaking the competitive bidding process.

287. Some commenters ask us to clarify a number of points regarding competitive bidding. First, in response to a number of commenters, we note that the Joint Board intentionally did not recommend that the Commission require schools and libraries to select the lowest bids offered but rather recommended that the Commission permit schools and libraries ''maximum flexibility'' to take service quality into account and to choose the offering or offerings that meets their needs ''most effectively and efficiently,'' where this is consistent with other procurement rules under which they are obligated to operate. We concur with this policy, noting only that price should be the primary factor in selecting a bid. When it specifically addressed this issue in the context of Internet access, the Joint Board only recommended that the Commission require schools and libraries to select the most cost-effective supplier of access. By way of example, we also note that the federal procurement regulations (which are inapplicable here) specify that in addition to price, federal contract administrators may take into account factors including the following: prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives. We find that these factors form a reasonable basis on which to evaluate whether an offering is cost-effective.

288. Although we do not impose bidding requirements, neither do we exempt eligible schools or libraries from compliance with any state or local procurement rules, such as competitive bidding specifications, with which they must otherwise comply.

289. In response to the concerns of GTE and SBC that existing Commission rules concerning interstate service prevent them from offering rates below their generally available tariffed rates in competitive bidding situations to establish pre-discount rates, we make the following clarifications. First, our policies on ILEC pricing flexibility apply only to interstate services. The ILECs' abilities to offer intrastate services in competitive bidding situations will be governed by the relevant state public utility commission policies. Second, we find that ILECs will be free under sections 201(b) and 254 to participate in certain competitive bidding opportunities with rates other than those in their generally tariffed offerings. More specifically, they will be free, under sections 201(b) of the Act, to offer different rates to consortia that consist solely of governmental entities, eligible health care providers, and schools and libraries eligible for preferential rates under section 254. Thus, we hereby designate communications to organizations, such as schools and libraries and eligible health care providers, eligible for preferential rates under section 254 as a class of communications eligible for different rates, notwithstanding the nondiscrimination requirements of section202(a). Congress has expressly granted an exemption to section 202(a)'s prohibition against discrimination for these classes of communications. Thus, ILECs will be free to offer differing, including lower, rates to consortia consisting of section 254-eligible schools and libraries, eligible health care providers, state schools and universities, and state and local governments. These pre-discount rates will be generally available to all eligible members of these classes under tariffs filed with this Commission. The schools and libraries eligible for discounts under section 254 would then receive the appropriate universal service discount off these rates. Third, ILECs may obtain further freedom to participate in competitive bidding situations as a result of decisions we make in the *Access Charge Reform Proceeding.* In the *Third Report and Order* in the *Access Charge Reform Proceeding,* we will determine whether to permit ILECs to provide targeted offerings in response to competitive bidding situations once certain competitive thresholds are met. We conclude that this regime, which includes a prohibition against resale of these services, best furthers the explicit congressional directive of providing preferential rates to eligible schools and libraries with a minimum of public interest harm arising from limiting the availability of prediscount rates to these classes.

290. Lowest Price Charged to Similarly Situated Non-Residential Customers for Similar Services

In competitive markets, we anticipate that schools and libraries will be offered competitive, cost-based prices that will match or beat the cost-based prices paid by similarly situated customers for similar services. We concur, however, with the Joint Board that, to ensure that a lack of experience in negotiating in a competitive telecommunications service market does not prevent some schools and libraries from receiving such offers, we should require that a carrier offer services to eligible schools and libraries at prices no higher than the lowest price it charges to similarly situated non-residential customers for similar services (hereinafter ''lowest corresponding price'').

291. We also adopt the Joint Board's recommendation to use the lowest corresponding price as an upper limit on the price that carriers can charge schools and libraries in non-competitive markets, as well as competitive markets, so that eligible schools and libraries can take advantage of any cost-based rates that other customers may have negotiated with carriers during a period when the market was subject to actual, or even potential, competition. We conclude that requiring providers to charge their lowest corresponding price would impose no unreasonable burden, even on non-dominant carriers, because all carriers would be able to receive a remunerative price for their services. We clarify that, for the purpose of determining the lowest corresponding price, similar services would include those provided under contract as well as those provided under tariff.

292. Section 254(h)(1)(B) requires telecommunications carriers to make services available to all schools and libraries in any geographic area the carriers serve. We share the Joint Board's concern that, if ''geographic area'' were interpreted to mean the entire state, any firm providing telecommunications services to any school or library in a state would have to be willing to serve any other school or library in the state. We also agree with the Joint Board that an expansive interpretation of geographic area might discourage new firms beginning to offer service in one portion of a state from doing so due to concern that they would have to serve all other areas in that state.

293. We concur, therefore, with the Joint Board's recommendation that geographic area (hereinafter referred to as geographic service area) be defined as the area in which a telecommunications carrier is seeking to serve customers with any of its services covered by section 254(h)(1)(B). We do not limit here the area in which a telecommunications carrier or a subsidiary or affiliate owned or controlled by it can choose to provide service. We also agree with the Joint Board that telecommunications carriers be required to offer schools and libraries services at their lowest corresponding

prices throughout their geographic service areas. Moreover, we agree with the Joint Board's recommendation that, as a condition of receiving support, carriers be required to certify that the price they offer to schools and libraries is no greater than the lowest corresponding price based on the prices the carrier has previously charged or is currently charging in the market. This obligation would extend, for example, to competitive LECs, wireless carriers, or cable companies, to the extent that they offer telecommunications for a fee to the public. We share the Joint Board's conclusion that Congress intended schools and libraries to receive the services they need from the most efficient provider of those services.

294. We clarify that a provider of telecommunications services, Internet access, and internal connections need not offer the same lowest corresponding price to different schools and libraries in the same geographic service area if they are not similarly situated and subscribing to a similar set of services. Providers may not avoid the obligation to offer the lowest corresponding price to schools and libraries for interstate services, however, by arguing that none of their non-residential customers are identically situated to a school or library or that none of their service contracts cover services identical to those sought by a school or library. Rather, we will only permit providers to offer schools and libraries prices above the prices charged to other similarly situated customers when those providers can show that they face demonstrably and significantly higher costs to serve the school or library seeking service.

295. If the services sought by a school or library include significantly lower traffic volumes or their provision is significantly different from that of another customer with respect to any other factor that the state public service commission has recognized as being a significant cost factor, then the provider will be able to adjust its price above the level charged to the other customer to recover the additional cost incurred so that it is able to recover a compensatory pre-discount price. We also recognize that costs change over time and thus, compensatory rates would not necessarily result if a provider were required to charge the same price it had charged many years ago. We will establish a rebuttable presumption that rates offered within the previous three years are still compensatory. We also would not require a provider to match a price it offered to a customer who is receiving a special regulatory subsidy or that appeared in a contract negotiated under very different conditions, if that would force the provider to offer services at a rate below Total-Service Long-Run Incremental Cost (TSLRIC).

296. We also adopt the Joint Board's recommendation that, if they believe that the lowest corresponding price is unfairly high or low, schools, libraries, and carriers should be permitted to seek recourse from the Commission, regarding interstate rates, and from state commissions, regarding intrastate rates. Eligible schools and libraries may request a lower rate if they believe the rate offered by the carrier is not the lowest corresponding price. Carriers may request higher rates if they believe that the lowest corresponding price is not compensatory.

297. We agree with the Joint Board's analysis that using TSLRIC would not be practical, given the limited resources of schools and libraries to participate in lengthy negotiations, arbitration, or litigation. We also clarify that the tariffed rate would represent a carrier's lowest corresponding price in a geographic area in which that carrier has not negotiated rates that differ from the tariffed rate, and that we are not requiring carriers to file new tariffs to reflect the discounts we adopt here for schools and libraries.

298. Discounts

The Act requires the Commission, with respect to interstate services, and the states, with respect to intrastate services, to establish a discount on designated services provided to eligible schools and libraries. Pursuant to section 254(h)(1)(B), the discount must be an amount that is ''appropriate and necessary to ensure affordable access to and use of'' the services pursuant to section 254(c)(3). The discount must take into account the principle set forth in section 254(b)(5) and mandated in section 254(d) that the federal universal service support mechanisms must be ''specific, predictable, and sufficient.'' We agree with the Joint Board's recommendation that we adopt a percentage discount mechanism, adjusted for schools and libraries that are defined as economically disadvantaged and those schools and libraries located in areas facing particularly high prices for telecommunications service. In particular, we concur with the Joint Board's recommendation that we adopt discounts from 20 percent to 90 percent for all telecommunications services, Internet access, and internal connections, with the range of discounts correlated to indicators of economic disadvantage and high prices for schools and libraries.

299. We agree with the Joint Board's recommendation that we adopt rules that provide support to eligible schools and libraries through a percentage discount mechanism rather than providing a package of free services or block grants to states because we find that discounts would better assure efficiency and accountability. Requiring schools and libraries to pay a share of the cost should encourage them to avoid unnecessary and wasteful expenditures because they will be unlikely to commit their own funds for purchases that they cannot use effectively. A percentage discount also encourages schools and libraries to seek the best pre-discount price and to make informed, knowledgeable choices among their options, thereby building in effective fiscal constraints on the discount fund.

300. Discounts in High Cost Areas

We also adopt the Joint Board's recommendation that, to make service more affordable to schools and libraries, we offer greater support to those located in high cost areas than to those in low cost areas. Although the discount matrix we adopt do not make the prices schools and libraries pay for telecommunications services in high and low cost areas identical, we find that the matrix distribute substantially more funds, particularly on a per-capita basis, to reduce prices paid by schools and libraries in areas with higher telecommunications prices than they do to reduce prices in areas in which such prices are already relatively low. The greater price reduction in terms of total dollar amounts for schools and libraries in high cost areas results primarily because the discount rates are based on percentages that lead proportionally to more funds flowing to those schools and libraries facing proportionally higher prices.

301. Although the discount mechanism we adopt does not equalize prices in all areas nationwide, it makes telecommunications service in the areas with relatively high prices substantially more affordable to the schools and libraries in those areas. We find that a mechanism that may provide as much as 23 times more support per capita to a school or library in a high cost area than it does to one in a low cost area is providing substantially more of a discount to the former. We also note that some eligible schools and libraries in high cost areas will benefit, at least temporarily, from the high cost assistance that eligible telecommunications carriers serving them will receive. Although high cost support will only be targeted to a limited number of services, none of

which are advanced telecommunications and information services, many schools and libraries will connect to the Internet via voice-grade access to the PSTN. Furthermore, whereas the Joint Board presumed that such support would only be targeted to residential and single-line businesses, in the short term, our decision diverges from that result and permits support for multiline businesses. We agree with the Joint Board that this position on support for schools and libraries in high cost areas is consistent with our other goal of providing adequate support to disadvantaged schools while keeping the size of the total support fund no larger than necessary to achieve this goal. We agree that the nominal percentage discount levels should be more sensitive to how disadvantaged a school or library is than whether it is located in a high cost service area. We conclude, therefore, that the additional support for schools and libraries in high cost areas provided in the matrix we adopt is ''appropriate and necessary to ensure affordable access'' to schools and libraries as directed by section 254(h)(1)(B).

302. Discounts for Economically Disadvantaged Schools and Libraries

We adopt the Joint Board's recommendation that we establish substantially greater discounts for the most economically disadvantaged schools and libraries. We recognize that such discounts are essential if we are to make advanced technologies equally accessible to all schools and libraries. We agree, however, with the Joint Board and several commenters that not even the most disadvantaged schools or libraries should receive a 100 percent discount. We recognize that even a 90 percent discount—and thus a 10 percent co-payment requirement—might create an impossible hurdle for disadvantaged schools and libraries that are unable to allocate any of their own funds toward the purchase of eligible discounted services, and thus could increase the resource disparity among schools. We conclude, however, that even if we were to exempt the poorest schools from any co-payment requirement for telecommunications services, a 100 percent discount would not have a dramatically greater impact on access than would a 90 percent discount, because we are not providing discounts on the costs of the additional resources, including computers, software, training, and maintenance, which constitute more than 80 percent of the cost of connecting schools to the information superhighway. We share the Joint Board's belief that the discount program must be structured to maximize the opportunity for its cost-effective operation, and that, for the reasons noted above, requiring a minimal co-payment by all schools and libraries will help realize that goal.

303. Discount Matrix

The Joint Board considered the approximate size of the fund resulting from a matrix assigning discounts to a school or library based upon its level of economic disadvantage and its location. After substantial deliberation, the Joint Board recommended the following matrix of percentage discounts:

Discount matrix		Cost of service (estimated % in category)		
How disadvantaged?				
Based on % of students in the national school lunch program	(Estimated % of U.S. schools in category)	Low cost (67%)	Mid-cost (27%)	Highest cost (5%)
< 1	(3)	20	20	25
1–19	(31)	40	45	50
20–34	(19)	50	55	60
35–49	(15)	60	65	70
50–74	(16)	80	80	80
75–100	(16)	90	90	90

304. In fashioning a discount matrix, the Joint Board sought to ensure that the greatest discounts would go to the most economically disadvantaged schools and libraries, with an equitable progression of discounts being applied to the other categories within the parameters of 20 percent to 90 percent discounts.

305. Identifying High Price Areas

Recognizing that schools and libraries in high cost areas will confront relatively higher barriers to connecting to the Internet and maintaining other communications links, the Joint Board proposed a discount matrix that granted schools and libraries located in higher cost areas greater percentage discounts. Although its discount matrix used low, mid, and high cost categories based on embedded cost ARMIS data of carriers, the Joint Board did not recommend a way to identify those schools and libraries facing higher costs, except to suggest that we might consider the unseparated loop costs collected under ARMIS. The Joint Board understood that, because such embedded cost data were already maintained by the Commission, it would be relatively easy to set thresholds that would divide areas into high and low cost based on the cost data of the ILEC serving the area. The Joint Board also recognized that unseparated loop costs were a good proxy for local service prices.

306. The Joint Board suggested that other methods for determining high cost might be appropriate and encouraged the Commission to seek additional comment on the issue, which we did in the Recommended Decision Public Notice. As a result, we have considered several alternative methods, which were not before the Joint Board at the time of its deliberations. These methods include the use of cost data generated by the forward-looking cost methodologies that proponents have filed for use in determining support for high cost areas; density pricing zones; availability of advanced services; tariffed T–1 prices for connections to an Internet service provider; and whether schools and libraries are located in rural or urban areas. For the reasons discussed below, we conclude that we will classify eligible schools and libraries as high or low cost depending on whether they are located in a rural or an urban area, respectively.

307. Given this set of reasonable but imperfect approaches to determining high cost for schools and libraries, we conclude that we should select the classification system that is least burdensome to schools, libraries, and carriers. We will therefore identify high

cost schools and libraries as those located in rural, as opposed to urban, areas. After careful consideration, we conclude that identifying whether a school or library is located in a rural or urban area is a relatively easy method for schools and libraries to use, reasonably matches institutions facing the highest prices for telecommunications services with the highest discounts, and imposes no burden on carriers. Adoption of this approach is also consistent with the Joint Board's intention that the method selected for determining high cost should calibrate the cost of service in a ''reasonable, practical, and minimally burdensome manner.'' We also conclude that, for purposes of the schools and libraries discount program, rural areas should be defined in accordance with the definition adopted by the Department of Health and Human Services' Office of Rural Health Policy (ORHP/HHS). ORHP/HHS uses the Office of Management and Budget's (OMB) Metropolitan Statistical Area (MSA) designation of metropolitan and non-metropolitan counties (or county equivalents), adjusted by the most currently available Goldsmith Modification, which identifies rural areas within large metropolitan counties.

308. Adoption of this definition of rural areas is consistent with the approach adopted in the health care section of this Order and represents a simple approach for schools and libraries to determine eligibility for an incremental high cost discount. OMB's list of metropolitan counties and the list of additional rural areas within those counties identified by the Goldsmith Modification are readily available to the public. Eligible schools and libraries will need only to consult those lists to determine whether they are located in rural areas for purposes of the universal service discount program. In addition to being simple to administer, basing the high cost discount on a school's or library's location in a rural area is a reasonable approach for determining which entities should receive the high cost discount. The distance between customers and central offices, and the lower volumes of traffic served by central offices in rural areas, combine to create less affordable telecommunications rates.

309. Because we adopt the use of categories of rural and urban to determine a school's or library's eligibility for a high cost discount, we conclude that there should be only two categories of schools and libraries. Because schools and libraries will be categorized as either rural (high cost) or urban (low cost), the ''mid-cost'' category recommended by the Joint Board is no longer relevant. We find that a matrix of two columns is also somewhat simpler to use and thus, we modify the discount matrix recommended by the Joint Board to have two columns (i.e., ''urban'' and ''rural'') as opposed to three.

310. Identifying Economically Disadvantaged Schools

We agree with the Joint Board's recommendation that we measure a school's level of poverty in a manner that is minimally burdensome, ideally using data that most schools already collect. Although the Joint Board concluded that the national school lunch program meets this standard, it suggested that the Commission also consider other approaches that would be both minimally burdensome for schools and accurate measures of poverty.

311. Based on our review of the comments filed in response to the Recommended Decision Public Notice, we agree with the Joint Board that using eligibility for the national school lunch program to determine eligibility for a greater discount accurately fulfills the statutory requirement to ensure affordable access to and use of telecommunications and other supported services for schools. As noted by commenters, the national school lunch program determines students' eligibility for free or reduced-price lunches based on family income, which is a more accurate measure of a school's level of need than a model that considers general community income. In addition, the national school lunch program has a well-defined set of eligibility criteria, is in place nationwide, and has data-gathering requirements that are familiar to most schools. We agree that use of an existing and readily available model, such as the national school lunch program, will be both relatively simple and inexpensive to administer.

312. We conclude that a school may use either an actual count of students eligible for the national school lunch program or federally-approved alternative mechanisms to determine the level of poverty for purposes of the universal service discount program. Alternative mechanisms may prove useful for schools that do not participate in the national school lunch program or schools that participate in the lunch program but experience a problem with undercounting eligible students (e.g., high schools, rural schools, and urban schools with highly transient populations). Schools that choose not to use an actual count of students eligible for the national school lunch program may use only the federally-approved alternative mechanisms contained in Title I of the Improving America's Schools Act, which equate one measure of poverty with another. These alternative mechanisms permit schools to choose from among existing sources of poverty data a surrogate for determining the number of students who would be eligible for the national school lunch program. A school relying upon one of these alternative mechanisms could, for example, conduct a survey of the income levels of its students' families. We conclude that only federally-approved alternative mechanisms, which rely upon actual counts of low-income children, provide more accurate measures of poverty and less risk of overcounting, than other methods suggested by some commenters that merely approximate the percentage of low-income children in a particular area.

313. Identifying Economically Disadvantaged Libraries

The Joint Board recommended that, in the absence of a better proposal, a library's degree of poverty should be measured based on how disadvantaged the schools are in the school district in which the library is located. Under this plan, a library would receive a level of discount representing the average discount, based on both public and non-public schools, offered to the schools in the school district in which it is located. Finding that this was ''a reasonable method of calculation because libraries are likely to draw patrons from an entire school district and this method does not impose an unnecessary administrative burden on libraries,'' the Joint Board recommended that the Commission seek additional comment on this and other measures of poverty that would be minimally burdensome for libraries.

314. We adopt the Joint Board's recommendation and conclude that a library's level of poverty be calculated on the basis of school lunch eligibility in the school district in which the library is located, with one modification. We conclude that it would be less administratively burdensome and, therefore, would impose lower administrative costs, to base a library's level of poverty on the percentage of students eligible for the national school lunch program only in the public school district in which the library is located. To require the administrator to average the discounts applicable to both public and non-public schools would impose an unnecessary administrative burden without an offsetting benefit to libraries.

315. We agree with commenters that library service areas and school districts often are not identical, and that libraries may not have ready access to information that would allow them to coordinate their service areas with the applicable school district lunch data. We are not, however, requiring libraries to coordinate their service areas with school districts. The procurement officer responsible for ordering telecommunications and other supported services for a library or library system need only obtain from the school district's administrative office the percentage of students eligible for the national school lunch program in the district in which the library is located. We conclude, therefore, that adopting this approach will not impose an unnecessary administrative burden on libraries.

316. ALA notes that residents of towns that do not have schools generally must send their children to other towns to attend school. We find that the discount for a library in such a circumstance would be based on an average of the percentage of students eligible for the school lunch program in each of the school districts in which the town's children attend school.

317. We conclude that using school lunch eligibility to calculate the poverty level of both schools and libraries addresses the concern that equity exist between schools and libraries. That is, because school lunch eligibility data measures the percentage of students within 185 percent of the poverty line, the program that we adopt herein will ensure that both schools and libraries are afforded discounts based on the same measure of poverty. Under ALA's proposal, however, libraries would have received discounts based on the percentage of families at or below the poverty line, while schools would have received discounts based on the percentage of students within 185 percent of the poverty line. We conclude, therefore, that libraries will not be disadvantaged by adoption of the Joint Board's recommendation to use school lunch eligibility to determine the level of poverty for both schools and libraries. We also conclude that using the same measure of poverty for both schools and libraries will lower the administrative costs associated with the discount program described herein.

318. Levels of Poverty

We agree with the Joint Board's recommendation that we adopt a step function to define the level of discount available to schools and libraries, based on the level of poverty in the areas they serve. A step function will define multiple levels of discount based on the percentage of students eligible for the national school lunch program. We also agree with the Joint Board's recommendation that the number of steps for determining discounts applied to telecommunications and other supported services should be based principally on the existing Department of Education categorization of schools eligible for the national school lunch program. We conclude that this approach is reasonable because the national school lunch program is based on family income levels.

319. For purposes of administering the school lunch program, the Department of Education places schools in five categories, based on the percentage of students eligible for free or reduced-price lunches: 0–19 percent; 20–34 percent; 35–49 percent; 50–74 percent; and 75–100 percent. Consistent with the Joint Board's recommendation, we adopt the percentage categories used by the Department of Education for schools and libraries, and we also establish a separate category for the least economically disadvantaged schools and libraries, i.e., those with less than one percent of their students eligible for the national school lunch program. Schools and libraries in the ''less than one percent'' category should have comparatively greater resources within their existing budgets to secure affordable access to services even with lower discounted rates. We, therefore, adopt the following matrix for schools and libraries:

Schools and libraries discount matrix		Discount level	
How disadvantaged?			
% of students eligible for national school lunch program	(Estimated % of U.S. schools in category)	Urban discount (%)	Rural discount (%)
<1	3	20	25
1–19	31	40	50
20–34	19	50	60
35–49	15	60	70
50–74	16	80	80
75–100	16	90	90

320. Self-Certification Requirements

We agree with the Joint Board's recommendation that, when ordering telecommunications and other supported services, the procurement officer responsible for ordering such services for a school or library must certify its degree of poverty to the universal service administrator. For eligible schools ordering telecommunications and other supported services at the individual school level, which we anticipate will be primarily non-public schools, the procurement officer ordering such services must certify to the universal service administrator the percentage of students eligible in that school for the national school lunch program. For eligible libraries ordering telecommunications and other supported services at the individual library level, which we anticipate will be primarily single-branch libraries, the procurement officer ordering such services must certify to the universal service administrator the percentage of students eligible for the national school lunch program in the school district in which the library is located.

321. For eligible schools ordering telecommunications and other supported services at the school district or state level, we agree with the Joint Board's recommendation that we minimize the administrative burden on schools while at the same time ensuring that the individual schools with the highest percentages of economically disadvantaged students receive the deepest discounts for which they are eligible. We, therefore, adopt the Joint Board's recommendation to require the procurement officer for each school district or state applicant to certify to the universal service administrator the percentage of students in each of its schools that is eligible for the national

school lunch program, calculated either through an actual count of eligible students or through the use of a federally-approved alternative mechanism, as discussed above. If the level of discount were instead calculated for the entire school district, a school serving a large percentage of students eligible for the national school lunch program that was located in a school district comprised primarily of more affluent schools would not benefit from the level of discount to which it would be entitled if discounts had been calculated on an individual school basis. The school district or state may decide to compute the discounts on an individual school basis or it may decide to compute an average discount; in either case, the state or the district shall strive to ensure that each school receives the full benefit of the discount to which it is entitled.

322. For libraries ordering telecommunications and other supported services at the library system level, we agree with commenters asserting that library systems should be able to compute discounts on either an individual branch basis or based on an average of all branches within the system. Specifically, if individual branches within a library system are located in different school districts, we conclude that the procurement officer responsible for ordering telecommunications and other supported services for the library system must certify to the administrator the percentage of students eligible for the national school lunch program in each of the school districts in which its branches are located. The library system may decide to compute the discounts on an individual branch library basis or it may decide to compute an average discount; in either case, the library system shall strive to ensure that each library receives the full benefit of the discount to which it is entitled.

323. Similarly, for library consortia ordering telecommunications and other supported services, we conclude that each consortium's procurement officer must certify to the administrator the percentage of students eligible for the national school lunch program for the school district in which each of its members is located. Each library consortium may compute the discounts on the basis of the school district in which each consortium member is located or it may compute an average discount; in either case, each library consortium shall strive to ensure that each of its members receives the full benefit of the discount to which it is independently entitled.

324. Additional Considerations

We agree that our priority must be to establish the basic schools and libraries discount program. Whether a hardship appeals process is necessary can be addressed when the Joint Board reviews the discount program in 2001 or sooner, if necessary. In the interim, we are satisfied that the discount program that we adopt, reaching as high as 90 percent for the most disadvantaged schools and libraries, will provide sufficient support.

325. Finally, we adopt Ameritech's suggestion that information about the universal service discounts for which individual schools and libraries are eligible, based on their level of poverty and rural status, be posted on the same website as that on which schools' and libraries' RFPs will be posted, as discussed below. We conclude that posting this information on the website created by the universal service administrator for the schools and libraries discount program may assist providers seeking to provide eligible services to a school or library by providing potentially useful information about a prospective customer. If a school district submits school lunch eligibility information for each school, or a library system submits school lunch eligibility information for each branch, then the universal service administrator is instructed to post that information. If a school district chooses to submit only district-wide poverty information or a library system chooses to provide only system-wide poverty information, then that is the information that will be posted by the universal service administrator. We also adopt Ameritech's suggestion that the actual discounts be calculated and posted on the website, as discussed below.

326. Cap Level

We adopt the Joint Board's recommendation that there be an annual cap of $2.25 billion on universal service support for schools and libraries at this time. We also adopt the Joint Board's determination that, if the annual cap is not reached due to limited demand from eligible schools and libraries, the unspent funds will be available to support discounts for schools and libraries in subsequent years. We modify the Joint Board's recommendation slightly, however, to limit collection and spending for the period through June 1998, in light of both the need to implement the necessary administrative processes and the need to make the fund sufficiently flexible to respond to demand. Thus, for the funding period beginning January 1, 1998 and ending June 1998, the administrator will only collect as much as required by demand, but in no case more than $1 billion. Furthermore, if less than $2.25 billion is spent in calendar year 1998, then no more than half of the unused portion of the funding authority for calendar year 1998 shall be spent in calendar year 1999. Similarly, if the amount allocated in calendar years 1998 and 1999 is not spent, no more than half of the unused portion of the funding authority for these two years shall be spent in calendar year 2000.

327. We lack sufficient historical data to estimate accurately demand for the first year of this program. In the past when the Commission has established similar funding mechanisms, the Commission or the administrator has had access to information upon which to base an estimate of necessary first-year contribution levels. We direct the administrator to report to the Commission on a quarterly basis, on both the total amount of payments made to entities providing services and facilities to schools and libraries to finance universal service support discounts, and its determination regarding contribution assessments for the next quarter.

328. Timing of Funding Requests

As discussed above, we adopt the Joint Board's recommendation that universal service spending for eligible schools and libraries be capped at $2.25 billion annually. We also adopt the Joint Board's recommendation that such support be committed on a first-come-first-served basis. We further conclude that the funding year will be the calendar year and that requests for support will be accepted beginning on the first of July for the following year. For the first year only, requests for support will be accepted as soon as the schools and libraries website is open and applications are available. Eligible schools and libraries will be permitted to submit funding requests once they have made agreements for specific eligible services, and, as the Joint Board recommended, the administrator will commit funds based on those agreements until total payments committed during a funding year have exhausted any funds carried over from previous years and there are only $250 million in funds available for the funding year. Thereafter, the Joint Board's proposed system of priorities will govern the distribution of the remaining $250 million.

329. The administrator shall measure commitments against the funding caps and trigger points based on the

contractually-specified non-recurring expenditures, such as for internal connection services, and recurring flat-rate charges for telecommunications services and other supported services that a school or library has agreed to pay and the commitment of an estimated variable usage charge, based on documentation from the school or library of the estimated expenditures that it has budgeted to pay for its share of usage charges. Schools and libraries must file their contracts either electronically or by paper copy. Moreover, schools and libraries must file new funding requests for each funding year. Such requests will be placed in the funding queue based on the date and time they are received by the administrator.

330. We conclude that these rules will give schools the certainty they need for budgeting, while avoiding the need for the administrator to accumulate, prioritize, and allocate all discounts at the beginning of each funding year, as some commenters suggest. Some uncertainty may remain about whether an institution will receive the same level of discount from one year to the next because demand for funds may exceed the funds available. If that does occur, we cannot guarantee discounts in the subsequent year without placing institutions that have not formulated their telecommunications plans in the previous year at a disadvantage, possibly preventing such entities from receiving any universal service support—a concern raised by some commenters. We acknowledge that requiring annual refiling for recurring charges places an additional administrative burden on eligible institutions. We find, however, that allowing funding for recurring charges to carry forward from one funding year to the next would favor those who are already receiving funds and might deny any funding to those who had never received funding before.

331. Therefore, we find that, if the administrator estimates that the $2.25 billion cap will be reached for the current funding year, it shall recommend to the Commission a reduction in the guaranteed percentage discounts necessary to permit all expected requests in the next funding year to be fully funded as discussed in more detail, below. Because educational institutions' funding needs will vary greatly, we find that a per-institution cap, as proposed by AT&T, is likely to lead to arbitrary results and be difficult to administer. For example, if the per-institution cap were tied to factors such as number of students and the level of discount for which the institution is eligible, as AT&T suggests, this would limit eligible high schools to the same level of support as eligible elementary schools of equal size, even if the former had substantially greater needs for support. We are not aware of any practical way to make fair and equitable adjustments for such varying needs. We also agree with the Joint Board's decision and rationale for rejecting the concept of setting fund levels for each state, and thus reject BANX's proposal for establishing a cap on funds flowing to each state.

332. Effect of the Trigger

We adopt the Joint Board's recommendation that, once there is only $250 million in funds available to be committed in a given funding year, ''only those schools and libraries that are most economically disadvantaged and ha[ve] not yet received discounts from the universal service mechanism in the previous year would be granted guaranteed funds, until the cap [is] reached.'' The Joint Board recommended that ''[o]ther economically disadvantaged schools and libraries'' should have second priority, followed by ''all other eligible schools and libraries.'' Although, as the Joint Board recommended, the priority system should give first priority to the most economically disadvantaged institutions that have received no discounts in the previous funding year, we are also concerned that the prioritization process not disrupt institutions' ongoing programs that depend upon the discounts.

333. To achieve the Joint Board's goals, we establish a priority system that will operate as follows. The administrator shall ensure, as explained below, that the total level of the administrator's commitments, as well as the day that only $250 million remains available under the cap in a funding year, are made publicly available on the administrator's website on at least a weekly basis. If the trigger is reached, the administrator will ensure that a message is posted on the website, notify the Commission, and take reasonable steps to notify the educational and library communities that commitments for allocating the remaining $250 million of support will be made only to the most disadvantaged eligible schools and libraries for the next 30 days (or the remainder of the funding year, whichever is shorter). That is, during the 30-day period, applications from schools and libraries will continue to be accepted and processed, but the administrator will only commit funds to support discount requests from schools and libraries that are in the two most-disadvantaged categories on the discount matrix and that did not receive universal service supported discounts in the previous or current funding years. We provide, however, that schools and libraries that received discounts only for basic telephone service in the current or prior year shall not be deemed to have received discounts for purposes of the trigger mechanism. For this purpose, we will ignore support for basic telephone service, because we do not want to discourage disadvantaged schools and libraries from seeking support for this service to avoid forfeiting their priority status for securing support for more advanced services. After the initial 30-day period, if uncommitted funds remain, the administrator will process any requests it received during that period from eligible institutions in the two most disadvantaged categories that had previously received funds. If funds still remain, the administrator will allocate the remaining available funds to schools and libraries in the order that their requests were received until the $250 million is exhausted or the funding year ends.

334. Adjustments to Discount Matrix

We have established the discount levels in this Order based on the Joint Board's estimate of the level of expenditures that schools and libraries are likely to have. We do not anticipate that the cost of funding discount requests will exceed the cap, and we do not want to create incentives for schools and libraries to file discount requests prematurely to ensure full funding. Furthermore, we will consider the need to revise the cap in our three-year review proceeding, but if estimated funding requests for the following funding year demonstrate that the funding cap will be exceeded, we will consider lowering the guaranteed percentage discounts available to all schools and libraries, except those in the two most disadvantaged categories, by the uniform percentage necessary to permit all requests in the next funding year to be fully funded. We will direct the administrator to determine the appropriate adjustments to the matrix based on the estimates schools and libraries make of the funding they will request in the following funding year. The administrator must then request the Commission's approval of the recommended adjustments. After seeking public comment on the administrator's recommendation, the Commission will then approve any reduction in such guaranteed percentage discounts that it finds to be in the public interest. If funds remain under the cap at the end of a funding year in

which discounts have been reduced below those set in the matrix, the administrator shall consult with the Commission to establish the best way to distribute those funds.

335. Advance Payment for Multi-Year Contracts

We conclude that providing funding in advance for multiple years of recurring charges could enable a wealthy school to guarantee that its full needs over a multi-year period were met, even if other schools and libraries that could not afford to prepay multi-year contracts were faced with reduced percentage discounts if the administrator estimated that the funding cap would be exceeded in a subsequent year. We are also concerned that funds would be wasted if a prepaid service provider's business failed before it had provided all of the prepaid services. At the same time, we recognize that educators often will be able to negotiate better rates for pre-paid/multi-year contracts, reducing the costs that both they and the universal service support mechanisms incur. Therefore, we conclude that while eligible schools and libraries should be able to enter into pre-paid/multi-year contracts for supported services, the administrator will only commit funds to cover the portion of a long-term contract that is scheduled to be delivered and installed during the funding year. Eligible schools and libraries may structure their contracts so that payment is required on at least a yearly basis, or they may enter into contracts requiring advance payment for multiple years of service. If they choose the advance payment method, eligible schools and libraries may use their own funds to pay full price for the portion of the contract exceeding one year (pro rata), and may request that the service provider seek universal service support for the pro rata annual share of the pre-payment. The eligible school or library may also request that the service provider rebate the payments from the support mechanisms that it receives in subsequent years to the school or library, to the extent that the school or library secures approval of discounts in subsequent years from the administrator.

336. Existing Contracts

We agree with the recommendation of the Joint Board and a number of commenters that we should permit schools and libraries to apply the relevant discounts we adopt in this order to contracts that they negotiated prior to the Joint Board's Recommended Decision for services that will be delivered and used after the effective date of our rules, provided the expenditures are approved by the administrator according to the procedures set forth above. No discount would apply, however, to charges for any usage of telecommunications or information services or installation or maintenance of internal connections prior to the effective date of the rules promulgated pursuant to this Order. While we will not require schools or libraries to breach existing contracts to become eligible for discounts, this exemption from our competitive bidding requirements shall not apply to voluntary extensions of existing contracts.

337. We conclude that allowing discounts to be applied to existing contract rates for future covered services is appropriate and necessary to ensure schools and libraries affordable access to and use of the services supported by the universal service program. As discussed above and in the Recommended Decision, the concept of affordability contains not only an absolute component, which takes into account, in this case, a school or library's means to subscribe to certain services, but also a relative component, which takes into account whether the school or library is spending a disproportionate amount of its funds on those services. Thus, although a school or library might have chosen to devote funds to, for example, certain telecommunications services, it might have done so at considerable hardship and thus at a rate that is not truly affordable. Moreover, some schools and libraries might be bound by contracts negotiated by the state, even though an individual school or library in the state might not be able to afford to purchase any services under the contract unless it is able to apply universal service support discounts to the negotiated rate. Furthermore, allowing discounts to be applied to existing contract rates will ensure affordable access to and use of all the services Congress intended, not just whatever services, however minimal, an individual school or library might have contracted for before the discounts adopted herein were available at a cost that might preclude it from being able to afford to purchase other services now available at a discount.

338. We will not adopt, however, release schools and libraries from their current negotiated contracts, or adopt a ''fresh look'' requirement that would obligate carriers with existing service contracts with schools and libraries to participate in a competitive bidding process, or that we create a ''rebuttable presumption'' that existing rates for telecommunications services are reasonable, allowing interested parties to submit objections to existing contracts based on assertions of unreasonable prices, improper cross-subsidization, or anti-competitive conduct by parties. We find that these proposals would be administratively burdensome, would create uncertainty for those service providers that had previously entered into contracts, and would delay delivery of services to those schools and libraries that took the initiative to enter into such contracts. In addition, we have no reason to believe that the terms of these contracts are unreasonable. Indeed, abrogating these contracts or adopting these other proposals would not necessarily lead to lower pre-discount prices, due to the incentives the states, schools, and libraries had when negotiating the contracts to minimize costs. Finally, we note that there is no suggestion in the statute or the legislative history that Congress anticipated abrogation of existing contracts in this context. We find equally unpersuasive the argument that we should deny schools and libraries the opportunity to apply the discounts we adopt herein to previously negotiated contract rates. Because schools and libraries are already bound to those contracts regardless of whether discounts are provided, we see no way in which ILECs will be unfairly advantaged.

339. We agree with the Joint Board that schools and libraries, constrained by budgetary limitations and the obligation to pay 100 percent of the contract price, had strong incentives to secure the lowest rates possible when they negotiated the contracts. Thus, we find it appropriate to apply discounts to these presumptively low rates rather than requiring negotiation of new rates. Furthermore, we conclude that it would not be in the public interest to penalize schools and libraries in states that have aggressively embraced educational technologies and have signed long-term contracts for service by refusing to allow them to apply discounts to their pre-existing contract rates.

340. Interstate and Intrastate Discounts

We concur with the Joint Board's recommendation that we exercise our authority to provide federal universal service support to fund intrastate discounts. We also agree with the Joint Board's recommendation that we adopt rules providing federal funding for discounts for eligible schools and libraries on both interstate and intrastate services to the levels discussed above and that we require states to establish intrastate discounts at least equal to the

discounts on interstate services as a condition of federal universal service support for schools and libraries in that state. While section 254(h)(1)(B) permits the states to determine the level of discount available to eligible schools and libraries with respect to intrastate services, the Act does nothing to prohibit the Commission from offering to fund intrastate discounts or conditioning that funding on action the Commission finds to be necessary to achieve the goal that the Snowe-Rockefeller-Exon-Kerrey amendment sought to accomplish under this section.

341. We agree that section 254(h)(1)(B) creates a partnership, insofar as that section permits a state that wants to provide greater discounts or discounts for additional services for schools to do so. We note that states retain full discretion to require providers to set pre-discount prices for intrastate services even lower than the market might produce and to provide the support required, if any, from intrastate support obligations. We would find such an arrangement consistent with section 254(f)'s directive that ''[a] State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service.'' Furthermore, we concur with the Joint Board that it would also be permissible for states to choose not to supplement the federal program and thus prohibit their schools and libraries from purchasing services at special state-supported rates if the schools and libraries intend to secure federal-supported discounts. Finally, we note that, if a state wishes to provide an intrastate discount mechanism that is less than the federal discount, it may seek a waiver of the requirement that it match the federal discount levels, although we would only expect to grant such waivers on a temporary basis and only for states with unusually compelling cases.

342. Eligibility

The Joint Board concluded that, to be eligible for universal service support, a school must meet the statutory definition of an elementary or secondary school found in the Elementary and Secondary Education Act of 1965, must not operate as a for-profit business, and must not have an endowment exceeding $50 million. We agree and conclude that all schools that fall within the definition contained in the Elementary and Secondary Education Act of 1965 and meet the criteria of section 254(h), whether public or private, will be eligible for universal service support. Illinois Board of Education and Community Colleges ask that we expand the definition of schools to include entities that educate elementary and secondary school aged students, and APTS asks that we permit discounts for educational television station licensees as a way to support distance learning. We find, however, consistent with the Joint Board and with SBC's observation, that section 254(h)(5)(A) does not grant us discretion to expand the statutory definition of schools.

343. Section 254(h)(5) does not include an explicit definition of libraries eligible for support. Rather, in section 254(h)(4)'s eligibility criteria, Congress cited LSCA. The Joint Board, therefore, used the definition of library found in Title III of the LSCA. In late 1996, however, Congress amended section 254(h)(4) to replace citation to the LSCA with a citation to the newly enacted LSTA. In light of this amendment to section 254(h)(4), we find it necessary to look anew at the definitions of library and library consortium and adopt definitions that are consistent with the directives of section 254(h).

344. LSTA defines a library more broadly than did the former LSCA and includes, for example, academic libraries and libraries of primary and secondary schools. If, for purposes of determining entities eligible for universal service support, we were to adopt a definition that includes academic libraries, we are concerned that the congressional intent to limit the availability of discounts under section 254(h) could be frustrated. Specifically, in section 254(h)(5), Congress limited eligibility for support to elementary and secondary schools that meet certain criteria, choosing to target support to K–12 schools rather than attempting to cover the broader set of institutions of higher learning. If we were to adopt the new expansive definition of library, institutions of higher learning could assert that their libraries, and thus effectively their entire institutions, were eligible for support.

345. We, therefore, adopt the LSTA definition of library for purposes of section 254(h), but we conclude that a library's eligibility for universal service funding will depend on its funding as an independent entity. That is, because institutions of higher education are not eligible for universal service support, an academic library will be eligible only if its funding is independent of the funding of any institution of higher education. By ''independent,'' we mean that the budget of the library is completely separate from any institution of learning. This independence requirement is consistent with both congressional intent and the expectation of the Joint Board that universal service support would flow to an institution of learning only if it is an elementary or secondary school. Similarly, because elementary and secondary schools with endowments exceeding $50 million are not eligible for universal service support, a library connected to such a school will be eligible only if it is funded independently from the school.

346. We adopt the independent library requirement because we are also concerned that, in some instances where a library is attached, for funding purposes, to an otherwise eligible school, the library could attempt to receive support twice, first as part of the school and second as an independent entity. We find that the independence requirement will ensure that an elementary or secondary school library cannot collect universal service support twice for the same services.

347. When Congress amended section 254(h)(4) in late 1996, it added the term ''library consortium'' to the entities potentially eligible for universal service support. We adopt the definition of library consortium as it is defined in LSTA, with one modification. We eliminate ''international cooperative association of library entities'' from our definition of library consortia eligible for universal service support because we conclude that this modified definition is consistent with the directives of section 254(h).

348. We conclude that community college libraries are eligible for support only if they meet the definition above and other requirements of section 254(h). We agree that all eligible schools and libraries should be permitted to enter into consortia with other schools and libraries.

349. The Joint Board concluded that entities not explicitly eligible for support should not be permitted to gain eligibility for discounts by participating in consortia with those who are eligible, even if the former seek to further educational objectives for students who attend eligible schools. We agree with, and therefore adopt, this Joint Board recommendation. Nevertheless, we look to ineligible schools and libraries to assume leadership roles in network planning and implementation for educational purposes. Although we conclude that Congress did not intend that we finance the costs of network planning by ineligible schools and libraries through universal service support mechanisms, we encourage universities and other repositories of information to make their online facilities available to other schools and libraries. We note that eligible schools and libraries will be eligible for

discounts on any dedicated lines they purchase to connect themselves to card catalogues or databases of scientific or other educational data maintained by colleges or universities, databases of research materials maintained by religious institutions, and any art or related materials maintained by private museum archives. Connections between eligible and ineligible institutions can be purchased by an eligible institution subject to the discount as long as the connection is used for the educational purposes of the eligible institution.

350. While those consortium participants ineligible for support would pay the lower pre-discount prices negotiated by the consortium, only eligible schools and libraries would receive the added benefit of universal service discount mechanisms. Those portions of the bill representing charges for services purchased by or on behalf of and used by an eligible school, school district, library, or library consortia for educational purposes would be reduced further by the discount percentage to which the school or library using the services was entitled under section 254(h). The service provider would collect that discount amount from universal service support mechanisms. The prices for services that were not actually used by eligible entities for educational purposes would not be reduced below the contract price.

351. Finally, several commenters ask that universal service support be targeted to schools and libraries serving individuals with disabilities. We acknowledge the barriers faced by individuals with disabilities in accessing telecommunications, and we note that individuals with disabilities attending eligible schools and using the resources of eligible libraries will benefit from universal service support mechanisms to the extent that those institutions qualify for universal service support. We agree with the Joint Board, however, that the specific barriers faced by individuals with disabilities in accessing telecommunications are best addressed in the proceeding to implement section 255 of the Act.

352. Resale

Section 254(h)(3) bars entities that obtain discounts from reselling the discounted services. We concur with the Joint Board's recommendation that we not interpret the section 254(h)(3) bar to apply only to resale for profit. We agree with the Joint Board's recommendation that we interpret section 254(h)(3) to restrict any resale whatsoever of services purchased pursuant to a section 254 discount to entities that are not eligible for support.

353. We agree, however, that the section 254(h)(3) prohibition on resale does not prohibit an eligible entity from charging fees for any services that schools or libraries purchase that are not subject to a universal service discount. Thus, an eligible school or library may assess computer lab fees to help defray the cost of computers or training fees to help cover the cost of training because these purchases are not subsidized by the universal service support mechanisms. We also observe that, if eligible schools, libraries, or consortia amend their approved service contracts to permit another eligible school or library to share the services for which they have already contracted, it would not constitute prohibited resale, as long as the services used are only discounted by the amount to which the eligible entity actually using the services is entitled.

354. We concur with the Joint Board's conclusion that, despite the difficulties of allocating costs and preventing abuses, the benefits of permitting schools and libraries to join in consortia with other customers, as discussed above, outweigh the danger that such aggregations will lead to significant abuse of the prohibition against resale. The Joint Board reached this conclusion based on three findings, and we concur with each of them. First, the Joint Board found that the only way to avoid any possible misallocations by eligible schools and libraries would be to limit severely all consortia, even among eligible schools and libraries, because it is possible that consortia including schools and libraries eligible for varying discounts could allocate costs in a way that does not precisely reflect each school's or library's designated discount level. We agree with the Joint Board's conclusion that severely limiting consortia would not be in the public interest because it would serve to impede schools and libraries from becoming attractive customers or from benefiting from efficiencies, such as those secured by state networks. Second, illegal resale, whereby eligible schools and libraries use their discounts to reduce the prices paid by ineligible entities, can be substantially deterred by a rule requiring providers to keep and retain careful records of how they have allocated the costs of shared facilities in order to charge eligible schools and libraries the appropriate amounts. These records should be maintained on some reasonable basis, either established by the Commission or the administrator, and should be available for public inspection. We concur with the Joint Board's conclusion that reasonable approximations of cost allocations should be sufficient to deter significant abuse. Third, we share the Joint Board's expectation that the growing bandwidth requirements of schools and libraries will make it unlikely that other consortia members will be able to rely on using more than their paid share of the use of a facility. This will make fraudulent use of services less likely to occur. We also agree with the Joint Board's recommendation that state commissions should undertake measures to enable consortia of eligible and ineligible public sector entities to aggregate their purchases of telecommunications services and other services being supported through the discount mechanism, in accordance with the requirements set forth in section 254(h).

355. Bona Fide Request for Educational Purposes

Section 254(h)(1)(B) limits discounts to services provided in response to bona fide requests made for services to be used for educational purposes. We concur with the Joint Board's finding that Congress intended to require accountability on the part of schools and libraries and, therefore, we concur with the Joint Board's recommendation and the position of most commenters that eligible schools and libraries be required to: (1) Conduct internal assessments of the components necessary to use effectively the discounted services they order; (2) submit a complete description of services they seek so that it may be posted for competing providers to evaluate; and (3) certify to certain criteria under penalty of perjury.

356. Because we find that the needs of educational institutions are complex and substantially different from the needs of other entities eligible for universal service support pursuant to this Order, we will require the administrator, after receiving recommendations submitted by the Department of Education, to select a subcontractor to manage exclusively the application process for eligible schools and libraries, including dissemination and review of applications for service and maintenance of the website on which applications for service will be posted for competitive bidding by carriers. The important criteria in recommending eligible subcontractors are: Familiarity with the telecommunications and technology needs of educational institutions and libraries; low administrative costs; and familiarity with the procurement processes of the states and school districts. Moreover, we will consult

with the Department of Education in designing the applications for this process. We will require those applications to include, at a minimum, certain information and certifications.

357. First, we will require applications to include a technology inventory/assessment. We expect that, before placing an order for telecommunications or information services, the person authorized to make the purchase for a school or library would need to review what telecommunications-related facilities the school or library already has or plans to acquire. In this regard, applicants must at a minimum provide the following information, to the extent applicable to the services requested:

(1) The computer equipment currently available or budgeted for purchase for the current, next, or other future academic years, as well as whether the computers have modems and, if so, what speed modems;

(2) The internal connections, if any, that the school or library already has in place or has budgeted to install in the current, next, or future academic years, or any specific plans relating to voluntary installation of internal connections;

(3) The computer software necessary to communicate with other computers over an internal network and over the public telecommunications network currently available or budgeted for purchase for the current, next, or future academic years;

(4) The experience of and training received by the relevant staff in the use of the equipment to be connected to the telecommunications network and training programs for which funds are committed for the current, next, or future academic years;

(5) Existing or budgeted maintenance contracts to maintain computers; and

(6) The capacity of the school's or library's electrical system to handle simultaneous uses.

358. In addition, schools and libraries must prepare specific plans for using these technologies, both over the near term and into the future, and how they plan to integrate the use of these technologies into their curriculum. Therefore, we concur with the Joint Board's finding that it would not be unduly burdensome to require eligible schools and libraries to ''do their homework'' in terms of preparing these plans.

359. To ensure that these technology plans are based on the reasonable needs and resources of the applicant and are consistent with the goals of the program, we will also require independent approval of an applicant's technology plan, ideally by a state agency that regulates schools or libraries. We understand that many states have already undertaken state technology initiatives, and we expect that more will do so and will be able to certify the technology plans of schools and libraries in their states. Furthermore, plans that have been approved for other purposes, e.g., for participation in federal or state programs such as ''Goals 2000'' and the Technology Literacy Challenge, will be accepted without need for further independent approval. With regard to schools and libraries with new or otherwise approved plans, we will receive guidance from the Department of Education and the Institute for Museum and Library Services as to alternative approval measures. As noted below, we will also require schools and libraries to certify that they have funds committed for the current funding year to meet their financial obligations set out in their technology plans.

360. Second, we will require the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids. Since we agree with the Joint Board's conclusion that Congress intended schools and libraries to avail themselves of the growing competitive marketplace for telecommunications and information services, as discussed above, we concur with the Joint Board's recommendation that schools and libraries be required to obtain services through the use of competitive bidding. Once the subcontractor selected by the administrator receives an application and finds it complete, the subcontractor will post the application, including the description of the services sought on a website for all potential competing service providers to review and submit bids in response, as if they were requests for proposals (RFPs). Moreover, while schools and libraries may submit formal and detailed RFPs to be posted, particularly if that is required or most consistent with their own state or local acquisition requirements, we will also permit them to submit less formal descriptions of services, provided sufficient detail is included to allow providers to reasonably evaluate the requests and submit bids. As the Joint Board recognized, many schools and libraries are already required by their local government or governing body to prepare detailed descriptions of any purchase they make above a specified dollar amount, and they may be able to use those descriptions for this purpose as well. We emphasize, however, that the submission of a request for posting is in no way intended as a substitute for state, local, or other procurement processes.

361. We will also require that applications posted on the website by the administrator's subcontractor present schools' and libraries' descriptions of services in a way that will enable providers to search among potential customers by zip code, number of students (schools) or patrons (libraries), number of buildings, and other data that the administrator will receive in the applications. We believe that this procedure should enable even potential service providers without direct access to the website to rely on others to conduct searches for them. We also note that schools will submit the percentage of their students eligible for the national school lunch program and libraries will submit the percentage of students eligible for the national school lunch program in the school districts in which they are located to the administrator's subcontractor, in order to enable the administrator to calculate the amount of the applicable discount. This information will also be posted by the administrator on the website to help providers bidding on services to calculate the applicable discounts.

362. Third, we concur with the Joint Board's recommendation that the request for services submitted to the Administrator's subcontractor shall be signed by the person authorized to order telecommunications and other supported services for the school or library, who will certify the following under oath:

(1) The school or library is an eligible entity under sections 254(h)(4) and 254(h)(5) and the rules adopted herein;

(2) The services requested will be used solely for educational purposes;

(3) The services will not be sold, resold, or transferred in consideration for money or any other thing of value;

(4) If the services are being purchased as part of an aggregated purchase with other entities, the identities of all co-purchasers and the services or portion of the services being purchased by the school or library;

(5) All of the necessary funding in the current funding year has been budgeted and will have been approved to pay for the ''non-discount'' portion of requested connections and services as well as any necessary hardware, software, and to undertake the necessary staff training required in time to use the services effectively; and

(6) They have complied, and will continue to comply, with all applicable state and local procurement processes.

363. We conclude that, to permit all interested parties to respond to those posted requests, schools, libraries, and consortia including such entities should be required to wait four weeks after a description of the services they seek has been posted on the school and library website, before they sign any binding contracts for discounted services. Once they have signed a contract for discounted services, the school, library, or consortium including such entities shall send a copy of that contract to the administrator's subcontractor with an estimate of the funds that it expects to need for the current funding year as well what it estimates it will request for the following funding year. Assuming that there are sufficient funds remaining to be committed, the subcontractor shall commit the necessary funds for the future use of the particular requestor and notify the requestor that its funding has been approved.

364. Once the school, library, or consortium including such entities has received approval of its purchase order, it may notify the provider to begin service, and once the former has received service from the provider it must notify the administrator to approve the flow of universal service support funds to the provider.

365. Auditing

We agree with the Joint Board recommendation that schools and libraries, as well as carriers, be required to maintain appropriate records necessary to assist in future audits. We share the Joint Board's expectation that schools and libraries will be able to produce such records at the request of any auditor appointed by a state education department, the fund administrator, or any other state or federal agency with jurisdiction that might, for example, suspect fraud or other illegal conduct, or merely be conducting a routine, random audit. We also agree with the Joint Board's recommendation and Vanguard's comments that eligibility for support be conditioned on schools' and libraries' consent to cooperate in future random compliance audits to ensure that the services are being used appropriately. The Commission, in consultation with the Department of Education, will engage and direct an independent auditor to conduct such random audits of schools and libraries as may be necessary. Such information will permit the Commission to determine whether universal service support policies require adjustment.

366. Annual Carrier Notification Requirement

We agree with the Joint Board's recommendation and decline to impose a requirement that carriers annually notify schools and libraries about the availability of discounted services. As the Joint Board noted, many national representatives of school and library groups are participating in this proceeding, and we believe that these associations will inform their members of the opportunity to secure discounted telecommunications and other covered services under this program. We encourage these groups to notify their members of the universal service programs through trade publications, websites, and conventions. While we concur with the Joint Board and decline to require provider notification to schools and libraries, we encourage service providers to notify each school and library association and state department of education in the states they serve of the availability of discounted services annually.

367. Separate Funding Mechanisms

We concur with the Joint Board's recommendation that the universal service administrator distribute support for schools and libraries from the same source of revenues used to support other universal service purposes under section 254 because we agree with the Joint Board's conclusion that establishing separate funds would yield minimal, if any, improvement in accountability, while imposing unnecessary administrative costs. We share the concern that we must ensure proper accountability for and targeting of the funds for schools and libraries. We agree that this goal is achievable if the fund administrator maintains separate accounting categories.

368. Offset versus Reimbursement

Section 254(h)(1)(B) requires that a telecommunications carrier providing services to schools and libraries shall either apply the amount of the discount afforded to schools and libraries as an offset to its universal service contribution obligations or shall be reimbursed for that amount from universal service support mechanisms. We agree that section 254(h)(1)(B) requires that service providers be permitted to choose either reimbursement or offset. For purposes of administrative ease, we conclude that service providers, rather than schools and libraries, should seek compensation from the universal service administrator. Many telecommunications carriers will already be receiving funds from the administrator for existing high cost and low-income support, and the administrator would often be dealing with the same entities for the schools and libraries program. To require schools and libraries to seek direct reimbursement would also burden the administrator because of the large number of new entities that would be receiving funds.

369. Access to Advanced Telecommunications and Information Services

As discussed above, we concur with the Joint Board's recommendation that we provide universal service support to eligible schools and libraries for telecommunications services, Internet access, and internal connections. We have, however, relied on sections 254(c)(3) and 254(h)(1)(B), rather than section 254(h)(2)(A) as proposed by the Joint Board, because we believe the former are the more pertinent section. In addition to the support for such services provided by telecommunications carriers under sections 254 (c)(3) and (h)(1)(B), discussed in section X.B.2.b. and X.B.2.c. of the Order, we also agree with the Joint Board's recommendation to provide discounts for Internet access and internal connections provided by non-telecommunications carriers, which we do under the authority of sections 254(h)(2)(A) and 4(i).

370. Many companies that are not themselves telecommunications carriers will be eligible to provide supported non-telecommunications services to eligible schools and libraries at a discount pursuant to section 254(h)(1) because they have subsidiaries or affiliates owned or controlled by them that are telecommunications carriers. In addition, to take advantage of the discounts provided by section 254(h)(1), non-telecommunications carriers can bid with telecommunications carriers through joint ventures, partnerships, or other business arrangements. They also have the option of establishing subsidiaries or affiliates owned or controlled by them that are telecommunications carriers, even if the scope of their telecommunications service activities is fairly limited. Given the ways in which non-telecommunications carriers can be reimbursed for providing discounts to eligible schools and libraries under section 254(h)(1), we conclude that it would create an artificial distinction to exclude those non-telecommunications carriers that do not have telecommunications carrier subsidiaries or affiliates owned or controlled by them, that choose not to create them, or

that do not bid together with telecommunications carriers. Accordingly, pursuant to authority in sections 254(h)(2)(A) and 4(i) of the Act, non-telecommunications carriers will be eligible to provide the supported non-telecommunications services to schools and libraries at a discount.

371. Section 254(h)(2), in conjunction with section 4(i), authorizes the Commission to establish discounts and funding mechanisms for advanced services provided by non-telecommunications carriers, in addition to the funding mechanisms for telecommunications carriers created pursuant to sections 254(c)(3) and 254(h)(1)(B). The language of section 254(h)(2) grants the Commission broad authority to enhance access to advanced telecommunications and information services, constrained only by the concepts of competitive neutrality, technical feasibility, and economical reasonableness. Thus, discounts and funding mechanisms that are competitively neutral, technically feasible, and economically reasonable that enhance access to advanced telecommunications and information services fall within the broad authority of section 254(h)(2).

372. Furthermore, unlike sections 254(h)(1) (A) and (B), section 254(h)(2)(A) does not limit support to telecommunications carriers. Rather, section 254(h)(2)(A) supplements the discounts to telecommunications carriers established by section 254(h)(1) by expressly granting the Commission the authority and directing the Commission to ''establish competitively neutral rules * * * to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms * * * and libraries.'' This language is notably broader than the other provisions of section 254, including section 254(h) (1)(A) and (1)(B) and, unlike these other sections, does not include the phrase ''telecommunications carriers.'' Thus, contrary to arguments raised by many ILECs, we conclude that section 254(e), which provides that ''only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific [f]ederal universal service support,'' is inapplicable to section 254(h)(2).

373. In this regard, section 254(e) limits the provision of federal universal service support to eligible telecommunications carriers designated under section 214(e). Section 214(e) requires ''eligible telecommunications carriers'' to ''offer the services that are supported by [f]ederal universal service support mechanisms under section 254(c).'' With respect to schools and libraries, the discount mechanism for those services designated for support under section 254(c) (specifically (c)(3)), is established by section 254(h)(1)(B). This statutory interrelationship demonstrates that the limitation set forth in section 254(e) pertains only to section 254(c) services, which, with respect to schools and libraries, is only relevant to section 254(h)(1)(B). This interpretation is further bolstered by the specific language set forth in section 254(h)(1)(B)(ii), which is an express exemption from the section 254(e) requirement for certain telecommunications carriers (i.e., those that are not ''eligible'' under section 214(e)). No such exemption language was required for section 254(h)(2)(A) because section 254(e) does not apply to that section.

374. We thus find that section 254(h)(2), in conjunction with section 4(i), permits us to empower schools and libraries to take the fullest advantage of competition to select the most cost-effective provider of Internet access and internal connections, in addition to telecommunications services, and allows us not to require schools and libraries to procure these supported services only as a bundled package with telecommunications services. This approach is consistent with the requirement in section 254(h)(2) that the rules established under it be ''competitively neutral,'' as well as by the principle of competitive neutrality that we have concluded should be among those overarching principles shaping our universal service policies. The goal of competitive neutrality would not be fully achieved if the Commission only provided support for non-telecommunications services such as Internet access and internal connections when provided by telecommunications carriers. In that situation, service providers not eligible for support because they are not telecommunications carriers would be at a disadvantage in competing to provide these services to schools and libraries, even if their services would be more cost-efficient.

375. We thus conclude that the same non-telecommunications services eligible for discounts if provided by telecommunications carriers under section 254(h)(1)(B) are eligible for discounts if provided by non-telecommunications carriers under section 254(h)(2)(A). Furthermore, though the rules called for by section 254(h)(2)(A) are not required to mirror the discount schedule in section 254(h)(1)(B), we have authority to ''enhance access'' in this manner. Thus, the requirements that apply to the discount program for services provided by telecommunications carriers, discussed throughout this section, will apply to the discount program for services provided by non-telecommunications carriers, with one exception. Non-telecommunications carriers that are not required to contribute to universal service support mechanisms will be entitled only to reimbursement for the amount of the discount afforded to eligible schools and libraries under section 254(h)(1)(B), whereas telecommunications carriers will be entitled to either reimbursement or an offset to their obligation to contribute to universal service support mechanisms. Finally, we conclude that although sections 254(c)(3) and 254(h)(1)(B) on the one hand and sections 254(h)(2)(A) and 4(i) on the other hand authorize funding mechanisms under separate statutory authority, these funds can and should be combined into a single fund as a matter of administrative convenience.

376. We recognize that sections 706 and 708 include requirements that would complement the goal of widespread availability of advanced telecommunications services. We concur with the Joint Board's conclusion, however, that Congress contemplated that section 706 would be the subject of a separate rulemaking proceeding. We agree with the Joint Board and decline to consider section 706 in the context of this proceeding. We agree with the Joint Board's recommendation that we not rely on section 708 to provide advanced services to schools and libraries within the context of this proceeding. We also agree with the Joint Board and conclude that section 708 should be considered further after implementation of section 254.

377. We concur with the Joint Board's recommendation and conclude that we adopt rules implementing the schools and libraries discount program at the start of the 1997–1998 school year. As discussed above, we also conclude that the funding year will be the calendar year and that support will begin to flow on January 1, 1998.

Health Care Providers

378. Medical Applications Eligible for Support

We agree with those commenters suggesting that health care providers themselves are best able to determine those medical applications that should

be provided by means of supported telecommunications services. We find that ''public health services'' are ''health care services'' for purposes of section 254(h), and as such, the associated telecommunications services necessary to provide such services may be supported by universal service support mechanisms, consistent with the requirements of section 254(h). For purposes of section 254, we define ''public health services'' to mean health-related services, including non-clinical, informational, and educational public health services, that local public health departments or agencies are charged with performing under federal and state laws.

379. We find that the phrase ''necessary for the provision of health care services * * * including instruction relating to such services'' means reasonably related to the provision of health care services or instruction because we find that a broad reading of the phrase is consistent with the purpose of section 254(h) which, as Congress has stated, is, in part, ''to ensure that health care providers for rural areas * * * have affordable access to modern telecommunications services that will enable them to provide medical * * * services to all parts of the nation.'' We emphasize that the determination of what ''additional services'' should be eligible for support is not expressly limited by the considerations listed in section 254(c)(1). Those considerations are relevant to the establishment of core universal services and are not determinative of which ''additional'' services should receive support for health care providers under the language of section 254(c)(3).

380. Bandwidth Limitations

We conclude that, within the limitations described below, universal service support mechanisms for health care providers should support commercially available services of bandwidths up to and including 1.544 Mbps, or the equivalent transmission speed, but not higher speeds. We find that the weight of the record evidence demonstrates that higher bandwidth services are not presently necessary for the ''provision of health care services in a State.'' We also find that the record indicates vastly higher costs implicated in supporting services that employ bandwidths higher than 1.544 Mbps.

381. Services operating within the bandwidth limitation may be carried over facilities capable of carrying services at higher bandwidths, so long as the provisions for calculating support set forth herein are followed. Accordingly, using for purposes of example some of the services described by commenters, Frame Relay Service, Private Line Transport Service, ISDN, satellite communications, unlicensed spread spectrum, non-consumer, point-to-point services, and similar services, when provided by a telecommunications carrier at speeds not exceeding 1.544 Mbps, and requested and certified as necessary by an eligible health care provider, will be eligible for support.

382. Scope of Services Eligible for Support

We agree with and adopt the recommendation of the Joint Board, unchallenged by any commenter, that terminating services should be supported when they are billed to the eligible health care provider, as in the case of wireless telephone air time charges, and should not be supported otherwise. We adopt the recommendation of the Joint Board that we not support health care providers' acquisition of customer premises equipment such as computers and modems.

383. Like the Joint Board, we conclude that only telecommunications services should be designated for support under section 254(h)(1)(A). Section 254(e) states that only an ''eligible telecommunications carrier'' under section 214(e) may receive universal service support. Unlike section 254(h)(1)(B), section 254(h)(1)(A) does not contain an exception to the eligibility requirements of section 254(e). Therefore, we conclude that only eligible telecommunications carriers, as defined in section 254(e), shall be eligible to receive support for providing eligible services to health care providers under section 254(h)(1)(A). We conclude that both eligible telecommunications carriers and telecommunications carriers that do not qualify as eligible telecommunications carriers under section 254(e) may receive support for services provided to eligible health care providers under section 254(h)(2). We find that there is no need to extend eligibility beyond telecommunications carriers because we are supporting only telecommunications services.

384. Internet Access

The Joint Board concluded that the record contained insufficient information about the costs of providing Internet access to health care providers to justify a recommendation that such access be supported. Consistent with the Joint Board recommendation, the Common Carrier Bureau sought comment on the need for supporting Internet access for rural health care providers. As discussed in the schools and libraries section, sections 254(c)(3) and 254(h)(1)(B) of the Act authorize us to permit schools and libraries to receive the telecommunications and information services needed to use the Internet at discounted rates. In contrast, section 254(h)(1)(A) explicitly limits supported services for health care providers to telecommunications services. Accordingly, data links and associated services that meet the statutory definition of information services, because of their inclusion of protocol conversion and information storage, are not eligible for support under section 254(h)(1)(A), as they are under section 254(h)(2)(A). The telecommunications component of access to an Internet service provider, however, provided by an eligible telecommunications carrier, is a telecommunications service eligible for universal service support for health care providers under section 254(h)(1)(A). That is, any telecommunications service within the prescribed bandwidth limitations used to obtain access to an Internet service provider is eligible for support under section 254(h)(1)(A).

385. Infrastructure Development and Upgrade

As a preliminary matter, we note that several commenters characterize infrastructure development as ''network buildout.'' As other commenters note, however, providing additional support for network buildout or other infrastructure building technologies may not comport with the principle of competitive neutrality. We recognize that non-wireline technologies may provide the most cost-effective manner of providing services to areas currently underserved by, or receiving unsatisfactory service from the use of, wireline technologies. For this reason we will use the term ''infrastructure development'' instead of ''network buildout'' and will explore the use of non-wireline technologies as part of the program described below.

386. We agree that infrastructure development is not a ''telecommunications service'' within the scope of section 254(h)(1)(A). We conclude that we have the authority to establish rules to implement a program of universal service support for infrastructure development as a method to enhance access to advanced telecommunications and information services under section 254(h)(2)(A), as long as such a program is competitively neutral, technically feasible, and economically reasonable. Section

254(h)(2)(A) directs the Commission to establish competitively neutral rules ''to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all * * * health care providers.'' Extending or upgrading existing telecommunications infrastructure enhances access to the advanced services that may be offered over that infrastructure. We will issue a Public Notice regarding whether and how to support infrastructure development needed to enhance public and not-for-profit health care providers' access to advanced telecommunications and information services.

387. Periodic Review

We have considered carefully the issue of how soon to review and revise the description of supported services and adopt the Joint Board's recommendation to revisit the list of supported services in 2001. We note that there are several advantages to the Joint Board approach. The Joint Board's recommended review date is also the time we have set to re-convene a new Joint Board on universal service, which the statute contemplates will make recommendations to the Commission on modifications to the definition of supported services.

388. Eligibility

Pursuant to section 254(h)(1)(A), ''any public or nonprofit health care provider that serves persons who reside in rural areas in that State'' is eligible for universal service support. As the Joint Board acknowledged, because nearly all health care providers serve some rural residents, the statute could be read to include nearly every health care provider in the country. The intent of Congress to limit eligibility under section 254(h)(1)(A) to health care providers located in rural areas is demonstrated by the statutory directive that calculation of the amount of support due a carrier for providing services to a health care provider is to be based on the difference between the ''rates for services provided to health care providers for rural areas and the rates for similar services provided to other customers in comparable rural areas.'' It would not be logical to compare the rates paid by health care providers with those paid by other customers in comparable rural areas if the health care provider were not also located in a rural area. Thus, Congress contemplated that an eligible health care provider would otherwise be paying the rates of any other nonresidential customer located in a rural area.

389. We agree with the Joint Board that we should adopt ''a mechanism that includes the largest reasonably practicable number of health care providers that primarily serve rural residents and that, because of their location, are prevented from obtaining telecommunications services at rates available to urban customers.'' We also agree, therefore, that eligibility to obtain telecommunications services at urban rates should be limited to health care providers located in rural areas. Accordingly, we conclude that all public and nonprofit health care providers that are located in rural areas are eligible to receive supported services pursuant to the mechanisms established in this section.

390. Defining Rural Areas

As the Joint Board recognized, section 254(h)(1)(A) requires us to adopt a definition of ''rural area'' both to determine the location of health care providers and to determine the ''comparable rural areas'' needed for use in calculating the credit or reimbursement to a carrier that provides services to those health care providers at reduced rates. For both purposes, we adopt the recommendation of the Joint Board and define ''rural area'' to mean a nonmetropolitan county or county equivalent, as defined by OMB and identifiable from the most recent MSA list released by OMB, or any census tract or block numbered area, or contiguous group of such tracts or areas, within an MSA-listed metropolitan county identified in the most recent Goldsmith Modification published by ORHP/HHS. We agree that counties are units of identification more easily used and administered than the Bureau of the Census's density-based definition of rural and urban areas. We find that it is consistent with the Joint Board's recommendation and congressional intent to adopt ''a mechanism that includes the largest reasonably practicable number of rural health care providers that, because of their location, are prevented from obtaining telecommunications services at rates available to urban customers.'' As discussed above, because lists of MSA counties and Goldsmith-identified census tracts and blocks already exist, updated to 1996, such an approach is easily administered. We direct the Administrator to post on a website the most recent versions of the MSA list, the Goldsmith Modification list, and appropriate instructions for identifying the MSA census tract or block numbered area in which a rural health care provider's site is located. In addition, we direct the Administrator to make that information available in hard copy to interested parties upon request.

391. Definition of Health Care Provider

We adopt the Joint Board's recommendation that the Commission attempt no further clarification of the term ''health care provider,'' because section 254(h)(5)(B) adequately describes those entities Congress intended to be eligible for universal service support. Commenters present no convincing justification for expanding the categories of eligible providers beyond those delineated by Congress, which are unambiguously described in section 254(h)(5)(B).

392. Implementing Support Mechanisms for Rural Health Care Providers

We adopt the recommendation of the Joint Board and conclude that the rural rate shall be the average of the rates actually being charged to commercial customers, other than rates reduced by universal service programs, for identical or technically similar services provided by the carrier providing the service in the rural area in which the health care provider is located. In making this decision, we agree with the Joint Board's conclusion that the approach is ''[m]indful of the Commission's obligation to craft a mechanism that is 'specific, predictable and sufficient.''' We define ''rural area'' to mean a nonmetropolitan county or county equivalent, as defined by OMB and identifiable from the most recent MSA list as released by OMB, or any census tract or block numbered area, or contiguous group of such tracts or areas, within an MSA-listed metropolitan county as identified in the most recent Goldsmith Modification published by ORHP/HHS. We conclude that including the discounted rates charged rural schools and libraries for similar services among the rates averaged would deny the telecommunications carrier full compensation for its services to a rural health care provider. For this reason, like the Joint Board, we conclude that the rates averaged to calculate the rural rate should exclude any rates reduced by universal service programs. Excluding such rates should help ensure that the rural rate more accurately reflects the costs of providing similar services to other customers in rural areas, so that the carrier providing services receives ''sufficient'' support, as contemplated by the Act.

393. Because we find it to be a reasonable procedure that minimizes administrative burdens on health care providers and carriers, we also adopt the Joint Board's recommendation on how to determine the rural rate when

the providing carrier is providing no identical or technically similar services to other commercial customers in the relevant rural area. The rural rate must be determined by taking the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area by other carriers. As the Joint Board recommended, if there are no such tariffed or publicly available rates for such services in that rural area, or if the carrier considers the method described here, as applied to the carrier, to be unfair for any reason, the carrier may submit, for the state commission's approval, regarding intrastate rates, or the Commission's approval, regarding interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner. We also agree that the rate determined under this procedure should be supported and justified periodically, taking into account anticipated and actual demand for telecommunications services by all customers who will make use of the facilities over which services are being provided to eligible health care providers.

394. Identifying the Applicable Urban Rate: Definition

We adopt the recommendation of the Joint Board with modifications and designate as the rate ''reasonably comparable to rates charged for similar services in urban areas in that State'' (the ''urban rate''), a rate no higher than the highest tariffed or publicly available rate actually being charged to a commercial customer within the jurisdictional boundary of the nearest large city in the state, calculated as described below. Accordingly, we adopt the Joint Board's recommended definition of ''urban areas'' to be used to calculate the rate ''reasonably comparable to rates charged * * * in urban areas.'' So that the urban rate would ''reflect to the greatest extent possible reductions in rates based on large-volume, high-density factors that affect telecommunications rates,'' the Joint Board recommended that the Commission use the jurisdictional boundaries of the nearest ''large city'' to define the relevant ''urban area.'' Consistent with the Joint Board's recommendation that the Commission ''designate by regulation the exact city population size to define the term 'large city,' '' and for the reasons described in the next paragraph, we define the phrase ''nearest large city'' to mean the city in the state with a population of at least 50,000, nearest to the rural health care provider's site, measured point-to-point, from the health care provider's location to the closest point on that city's jurisdictional boundary. We agree with the Joint Board's conclusion that in this context, '' 'comparable' is most reasonably defined to mean 'no higher than the highest' rate charged in the nearest large city (excluding distance-based charges).'' Subject to the limitations described below, a telecommunications carrier may not charge a rural health care provider a rate higher than the urban rate, as defined herein, for a requested service.

395. Like the Joint Board, we conclude that telecommunications rates in the nearest large city are a reasonable proxy for the ''rates * * * in urban areas in a State.'' We believe that cities with populations of at least 50,000 are large enough that telecommunications rates based on costs would likely reflect the economies of scale and scope that can reduce such rates in densely populated urban areas. We also choose the 50,000 city size because an MSA, as defined by OMB, is based in part on counties with cities having a population of 50,000 or more, and every state has at least one MSA with a city that size. If we chose a city size larger than 50,000, we would be unable to apply this standard to states with no cities of that size. In addition, because the telecommunications services a rural health care provider uses in connection with its provision of the health care services covered by section 254(h) are likely to involve transmission facilities linking that health care provider's premises to a point in that nearest large city, using that location should provide more accurate and more realistic comparable rates for specific services than using rates, or average rates, from more distant urban areas. We agree with the Joint Board that using the highest tariffed or publicly available rate actually being charged to customers in the nearest city of 50,000 in the state avoids any unfairness that would arise from using average rates. The Joint Board stated that use of an average rate ''would entitle some rural customers to rates below those paid by some urban customers, creating fairness problems for those urban customers and arguably going farther with this mechanism than Congress intended.'' The use of average rates could result in pricing telecommunications services to rural health care providers at rates lower than those paid by many nearby urban customers.

396. Rates and Distance-based Charges

We agree with the Advisory Committee that support for some distance-based charges is necessary to ensure that rates charged to rural health care providers are ''reasonably comparable'' to urban rates. We define distance-based charges as charges based on a unit of distance, such as mileage-based charges. We note that the term ''rate'' is not defined in section 254(h)(1)(A) or elsewhere in the 1996 Act. Although several incumbent LECs and USTA contend that the term ''rate'' refers to the cost of each element or sub-element of a telecommunications service, we conclude that, as used in section 254(h)(1)(A), the term ''rate'' refers to the entire cost or charge of a service, end-to-end, to the customer.

397. Such an interpretation is consistent with the language and purpose of section 254(h)(1)(A). As discussed above, section 254(h)(1)(A) refers to ''rates for services provided to health care providers'' and ''rates for similar services provided to other customers,'' not rates for particular facilities or elements of a service. As the record indicates, many, if not most, base rates for telecommunications services are averaged across a state or study area. It is often distance-based charges, not differences between base rates for service elements, that create great disparities in the overall cost of telecommunications services between urban and rural areas. Indeed, distance-based charges are often a serious impediment to rural health care providers' use of telemedicine. If, as several LECs contend, a rural rate is ''reasonably comparable'' to an urban rate provided that per-mile charges are the same for rural and urban areas, section 254(h)(1)(A) could do little to reduce the disparity between rural and urban rates. Given that Congress emphasized the importance of making telecommunications services affordable for rural health care providers, it seems unlikely that Congress intended to adopt such a restrictive definition of ''rate.'' Accordingly, we will support distance-based charges incurred by rural health care providers, consistent with the limitations described herein.

398. Support Mechanisms

We conclude that the universal service support mechanisms shall support eligible telecommunications services for a distance not to exceed the distance between the health care provider and the point on the jurisdictional boundary of the city used to calculate the urban rate that is most distant from the health care provider's location. Because rural health care providers may select any commercially available telecommunications service with bandwidths up to and including

1.544 Mbps, such an approach is competitively neutral. Moreover, this plan should suffice to connect a rural health care provider with a health care provider in the nearest large city in the state or an Internet service provider. We agree with those ILECs that contend that establishing a maximum distance for which a rural health care provider can receive support should ''protect against an otherwise natural tendency for a subsidized rural provider to request telemedicine connections to far flung areas in search of the real or imagined 'expert' in the field.'' Moreover, we agree with the group of ILECs that limiting support to connections to the nearest large city in the state is consistent with Congress's intent to make rural and urban rates comparable, rather than making rural health care providers better off than their urban counterparts.

399. As the group of ILECs indicate, urban health care providers are not exempted from distance charges in connection with the purchase of telecommunications services. To the extent that they connect with other health care providers and Internet service providers within that city, however, these urban health care providers would appear to be less likely than their rural counterparts to incur distance-based charges over a distance greater than the longest diameter of the city in which they are located. Accordingly, we agree with the group of ILECs that blanket subsidization of distance-based charges for rural health care providers could result in inequalities between rural and urban health care providers. Therefore, we adopt the ILECs' proposal to adopt a standard urban distance on a state-wide basis that takes into account the potential distance charges paid by urban health care providers. To calculate that distance, however, we adopt a city size consistent with our definition of ''nearest large city.'' Accordingly, we conclude that the longest diameters of all cities with a population of 50,000 or more within a state should be averaged to arrive at that state's standard urban distance. We conclude that using a state-wide distance figure should minimize the administrative burden on the Administrator and carriers while establishing a reasonable estimation of the distance charges that an urban health care provider might incur.

400. Consistent with that approach, if a rural health care provider requests a service to be provided over a distance that is less than or equal to the standard urban distance for the state in which it is located, the urban rate for that service shall be no higher than the highest tariffed or publicly available rate charged to a commercial customer for a similar service provided over the same distance in the nearest large city in the state, calculated as if the service were provided between two points within the city. For purposes of calculating the appropriate amount of universal service support, this urban rate will then be compared with the rural rate for a similar service over the same distance. If a rural health care provider requests a service to be provided over a distance that is greater than the standard urban distance for the state in which it is located, the urban rate shall be no higher than the highest tariffed or publicly available rate charged to a commercial customer for a similar service provided over the standard urban distance in the nearest large city in the state, calculated as if the service were provided between two points within the city. This urban rate will then be compared to the rural rate for the same or similar telecommunciations service provided over a distance not to exceed the distance between the health care provider and the point on the jurisdictional boundary of the city used to calculate the urban rate that is most distant from the health care provider's location.

401. InterLATA Charges

We decline to provide additional mechanisms to support what commenters and the Joint Board referred to as LATA-crossing charges. To the extent that this term refers to rates for interexchange services, we note that, under the provisions of section 254(g), such rates charged to health care providers in rural areas are to be no higher than the rates charged to the IXC's subscribers in urban areas. To the extent that the term LATA-crossing charges refers to access charges for a service provided to a rural customer, the mechanisms that we adopt will support such charges by supporting the difference between the rural rate and the urban rate. We will re-examine this issue no later than the next review of the services eligible for universal service support in the year 2001.

402. Limiting Supported Services

The Act directs that universal service support mechanisms should be specific, predictable, and sufficient. In order to establish such mechanisms for a new and untried program, we conclude that we must limit the services that a rural health care provider may receive. We conclude that bandwidth transmission speeds above 1.544 Mbps are not necessary for the provision of health care services at this time. Accordingly, we conclude that, upon submitting a bona fide request to a telecommunications carrier, a rural health care provider is eligible to receive, for each separate site or location, the most cost-effective, commercially-available telecommunications service with a bandwidth capacity of 1.544 Mbps at a rate no higher than the urban rate, as defined herein, provided over a distance not to exceed the distance between the health care provider and the point on the jurisdictional boundary of the city used to calculate the urban rate that is the most distant from the health care provider's location (the allowable distance). The most cost effective service is the service available at the lowest cost after consideration of the features, quality of transmission, reliability, and other factors the health care provider deems necessary for the service adequately to transmit the health care services the provider requires.

403. We conclude that allowing a rural health care provider to purchase a service with a bandwidth capacity of 1.544 Mbps, at distances up to the limit described above, should enable such a provider to establish a connection with a health care provider located in the nearest city or with an Internet service provider. The rural health care provider may request any other service or combination of services with transmission speeds slower than 1.544 Mbps, transmitted over the same or shorter distance, so long as the total annual support amount for all such services to that health care provider combined, calculated as provided herein, does not exceed what the support amount would have been for the most cost-effective service with a bandwidth capacity of 1.544 Mbps at the allowable distance, calculated as discussed above. Use of transmission speeds slower than 1.544 Mbps may be required where no 1.544 Mbps service is commercially available or may be the preference of a rural health care provider that desires more than one supported service. For example, a rural health care provider could request one or more ISDN connections to an urban health care provider in the nearest large city, so long as the total amount of support for all the requested services does not exceed the amount that would have been necessary to support the most cost-effective service with a bandwidth capacity of 1.544 Mbps connecting the rural health care provider to the farthest point on the jurisdictional boundary of the nearest large city. If the eligible health care provider is located in a rural area in which a service with a

bandwidth capacity of 1.544 Mbps is not commercially available and the rate for such a service is therefore unavailable, the maximum amount of support available shall be the difference, if any, between the urban rate and the rural rate, as defined herein, for the most cost-effective service available using a bandwidth of 1.544 Mbps in another rural area of the state.

404. Competitive Bidding

We conclude that eligible health care providers shall be required to seek competitive bids for all services eligible for support pursuant to section 254(h) by submitting their bona fide requests for services to the Administrator. Such requests shall include a statement, signed by an officer of the health care provider authorized to order telecommunications services, certifying under oath to the bona fide request requirements discussed below. The Administrator shall post the descriptions of requested services on a website so that potential providers can see and respond to them. As with schools and libraries, the request may be as formal and detailed as the health care provider desires or as required by any applicable federal or state laws or other requirements. The request shall contain information sufficient to enable the carrier to identify and contact the requester and to know what services are being requested. The posting of a rural health care provider's description of services will satisfy the competitive bidding requirement for purposes of our universal service rules. We emphasize, however, that the submission of a request for posting under our rules is not a substitute for any additional and applicable state, local, or other procurement requirements.

405. After selecting a telecommunications carrier, the rural health care provider shall certify to the Administrator that the service chosen is, to the best of the health care provider's knowledge, the most cost-effective service available. Moreover, the health care provider shall submit to the Administrator copies of the other responses or bids received in response to its request for services. As with schools and libraries, we are not requiring health care providers to select the lowest bids offered, but rather will permit them to take quality of service into account and to choose the offering or offerings that they find most cost-effective, where this is consistent with other procurement rules under which they are obligated to operate. After being selected, the carrier shall certify to the Administrator the urban rate, the rural rate, and the difference sought as an offset against the carrier's universal service obligation.

406. Insular Areas and Alaska: Statutory Authority

We note that the provisions of section 254(h)(1)(A) apply to insular areas, because the Act defines ''State'' to include all United States ''Territories and possessions.'' We conclude, moreover, that section 254(h)(2)(A) authorizes our adoption of special mechanisms by which to calculate support for these territories. Section 254(h)(2)(A) directs us, in part, to establish competitively neutral rules ''to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications * * * services for all public and nonprofit * * * health care providers.''

407. Insular Areas

Although the Common Carrier Bureau sought comment on whether insular areas experience a disparity in telecommunications rates between urbanized and non-urbanized areas, the record contains little information on this point. The record does indicate, however, that the unique geographic and demographic circumstances of CNMI and Guam—including their uniformly rural character, their lack of a city with a population as large as 50,000, or indeed any real urbanized population centers, their lack of counties or county equivalents, and the relatively small size and low density of their populations—render the mechanisms we adopt under section 254(h)(1)(A) ill-suited to these territories without modifications.

408. We note that the record contains no information about the status and availability of health care services and telemedicine in American Samoa, the U.S. Virgin Islands, or any other insular areas except for CNMI, Guam, and Puerto Rico. Given the lack of comprehensive information in the record regarding the telecommunications needs of insular areas and the costs of supporting such services, we will issue a Public Notice regarding these issues. We will seek additional proposals for support mechanisms by which we could ensure that health care providers located in these territories will have access to the telecommunications services available in urban areas in the country, at affordable rates, as Congress intended.

409. In this Order, we designate urban and rural areas in these territories by which to set the ''urban rate'' and calculate the amount of support under section 254(h)(1)(A) consistent with our general approach to that section. Based on their status as the largest population centers in the territories, we designate the following areas as urban areas for purposes of setting the urban rate: for American Samoa, the island of Tutuila; for CNMI, the island of Saipan; for Guam, the town of Agana; and for the U.S. Virgin Islands, the town of Charlotte Amalie. For purposes of calculating the ''rural rate,'' all other areas in each of the above-listed territories are designated as rural areas.

410. The ''urban rate'' shall be no higher than the highest tariffed or publicly available rate charged for the requested service in each territory's designated urban area. The ''rural rate,'' used to calculate the support amount, shall be the average of tariffed and other publicly available rates, not including rates reduced by universal service mechanisms, charged for the same or similar services in the rural areas of the territory. If no such services are available in the rural areas of the territory, or, at the carrier's option, the carrier may submit for the territorial commission's approval, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner. In addition to the support outlined here, we will provide additional support for limited toll-free access to an Internet service provider pursuant to section 254(h)(2)(A), as discussed below, which applies equally to health care providers in insular areas.

411. Puerto Rico

We find it unnecessary to adopt measures beyond those adopted for rural health care providers in other areas to ensure that rural health care providers in Puerto Rico have access to affordable telecommunications services that are necessary to provide health care services. The record shows that Puerto Rico has a population of 3.74 million people and well-defined metropolitan and nonmetropolitan areas, including 28 municipalities listed as MSAs. These facts suggest that the universal service support mechanisms for rural health care providers that we have adopted under section 254(h)(1)(A) can be applied within the territorial limits of Puerto Rico.

412. Alaska

The record developed in response to the Recommended Decision suggests that much of the difficulty of implementing telemedicine programs in the vast frontier areas in Alaska arises from the lack of basic telecommunications network infrastructure necessary to support telemedicine. Alaska asserts that

because of the state's vast size, rugged terrain, harsh weather, and sparse population, ''the major obstacle to providing telemedicine services in Alaska is that the public switched network is not currently capable of providing services in rural locations where there is significant need.'' The Alaska PUC states that Alaska is ''heavily dependent on satellite communications to provide links between the majority of remote, rural health care providers and the few regional hospitals,'' and affordable satellite connectivity is often limited to bandwidth of 9.6 kbps. The need to ''hop'' satellite signals through multiple earth stations and the use of antiquated analog earth stations reduce transmission speed and reliability even further and often result in the inability to use fax machines or computer modems.

413. To the extent that rural health care providers in Alaska experience distance-sensitive telecommunications charges greater than those faced in urban areas in that state, the mechanisms adopted in this section should afford some relief to those health care providers by reducing or eliminating such disparities. As discussed above, however, we decline at this time to adopt support mechanisms for infrastructure development, including infrastructure development in Alaska, but encourage parties interested in obtaining such support for Alaska to present comments in response to our Public Notice on this issue.

414. Capping and Administering the Mechanisms

We will use a unified mechanism for eligible health care providers and schools and libraries with separate accounting and allocation systems for the funds collected for the two groups. We agree with the Joint Board and the parties contending that separate funding mechanisms would be expensive and unnecessary. We further agree that separate accounting and allocation systems are necessary because the 1996 Act establishes different requirements for calculating disbursements to schools and libraries and to health care providers. Moreover, we find that establishing two separate systems (within the single fund) will facilitate monitoring for fraud, waste, and abuse and, if necessary, amending the systems governing support to one group without necessarily altering the systems for the other group.

415. Funding Cap

Although the Joint Board did not propose a funding cap on the amount of universal service support for health care providers, we agree with those commenters who advocate a total cap to control the size of the support mechanisms. We note that there is no existing program to help us estimate the cost of funding the support program for health care providers that we adopt under sections 254(h)(1)(A) and 254(h)(2)(A), unlike our programs for high-cost and low-income assistance for which we have historical data. Moreover, it is difficult to estimate costs given that technologies are developing rapidly and demand is inherently difficult to predict. Therefore, to fulfill our statutory obligation to create specific, predictable, and sufficient universal service support mechanisms, we establish an annual cap of $400 million on the amount of funds available to health care providers. Collection and distribution of the funding will begin in January 1998, consistent with other universal service support mechanisms implemented pursuant to this Order.

416. Timing of Funding Requests

We adopt an annual cap of $400 million for universal service support for health care providers pursuant to sections 254(h)(1)(A) and 254(h)(2) of the Act. Support will be committed on a first-come-first-served basis. Consistent with other universal service support mechanisms implemented pursuant to this Order, the funding year for health care providers will begin on January 1, with requests for support accepted beginning on the first of July prior to each calendar year. For the first year only, requests for support will be accepted as soon as the health care website is open and the applications are available. Health care providers will be permitted to submit funding requests once they have made agreements for specific eligible services, and the Administrator will commit funds based on those agreements until the total payments committed during a funding year reach the amount of the cap.

417. The Administrator shall measure commitments against the $400 million limit based on the contractually-specified expenditures for recurring flat-rate charges for telecommunications services that a health care provider has agreed to pay and the commitment of an estimated variable usage charge, based on documentation from the health care provider of the estimated expenditures that it has budgeted to pay for its share of usage charges. Health care providers must file their contracts with the Administrator either electronically or by paper copy. Moreover, health care providers must file new funding requests for each funding year. Such requests will be placed in the funding queue based on the date and time they are received by the Administrator.

418. Adjustments to Cap

We do not anticipate that the cost of funding eligible services will exceed the cap, given the limits on the services that any one health care provider may request, and we do not want to create incentives for health care providers to file requests for services prematurely to ensure funding. If the amount of support needed for requested services exceeds the funding cap, this will indicate that our estimates were less accurate than we expect and will suggest that we must adjust the cap. We will consider the need to revise the cap in our three-year review proceeding and sooner if we find it necessary to ensure the sufficiency of the fund or to respond to requests from interested parties for expedited review.

419. Advance Payment for Multi-Year Contracts

We conclude that providing funding in advance for multiple years of recurring charges could enable an individual health care provider to guarantee that its full needs over a multi-year period were met, even if other health care providers were unable to obtain support due to insufficient funds. Moreover, we are also concerned that funds would be wasted if a prepaid service provider's business failed before it had provided all of the prepaid services. At the same time, we recognize that health care providers often will be able to negotiate better rates for pre-paid/multi-year contracts, reducing the costs that both they and the universal service support mechanisms incur. Therefore, we conclude that while eligible health care providers should be permitted to enter into pre-paid/multi-year contracts for supported services, the Administrator will only commit funds to cover the portion of a long-term contract that is scheduled to be delivered during the funding year. Eligible health care providers may either structure their contracts so that payment is required on at least a yearly basis or, if they wish to enter into contracts requiring advance payment for multiple years of service, they may use their own funds to pay full price for the portion of the contract exceeding one year (pro rata), and request that the service provider rebate the payments from the support mechanism that it receives in subsequent years to the eligible health care provider.

420. Collections

We lack sufficient historical data to estimate accurately the funding demands for the first year of this program. In the past when the Commission has established similar funding mechanisms, the Commission or the Administrator has had access to information upon which to base an estimate of necessary first-year contribution levels. No unified mechanism exists to provide telecommunications and information services to the nation's health care providers. We agree with NYNEX and Bell Atlantic that funds should be collected for assistance to health care providers on an as-needed basis, to meet anticipated actual expenditures over time. Therefore, we direct the Administrator to collect $100 million for the first three months of 1998 and to adjust future contribution assessments quarterly based on its evaluation of health care provider demand for funds, within the limits of the spending cap we establish here. We direct the Administrator to report to the Commission, on a quarterly basis, both the total amount of payments made to entities providing services to health care providers to finance universal service support and its determination regarding contribution assessments for the next quarter. As with the schools and libraries mechanism, we find that adjustments for any large reserve of remaining funds can be addressed in our review in the year 2001. As part of its review in the year 2001, the Joint Board likewise will review the appropriate level of funding of the health care program.

421. Restrictions and Administration: Consortia

We agree with the Joint Board and those commenters observing that aggregated purchase or network sharing arrangements can substantially reduce costs and in some cases are necessary to sustain a rural telecommunications network. As the Joint Board stated, and as we did with schools and libraries, we recognize that aggregation into consortia can promote efficient shared use of facilities to which each consortium member might need access, but for which no single user needs more than a small portion of the facilities' full capacity. We also recognize, however, that allowing health care providers to aggregate with other local customers, such as schools and libraries, may increase the difficulty of enforcing the eligibility and resale limitations. Nevertheless, as we did for schools and libraries, we conclude that the benefits of aggregation outweigh the administrative difficulties discussed below. Therefore, we adopt, with slight modification, the Joint Board's recommendation to encourage health care providers to enter into aggregate purchasing and maintenance agreements for telecommunications services with other entities and individuals, as long as the entities not eligible for universal service support pay full rates for their portion of the services. Consistent with the schools and libraries directive and reasoning regarding aggregated purchase arrangements, however, eligible health care providers participating in consortia that include private sector members will not be eligible to receive universal service support, with one exception. Eligible health care providers participating in such a consortium may receive support, if the consortium is receiving tariffed rates or market rates, from those providers who do not file tariffs. We find that this prohibition will deter ineligible, private entities from entering into aggregated purchase arrangements with rural health care providers to receive below-tariff or below-market rates that they otherwise would not be entitled to receive.

422. Consistent with our directives pertaining to support for schools and libraries and the Joint Board's recommendation, we require telecommunications carriers to carefully maintain complete records of how they allocate the costs of shared facilities among consortium participants in order to charge eligible health care providers the appropriate amounts. We emphasize that under such arrangements, the rural health care provider is eligible for reduced rates and the telecommunications carrier is eligible for support only on that portion of the services purchased and used by that eligible health care provider. We adopt the Joint Board's recommendation that these arrangements be subject to full disclosure requirements and closely scrutinized under an audit program. Carriers shall also be required to keep detailed records of services provided to rural health care providers. These records shall be maintained by carriers and shall be available for public inspection. The carriers must quantify and justify the amount of support for which members of consortia are eligible. Accordingly, a provider of telecommunications services to a health care provider participating in a consortium must establish the applicable rural rate for the health care provider's portion of the shared telecommunications services, as well as the relevant urban rate. Absent supporting documentation that quantifies and justifies the amount of universal service support requested by an eligible telecommunications carrier, the Administrator shall not allow that carrier to offset, or receive reimbursement for, the costs of providing services to rural health care providers participating in consortia.

423. Health care providers that belong to consortia that share facilities should maintain their own records of use, in addition to the records that service providers keep. Such records may be subject to an audit or examination by the Administrator or other state or federal agency with jurisdiction, as described below. Such monitoring should reduce the opportunity for fraud or misappropriation of universal service funds.

424. These requirements would not prevent state telecommunications agencies like DOAS-IT or urban based health care providers from aggregating demand and providing services to rural health care providers participating in consortia at volume discounted rates or from providing technical assistance, such as network management or centralized administrative functions. We conclude that it is unlikely that any of the entities providing services under such an arrangement could be eligible for support under section 254(h)(1)(A), because rural health care providers obtaining services at prices averaged throughout the state are unlikely to be paying more than the urban rate. Therefore, unless telecommunications carriers can demonstrate to the Administrator that the average rate that members of a consortium pay is greater than the applicable urban rate, such carriers will not be able to receive universal service support under this provision. Health care providers participating in consortia that are not eligible to receive services supported under section 254(h)(1)(A) may be eligible to receive limited toll-free access to an Internet service provider.

425. Use of Multi-purpose Telecommunications Connections

To reduce costs to health care providers, we also encourage the use of shared lines. A health care provider may use a single line to provide multiple services, not all of which are eligible for support. An eligible health care provider, however, can be eligible for reduced rates, and the telecommunications carrier can be eligible for support, only on that portion of the telecommunications services purchased and used by the health care provider for an eligible purpose. We

agree with that, in order to ensure that only eligible services receive support, single health care providers that use lines for several purposes must maintain records of use, which may be the subject of an audit by the Administrator or other state or federal agency with jurisdiction. Moreover, carriers must retain careful records regarding how they have allocated the costs of shared facilities. We expect the Administrator to work with rural health care providers to keep any record keeping requirements to a minimum consistent with the need to ensure the integrity of the program.

426. Certification Requirements

We adopt the Joint Board's recommendation, with modifications, to require every health care provider that requests universal service supported telecommunications services to submit to the carrier a written request, signed by an officer of the health care provider authorized to order telecommunications services, certifying under oath to the first five conditions detailed below in order to establish a bona fide request for services. We clarify, however, that a health care provider requesting services eligible for support under section 254(h)(2)(A) need not establish that it is located in a rural area but rather that it cannot obtain toll-free access to an Internet service provider, as discussed below. We also impose an additional condition: That the health care provider requesting telecommunications services certify that it is ordering the most cost-effective method(s) of providing the requested services. This is consistent with our requirement that health care providers seek to minimize the cost to the universal service support mechanisms by using a competitive bidding process to secure the most cost-effective service arrangement. We define the most cost-effective method of providing service as the method available at the lowest cost, after consideration of features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing an adequate method of providing the required health care services. Consistent with the Joint Board's recommendation, we require health care providers to renew their certification annually. Health care providers are required to certify to the following conditions:

(1) That the requester is a public or nonprofit entity that falls within one of the seven categories set forth in the definition of health care provider in section 254(h)(5)(B);

(2) Unless the requested service is supported under section 254(h)(2)(A), that the requester is physically located in a rural area (OMB defined non-metro county or Goldsmith-defined rural section of an OMB metro county); or, if the requested service is supported under § 254(h)(2)(A), that the requester cannot obtain toll-free access to an Internet service provider;

(3) That the services requested will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law of the state in which they are provided;

(4) That the services will not be sold, resold, or transferred in consideration of money or any other thing of value;

(5) If the services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement governing the purchase, including the identities of all co-purchasers and the portion of the services being purchased by the health care provider;

(6) That it is ordering the most cost-effective method(s) of providing the requested services.

427. Compliance Review

We adopt the Joint Board's recommendation that we require the Administrator to establish and administer a monitoring and evaluation program to oversee the use of supported services by health care providers and the pricing of those services, and we adopt an approach consistent with the requirements for schools and libraries. Like the Joint Board, we conclude that a compliance program is necessary to ensure that services are being used for the provision of lawful health care, that requesters are complying with certification requirements, that requesters are otherwise eligible to receive universal service support, that rates charged comply with the statute and regulations, and that the prohibitions against resale or transfer for profit are strictly enforced.

428. Accordingly, we conclude that health care providers, as well as telecommunications carriers, should maintain the same kind of procurement records for purchases under this program as they now keep for other purchases. We conclude that health care providers must be able to produce these records at the request of any auditor appointed by the Administrator or any other state or federal agency with jurisdiction that might, for example, suspect fraud or other illegal conduct, or merely be conducting a routine, random audit. We further conclude that health care providers may be subject to random compliance audits by any auditor appointed by the Administrator or any other state or federal agency with jurisdiction to ensure that services are being used for the provision of state authorized health care, that requesting providers are complying with certification requirements, that requesting providers are otherwise eligible to receive supported services, that rates charged comply with the statute and regulations, and that the prohibitions against resale or transfer for profit are strictly enforced. The compliance audits will also be used to evaluate what services health care providers are purchasing, the costs of such services, and how such services are being used. Such information will permit the Commission to determine whether universal service support policies require adjustment.

429. The Administrator shall develop a method for obtaining information from health care providers on what services they are purchasing and how such services are being used and shall submit a report to the Commission on the first business day in May of each year. The Commission will use this report, in conjunction with any information provided by the Joint Working Group on Telemedicine, to monitor the progress of health care providers in obtaining access to telecommunications and other information services. From such monitoring activities, the Administrator should gather and report the following data: (1) The number and nature of requests for supported services submitted to the Administrator and posted by the Administrator; (2) the number and kinds of services requested; (3) the number, locations, and descriptions of health care providers requesting services; (4) the number and nature of the requests that are filled, delayed, partially filled, or unfilled, and the reasons therefore; (5) the number, nature, and descriptions of carriers offering to provide or providing supported services; (6) the requested services that are found ineligible for support; (7) the rates, prices, and charges for services, including the submissions of proposed urban and rural rates for each service; and (8) the number and nature of rate submissions to state commissions and the Commission.

430. Carrier Notification

We also adopt the Joint Board's recommendation to encourage carriers across the country to notify all health care providers in their service areas of the availability of lower rates resulting from universal service support so that eligible health care providers can take full advantage of the supported services.

We expect that carriers will market to health care providers. As with schools and libraries, however, we decline to impose a requirement that carriers notify health care providers about the availability of supported services.

431. Selecting Between Offset or Reimbursement for Telecommunications Carriers

Subject to the limitations on services previously described, a telecommunications carrier shall receive support for providing an eligible telecommunications service under section 254(h)(1)(A) equal to the difference, if any, between the rural rate and the urban rate charged for the service, as defined above. A telecommunications carrier shall also receive support for providing services under section 254(h)(2)(A), as set forth below. With modifications, we adopt the Joint Board's recommendation that we require carriers to receive this support through offsets to the amount they would otherwise have to contribute to federal universal service support mechanisms, rather than through direct reimbursement. We conclude that allowing direct compensation under some circumstances is consistent with both the statutory language and sound public policy. We conclude that a telecommunications carrier providing eligible services to rural health care providers at reasonably comparable rates under the provisions of section 254(h)(1)(A) should treat the amount eligible for support as an offset against the carrier's universal service support obligation for the year in which the costs were incurred. To the extent that the amount of universal service support owed a carrier exceeds that carrier's universal service obligation, calculated on an annual basis, the carrier may receive a direct reimbursement in the amount of the difference, as the majority of the state members of the Joint Board recommend. Any reimbursement due a carrier will be made after the offset is credited against that carrier's universal service obligation, but in any event, no later than the first quarter of the calendar year following the year in which the costs for services were incurred.

432. Advanced Telecommunications and Information Services

We agree with the Joint Board's conclusion that the rules we establish for the provision of universal service support pursuant to section 254(h)(1)(A) should significantly increase the availability and deployment of telecommunications services for rural health care providers. Moreover, we find that the additional support mechanisms adopted in this proceeding, for example, those adopted for high cost areas, also should enhance access to advanced telecommunications and information services for these and other health care providers.

433. Nonetheless, we provide additional support under section 254(h)(2)(A) ''to enhance * * * access to advanced telecommunications and information services for all public and nonprofit * * * health care providers.'' For the reasons discussed below, we will provide universal service support for a limited amount of toll-free access to an Internet service provider. Although the Joint Board did not explicitly recommend supporting toll charges imposed for connecting with an Internet service provider under section 254(h)(2)(A), it did recommend that the Commission seek comment and further information on the need for and costs of providing advanced telecommunications and information services for rural health care providers. In providing support for a limited amount of toll-free Internet access under section 254(h)(2)(A), we agree with the Joint Board's conclusion that all public and non-profit health care providers shall benefit from the implementation of section 254(h)(2)(A). This conclusion is consistent with the plain language and purpose of section 254(h)(2).

434. Toll-free Access to an Internet Service Provider

We agree with the Joint Board that securing access to the Internet may be a more cost-effective method of meeting some telemedicine needs than relying on other kinds of telecommunications services. We also agree with those commenters that suggest that toll-free access to an Internet service provider is important to provide cost-effective access to and use of numerous sources of medical information and to facilitate the flow of health care-related information.

435. We agree with the majority of the state members of the Joint Board that the major cost for rural health care providers seeking access to an Internet service provider is toll charges incurred by providers who lack local dial-up access. Accordingly, we conclude that each health care provider that cannot obtain toll-free access to an Internet service provider is entitled to receive a limited amount of toll-free access. Upon submitting a request to a telecommunications carrier, each such health care provider may receive the lesser of the toll charges incurred for 30 hours of access to an Internet service provider or $180.00 per month in toll charge credits for toll charges imposed for connecting to an Internet service provider. We clarify that such support will fund toll charges but not distance-sensitive charges for a dedicated connection to an Internet service provider.

436. Like the majority of the state members of the Joint Board, we believe that a dollar cap on support for toll-free Internet access is consistent with the Joint Board's objective to develop a cost-effective program. We agree with Nebraska Hospitals that approximately $180.00 of support for each eligible health care provider, each month, is a reasonable amount of access to support and should create sufficient mechanisms. While Nebraska Hospitals proposed support for 15 hours of access at $.20 per minute, we adopt a dollar cap based on 30 hours of use at a $.10 per minute toll charge. We find that this dollar cap per provider on support for toll-free access to an Internet service provider is a specific, sufficient, and predictable mechanism, as required by section 254(b)(5) of the Act, because it limits the amount of support that each health care provider may receive per month to a reasonable level. This limit should also cause support for toll-free access to an Internet service provider not to increase the size of the fund significantly.

Interstate Subscriber Line Charges and Carrier Common Line Charges

437. LTS Payments

We agree with the Joint Board that LTS payments constitute a universal service support mechanism. LTS payments reduce the access charges of small, rural ILECs participating in the loop-cost pool by raising the access charges of non-participating ILECs. Like the Joint Board, we conclude that this support mechanism is inconsistent with the Act's requirements that support be collected from all providers of interstate telecommunications services on a non-discriminatory basis and be available to all eligible telecommunications carriers. Currently, only ILECs participating in the NECA CCL tariff receive LTS support and only ILECs that do not participate in the NECA CCL tariff make LTS payments. We further conclude that the Joint Board correctly rejected some commenters' argument that the Act only requires new universal service support mechanisms to comply with section 254. We find that Congress also intended that we reform existing support mechanisms, such as LTS, if necessary. We therefore adopt the Joint Board's recommendation that LTS should be removed from access charges.

438. Although we conclude that the recovery of LTS revenue through access charges represents an impermissibly discriminatory universal service support mechanism, we agree with the Joint Board that LTS payments serve the public interest by reducing the amount of loop cost that high cost LECs must recover from IXCs through CCL charges and thereby facilitating interexchange service in high cost areas consistent with the express goals of section 254. Thus, although we remove the LTS system from the access charge regime, we adopt the Joint Board's recommendation that we enable rural LECs to continue to receive payments comparable to LTS from the new universal service support mechanisms.

439. SLC Caps

We agree with the Joint Board's conclusions that current rates generally are affordable, and that the level of the SLC cap implicates affordability concerns. We also concur with the Joint Board that determination of the proper level of the SLC cap depends upon a number of interdependent factors. The affordability of rates in coming years will be affected by future Joint Board recommendations and Commission action in this proceeding. The SLC also is part of the interstate access charge system, which we are currently reviewing in the companion access charge reform docket. As part of the recovery mechanism for interstate-allocated loop costs, the SLC cap also may be affected by the Separations Joint Board's recommendations. We therefore conclude that it would be inappropriate to make significant changes to the SLC cap for primary residential and single line business lines at this time. In light of these considerations, we adopt the Joint Board's recommendation that the SLC cap for primary residential and single-line business lines should remain unchanged.

440. CCL Charges

In our *Access Charge Reform Order,* the Commission adopts the Joint Board's suggestion that the CCL charge should be recovered in a more efficient manner. Specifically, in the *Access Charge Reform Order,* we create and implement a system of flat, per-line charges on the PIC. Where an end user declines to select a PIC, we adopt the Joint Board's suggestion that the PIC charge be assessed on the end user. As more fully described in our *Access Charge Reform Order,* we contemplate that, over time, all implicit subsidies will be removed from these flat-rate charges and that any universal service costs will be borne explicitly by our universal service support mechanisms.

441. Replacement of LTS

As we have stated, rural carriers' LTS payments will be replaced with comparable, per-line payments from the new universal service support mechanisms on January 1, 1998. Because current LTS payments will cease on that date, our rules must be modified so that ILECs that currently contribute to LTS also will stop making LTS payments on that date. LTS contributors currently recover the revenue necessary for their LTS contributions through their own CCL charges. Because current LTS contributors will no longer be making such contributions after January 1, 1998, their CCL charges should be adjusted to account for this change. If we did not adjust CCL charges to reflect the elimination of LTS payment obligations, ILECs would recover funds through their access charges for which they incurred no corresponding cost; the result would be an inappropriate transfer of funds from IXCs or their customers to ILECs.

442. We also observe that the replacement of LTS with per-line support from the new universal service support mechanisms will affect our current rule that sets the NECA CCL tariff at the average of price-cap LECs' CCL charges, as our rules currently provide. The elimination of price-cap ILECs' LTS obligations will allow their CCL charges to fall, but there is no corresponding reason for a reduction in the NECA CCL tariff. Yet under our current rules, the NECA CCL charge would fall simply because of our regulatory changes to price-cap ILECs' LTS payment obligations. We must therefore establish a new method to set the NECA CCL tariff. We address this question, too, in the access charge reform proceeding.

Administration Of Support Mechanisms

443. Criteria for Mandatory Contribution

We agree with the Joint Board's recommendation that all telecommunications carriers that provide interstate telecommunications services must contribute to the support mechanisms. To be considered a mandatory contributor to universal service under section 254(d): (1) A telecommunications carrier must offer ''interstate'' ''telecommunications''; (2) those interstate telecommunications must be offered ''for a fee''; and (3) those interstate telecommunications must be offered ''directly to the public, or to such classes of users as to be effectively available to the public.''

444. Interstate

Telecommunications are ''interstate'' when the communication or transmission originates in any state, territory, possession of the United States, or the District of Columbia and terminates in another state, territory, possession, or the District of Columbia (47 U.S.C. 153(22)). In addition, under the Commission's rules, if over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate (47 CFR 36.154(a)). We agree with the Joint Board's conclusion that interstate telecommunications services include telecommunications services among U.S. territories and possessions because such areas are expressly included within the definition of ''interstate.''

445. We also agree that the base of contributors to universal service should be construed broadly and should include international communications revenues generated by carriers of interstate telecommunications. Although we agree that by definition, foreign or international telecommunications are not ''interstate'' because they are not carried between states, territories, or possessions of the United States, we find that, pursuant to our statutory authority to assess contributions to universal service on an equitable and nondiscriminatory basis, we shall include the foreign telecommunications revenues of interstate carriers within the revenue base. Contributors that provide international telecommunications services benefit from universal service because they must either terminate or originate telecommunications on the domestic PSTN. Therefore, we find that contributors that provide international telecommunications services should contribute to universal service on the basis of revenues derived from those services. Foreign communications are defined as a ''communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside of the United States.'' (47 U.S.C. 153(17)). Communications that are billed to domestic end users should be included in the revenue base, including country direct calls when provided between the United States and a foreign point. Revenues from communications between two international points or foreign countries would not be included in the universal service base, for example, if a domestic

end user used country direct calling between two foreign points. We find that carriers that provide only international telecommunications services are not required to contribute to universal service support mechanisms because they are not ''telecommunications carriers that provide interstate telecommunications services.''

446. Telecommunications

Telecommunications is defined as a ''transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.'' (47 U.S.C. 153(46). To provide more specific guidance as to what services qualify as ''telecommunications,'' we adopt, with slight modification, the Joint Board's list of examples and find that the following services satisfy the above definition and are examples of interstate telecommunications:

cellular telephone and paging services; mobile radio services; operator services; PCS; access to interexchange service; special access; wide area telephone service (WATS); toll-free services; 900 services; MTS; private line; telex; telegraph; video services; satellite services; and resale services.

447. We also clarify the scope of contribution obligations for ''satellite'' and ''video'' services, which are among the services listed in the exemplary list provided by the Joint Board. The Joint Board recommended that the Commission adopt ''the TRS approach'' to identifying providers of interstate telecommunications services. Under our TRS rules, carriers must contribute to the TRS Fund based on their gross telecommunications services revenues. Consistent with its recommendation, the Joint Board concluded that satellite operators should contribute to universal service to the extent that they provide ''telecommunications services.'' We adopt the Joint Board's approach and clarify that satellite and video service providers must contribute to universal service only to the extent that they are providing interstate telecommunications services. Thus, for example, entities providing, on a common carrier basis, video conferencing services, channel service or video distribution services to cable head-ends would contribute to universal service. Entities providing open video systems (OVS), cable leased access, or direct broadcast satellite (DBS) services would not be required to contribute on the basis of revenues derived from those services. We agree with the Joint Board that this list is not exhaustive. Other services not on the list or services that may be developed may also qualify as interstate telecommunications.

448. For a Fee

We agree with the Joint Board's interpretation of the plain language of section 3(46) and find that the plain meaning of the phrase ''for a fee'' means services rendered in exchange for something of value or a monetary payment. We do not find persuasive UTC's argument that ''for a fee'' means ''for-profit.'' We do not assume that Congress intended to limit ''telecommunications services'' to those which are offered ''for-profit'' when Congress could have, but did not, so state. In response to LCRA's request, we note that cost sharing for the construction and operation of private telecommunications networks does not render participants ''telecommunications carriers'' because such arrangements do not involve service ''directly to the public.''

449. Directly to the Public

We find that the definition of ''telecommunications services'' in which the phrase ''directly to the public'' appears is intended to encompass only telecommunications provided on a common carrier basis. This conclusion is based on the Joint Explanatory Statement, which explains that the term telecommunications service ''is defined as those services and facilities offered on a 'common carrier' basis, recognizing the distinction between common carrier offerings that are provided to the public * * * and private services.'' Federal precedent holds that a carrier may be a common carrier if it holds itself out ''to service indifferently all potential users.'' Such users, however, are not limited to end users. Common carrier services include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers. Precedent further holds that a carrier will not be a common carrier ''where its practice is to make individualized decisions in particular cases whether and on what terms to serve.''

450. We conclude that only common carriers should be considered mandatory contributors to the support mechanisms. We agree with the Joint Board's recommendation that any entity that provides interstate telecommunications to users other than significantly restricted classes for a fee should contribute to the support mechanisms. We find, however, that the statute supports reaching the Joint Board's goal under our permissive authority rather than our mandatory authority. We agree with the Joint Board that private network operators that lease excess capacity on a non-common carrier basis should contribute to universal service support; we do not, however, include them in the category of mandatory contributors. We classify these service providers as ''other providers of interstate telecommunications'' because we find that private network operators that lease excess capacity on a non-common carrier basis are not common carriers or mandatory contributors under the first sentence of section 254(d). Nevertheless, we find that, pursuant to our permissive authority, the public interest requires them, as providers of interstate telecommunications, to contribute to universal service because they compete against telecommunications carriers in the provision of interstate telecommunications.

451. We agree with the Joint Board and find no reason to exempt from contribution any of the broad classes of telecommunications carriers that provides interstate telecommunications services, including satellite operators, resellers, wholesalers, paging companies, utility companies, or carriers that serve rural or high cost areas, because the Act requires ''every telecommunications carrier that provides interstate telecommunications services'' to contribute to the support mechanisms. Thus, we agree with the Joint Board that any entity that provides interstate telecommunications services, including offering any of the services identified above for a fee directly to the public or to such classes of users as to be effectively available directly to the public, must contribute to the support mechanisms.

452. Furthermore, we agree with the Joint Board that information service providers (ISP) and enhanced service providers are not required to contribute to support mechanisms to the extent they provide such services. The Act defines an ''information service'' as ''the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications * * * but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.'' (47 U.S.C. section 153(20). The Commission's rules define ''enhanced services'' as ''services offered over common carrier transmission facilities used in interstate communications which employ computer processing applications that act on the format, content, code,

protocol, or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.'' (47 CFR section 64.702). The definition of enhanced services is substantially similar to the definition of information services. In the *Non-Accounting Safeguards First Report and Order* (62 FR 2927 (January 21, 1997)) in which the Commission found that all services previously considered ''enhanced services'' are ''information services,'' the Commission indicated that, to ensure regulatory certainty and continuity, it was preserving the definitional scheme by which certain services (enhanced and information services) are exempted from regulation under Title II of the Act. We have issued a *Notice of Inquiry* (62 FR 4670 (January 31, 1997)) seeking comment on the treatment of Internet access and other information services that use the public switched network. We intend in that proceeding to review the status of ISPs under the 1996 Act in a comprehensive manner.

453. With respect to the issue of whether states may require CMRS providers to contribute to state universal service support mechanisms, we agree with the Joint Board and find that section 332(c)(3) does not preclude states from requiring CMRS providers to contribute to state support mechanisms. Section 254(f) states that states may require telecommunications carriers that provide intrastate telecommunications services to make equitable and nondiscriminatory contributions to state support mechanisms. Section 332(c)(3) prohibits states from regulating the rates charged by CMRS providers. Section 332(c)(3) also states that ''[n]othing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such [s]tate)'' from state universal service requirements. Several commenters argue that section 332(c)(3) prohibits states from requiring CMRS providers operating within a state to contribute to state universal service programs unless the CMRS provider's service is a substitute for land line service in a substantial portion of the state. The Joint Board, however, disagreed. California PUC has adopted this interpretation and has required CMRS providers in California to contribute to the state's programs for Lifeline and high cost small companies since January 1, 1995.

454. Other Providers of Interstate Telecommunications

We require all the entities identified by the Joint Board in its Recommended Decision to contribute to the support mechanisms, subject to the slight modification discussed above regarding carriers that provide only international services. Because of the statutory language and legislative history discussed above, however, we reach the result recommended by the Joint Board in a slightly different manner. We find under our permissive authority over ''other providers of telecommunications'' that the public interest requires private service providers that offer their services to others for a fee and payphone aggregators to contribute to our support mechanisms.

455. We find that the principle of competitive neutrality, recommended by the Joint Board and adopted by the Commission, suggests that we should require certain ''providers of interstate telecommunications'' to contribute to the support mechanisms. We find that the public interest requires both private service providers that offer interstate telecommunications to others for a fee and payphone aggregators to contribute to the preservation and advancement of universal service in the same manner as carriers that provide ''interstate telecommunications services'' because this approach reduces the possibility that carriers with universal service obligations will compete directly with carriers without such obligations. In addition, the inclusion of such providers as contributors to the support mechanisms will broaden the funding base, lessening contribution requirements on telecommunications carriers or any particular class of telecommunications providers.

456. Although some private service providers serve only their own internal needs, some provide services or lease excess capacity on a private contractual basis. The provision of services or the lease of excess capacity on a private contractual basis alone does not render these private service providers common carriers and thus mandatory contributors. We find justification, however, pursuant to our permissive authority, for requiring these providers that provide telecommunications to others in addition to serving their internal needs to contribute to federal universal service on the same basis as telecommunications carriers. Without the benefit of access to the PSTN, which is supported by universal service mechanisms, these providers would be unable to sell their services to others for a fee. Accordingly, these providers, like telecommunications or common carriers, have built their businesses or a part of their businesses on access to the PSTN, provide telecommunications in competition with common carriers, and their non-common carrier status results solely from the manner in which they have chosen to structure their operations. Even if a private network operator is not connected to the PSTN, if it provides telecommunications, it competes with common carriers, and the principle of competitive neutrality dictates that we should secure contributions from it as well as its competitors. Thus, pursuant to our permissive authority, we find that the public interest requires private service providers that offer services to others for a fee on a non-common carrier basis to contribute to the support mechanisms.

457. We agree with RBOC Payphone Coalition that payphone service providers are not telecommunications carriers because they are ''aggregators.'' Payphone service providers do, however, provide interstate telecommunications and thus are subject to our permissive authority to require contributions if the public interest so requires. Telecommunications carriers that provide payphone services must contribute on the basis of their telecommunications revenues, including the revenues derived from their payphone operations, because payphone revenues are revenues derived from end users for telecommunications services. If we did not exercise our permissive authority, aggregators that provide only payphone service would not be required to contribute, while their telecommunications carrier competitors would. We do not want to create incentives for telecommunications carriers to alter their business structures by divesting their payphone operations in order to reduce their contributions to the support mechanisms. Thus, we find that because payphone aggregators are connected to the PSTN and because they directly compete with mandatory contributors to universal service the public interest requires payphone providers to contribute to the support mechanisms.

458. We do not wish, however, to require contributions from payphone aggregators, such as beauty shop or grocery store owners, retail establishment franchisees, restaurant owners, or schools that provide payphones primarily as a convenience to the customers of their primary business and do not provide payphone services as part of their core business.

The provision of a payphone is merely incidental to their primary non-telecommunications business and constitutes a minimal percentage of their total annual business revenues. We anticipate that these entities will qualify for the *de minimis* exemption and that they will not be required to contribute because their contributions will be less than $100.00 per year. If their contributions exceed the *de minimis* level, however, they will be required to contribute.

459. Finally, we agree with the Joint Board that those ''other providers of telecommunications'' that provide telecommunications solely to meet their internal needs should not be required to contribute to the support mechanisms at this time, because telecommunications do not comprise the core of their business. Private network operators that serve only their internal needs do not lease excess capacity to others and do not charge others for use of their network. Thus, we find that they have not structured their businesses around the provision of telecommunications to others. In addition, it would be administratively burdensome to assess a special non-revenues-based contribution on these providers because they do not derive revenues from the provision of services to themselves.

460. We note that cost-sharing for the construction and operation of private networks would not render participants ''other providers of telecommunications'' that must contribute to the support mechanisms because the participants are a consortium of customers of a carrier. If, however, a lead participant owned and operated its own telecommunications network and received monetary payments for service from other participants, the lead participant would be a provider of telecommunications and, if it provided interstate telecommunications, would be included within the group that we require to contribute to the support mechanisms, subject to the *de minimis* exemption. We also find, however, that government entities that purchase telecommunications services in bulk on behalf of themselves, e.g., state networks for schools and libraries, will not be considered ''other providers of telecommunications'' that will be required to contribute. Such government entities would be purchasing services for local or state governments or related agencies. Therefore, we find that such government agencies serve only their internal needs and should not be required to contribute. Similarly, we conclude that public safety and local governmental entities licensed under subpart B of part 90 of our rules will not be required to contribute because of the restrictive eligibility requirements for these services and because of the important public safety and welfare functions for which these services are used. Similarly, if an entity exclusively provides interstate telecommunications to public safety or government entities and does not offer services to others, that entity will not be required to contribute.

461. The De Minimis Exemption

We adopt the Joint Board's view that contributors whose contributions are less than the administrator's administrative costs of collection should be exempt from reporting and contribution requirements. Section 254(d) itself does not provide specific guidance on how the Commission should exercise its authority to exempt carriers whose contributions would be *de minimis.* The Joint Explanatory Statement, however, states the congressional expectation that ''this authority would only be used in cases where the administrative cost of collecting contributions from a carrier or carriers would exceed the contribution that carrier would otherwise have to make under the formula for contributions selected by the Commission.'' Thus, we find that the legislative history of section 254(d) clarifies Congress's intent that this exemption be narrowly construed. It also clarifies that the purpose of the *de minimis* exemption is to prevent waste resulting from requiring contributions when the administrative costs of collecting them will exceed the amounts collected. Thus, we adopt the Joint Board's recommendation and reject commenters' arguments in support of other factors for determining when a carrier providing interstate telecommunications services should be exempt from the statutory obligation to contribute to federal universal service support mechanisms.

462. We agree with the Joint Board which advocates basing the exemption on the administrator's and contributors' costs, and conclude that the cost of collection should encompass only the administrator's costs to bill and collect individual carrier contributions. Although we agree that a *de minimis* exemption, as defined above, will serve the public interest, commenters did not submit data regarding the incremental cost of collection for the record. We will adopt the $100.00 minimum contribution requirement used for TRS contribution purposes because we assume that the administrator's administrative costs of collection could possibly equal as much as $100.00. Therefore, if a contributor's contribution would be less than $100.00, it will not be required to contribute or comply with reporting requirements. We instruct the administrator to re-evaluate incremental administrative costs, taking into account inflation, after the contribution mechanisms have been implemented.

463. We reject the argument that requiring contributions by paging carriers represents an unconstitutional tax because paging carriers do not derive any benefit from universal service. First, we note that although some paging carriers may be ineligible to receive support, all telecommunications carriers benefit from a ubiquitous telecommunications network. Customers who receive pages would not be able to receive or respond to those pages absent use of the PSTN. Second, as we explained above, our contribution requirements do not constitute a tax. Some commenters also argue that carriers ineligible to receive support should be allowed to make reduced contributions to universal service. Because section 254(d) states that ''every telecommunications carrier that provides interstate telecommunications services'' must contribute to universal service and does not limit contributions to ''eligible carriers,'' we agree with the Joint Board and reject these arguments. Thus, we find that the *de minimis* exemption cannot and should not be interpreted to allow reduced contributions or contribution exemptions for ineligible carriers.

464. General Jurisdiction Over Universal Service Support

We conclude that the Commission has jurisdiction to assess contributions for the universal service support mechanisms from intrastate as well as interstate revenues and to require carriers to seek state (and not federal) authority to recover a portion of the contribution in intrastate rates. Although we expressly decline to exercise the entirety of this jurisdiction, we believe it is important to set forth the contours of our authority.

465. Our authority over the universal service support mechanisms is derived first and foremost from the plain language of section 254. First, section 254(a) provides that rules ''to implement'' the section are to be recommended by the Joint Board, and those recommendations, in turn, are to be implemented by the Commission. Thus, the Commission has the ultimate responsibility to effectuate section 254. Further, Congress reemphasized the

Commission's authority independent of the Joint Board by directing in section 254(c)(2) that the concept of universal service is an ''evolving level of telecommunications that the Commission shall establish periodically.'' Thus, Congress expressly authorized the Commission to define the parameters of universal service.

466. Section 254(d) also mandates that interstate telecommunications carriers ''shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.'' In thus prescribing that the support mechanisms be ''sufficient,'' Congress obligated the Commission to ensure that the support mechanisms satisfy section 254's goal of ''preserving and advancing universal service,'' consistent with the principles set forth in section 254(b), including the principle that quality services should be available at ''just, reasonable, and affordable rates.'' In so doing, Congress expressly granted the Commission jurisdiction to establish support mechanisms of a sufficient size adequately to support universal service.

467. In section 254(b), Congress made affordable basic service a goal of federal universal service, by that determination, Congress meant that both interstate and intrastate services should be affordable. Congress also directed the Commission and the states to strive to make implicit support mechanisms explicit. We have found nothing in the statute or legislative history to show that, notwithstanding Congress's mandate to make universal service subsidies explicit, Congress intended to alter the current arrangement by requiring interstate services to assume the entire burden of providing for universal service. Accordingly, the section 254 mandate covers both interstate and intrastate services and therefore it is also reasonable that the Commission, in ensuring that the overall amount of the universal support mechanisms is ''specific, predictable, and sufficient,'' may also mandate that contributions be based on carriers' provision of intrastate services. As discussed below, however, we decline to exercise the full extent of this authority out of respect for the states and the Joint Board's expertise in protecting universal service.

.

468. We have concluded that we will assess contributions for the support mechanisms for eligible schools, libraries, and rural health care providers from intrastate and interstate revenues. We also conclude that, when we assess contributions based on intrastate as well as interstate revenues, we have the authority to refer carriers to the states to seek authority to recover a portion of their intrastate contribution from intrastate rates. We have not adopted this approach in this Order. In section 254(f) Congress expressly allowed only for those state universal service mechanisms that are not ''inconsistent with the Commission's rules to preserve and advance universal service.'' Thus, the statutory scheme of section 254 demonstrates that the Commission ultimately is responsible for ensuring sufficient support mechanisms, that the states are encouraged to become partners with the Commission in ensuring sufficient support mechanisms, and that the states may prescribe additional, supplemental mechanisms.

469. Section 2(b) of the Communications Act is not implicated in this jurisdictional analysis. Section 2(b) provides that ''nothing in (the Communications Act) shall be construed to apply or give the Commission jurisdiction with respect to * * * charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communications service by wire or radio.'' Even when the Commission exercises jurisdiction to assess contributions for universal service support from intrastate as well as interstate revenues (i.e., for eligible schools and libraries and rural health care providers), such an approach does not constitute rate regulation of those services or regulation of those services so as to violate section 2(b). Instead, the Commission merely is supporting those services, as expressly required by Congress in section 254.

470. Moreover, although the Commission is not adopting this approach, section 2(b) would not be implicated even if the Commission were to refer carriers to the states to obtain authorization to recover their intrastate contributions via intrastate rates, which it is not doing, because the Commission would still be referring the matter to the states' authority over changes in intrastate rates and the Commission itself would not be regulating those rates. In any event, to the extent that section 2(b) would be implicated in either of these approaches (assessment or recovery), section 254's express directive that universal service support mechanisms be ''sufficient'' ameliorates any section 2(b) concerns because, as a rule of construction section 2(b) only is implicated where the statutory provision is ambiguous. Section 254 is unambiguous in that the services to be supported have intrastate as well as interstate characteristics and in that the Commission is to promulgate regulations implementing federal support mechanisms covering the intrastate and interstate characteristics of the supported services. Therefore, the unambiguous language of section 254 overrides section 2(b)'s otherwise-applicable rule of construction.

471. Further, to the extent that commenters assert that the Communications Act generally divides the world into two spheres—Commission jurisdiction over interstate carriers and interstate revenues and state jurisdiction over intrastate carriers and intrastate revenues—section 254 blurs any perceived bright line between interstate and intrastate matters. The services that will be supported pursuant to this Order include both intrastate and interstate services. Although section 254 anticipates a federal-state universal service partnership, section 254 grants the Commission primary responsibility for defining the parameters of universal service. Indeed, the recognition of this fact presumably led Congress to require Joint Board involvement in that Congress recognized that it was important for the Commission to consider the states' recommendations because the regulations ultimately adopted inevitably would affect the states' traditional universal service programs. The new requirements in the statute to consider the needs of schools, libraries, and health care providers in and of themselves require a fresh look at universal service. The legislative history also indicates that the Commission, in consultation with the Joint Board, was not to be bound by mechanisms used currently. Therefore, we conclude that section 254 grants us the authority to assess contributions for the universal service support mechanisms from intrastate as well as interstate revenues and to refer carriers to seek state (and not federal) authorization to recover a portion of the contribution in intrastate rates. We see no need at this time to exercise the full extent of our jurisdiction.

472. Scope of the Revenue Base for the High Cost and Low-Income Support Mechanisms

We have determined that we will assess and permit recovery of contributions to the rural, insular, and high cost and low-income support mechanisms based only on interstate revenues. We will seek further guidance on this subject from the Joint Board because the Joint Board makes a recommendation as to whether the revenue base for the high cost and low-

income mechanisms should include intrastate as well as interstate revenues.

473. Recovery of Carriers' Contributions to the High Cost and Low-Income Support Mechanisms

We have determined to continue our historical approach to recovery of universal service support mechanisms, that is, to permit carriers to recover contributions to universal service support mechanisms through rates for interstate services only. In discussing recovery we are referring to the process by which carriers' recoup the amount of their contributions to universal service. Although the Joint Board did not address this issue, the Joint Board concluded that the ''role of complementary state and federal universal service mechanisms require[d] further reflection'' before the Joint Board could recommend that we assess contributions based on intrastate as well as interstate revenues. Therefore, we believe that our decision to provide for recovery based only on rates for interstate services is not inconsistent with the Joint Board Recommended Decision.

474. Under our recovery mechanism, carriers will be permitted, but not required, to pass through their contributions to their interstate access and interexchange customers. We note that, if some carriers (e.g., IXCs) decide to recover their contribution costs from their customers, the carriers may not shift more than an equitable share of their contributions to any customer or group of customers. We also have determined that the interstate contributions will constitute the substantial cause that would provide a public interest justification for filing federal tariff changes or making contract adjustments.

475. We have determined that ILECs subject to our price cap rules may treat their contributions for the new universal service support mechanisms as an exogenous cost change. We outline the precise contours of the exogenous change available to federal price cap carriers in our *Access Charge Reform Order*, adopted contemporaneously with this Order. For carriers not subject to federal price caps (e.g., other ILECs), we have determined to permit recovery of universal service contributions by applying a factor to increase their carrier common line charge revenue requirement. Of course, LECs and their affiliates that provide interLATA interstate services each will have their own universal service obligations and, therefore, the affiliates will be required to recover their own universal service contributions.

476. Assessment of the Revenue Base for the High Cost and Low-Income Support Mechanisms

In addition to the recovery mechanisms, we also consider whether we should assess contributions to the universal service support mechanisms based solely on interstate revenues or on both interstate and intrastate revenues. To promote comity between the federal and state governments, we have decided to follow our approach to the recovery issues and thus to assess contributions for the high cost and low income support mechanisms based solely on interstate revenues.

477. The approach we adopt today is consistent with the approach taken by the Joint Board. Specifically, the Joint Board concluded that the ''decision as to whether intrastate revenues should be used to support the high cost and low income assistance programs should be coordinated with the establishment of the scope and magnitude of the proxy-based fund, as well as with state universal service support mechanisms.'' Although the Joint Board may have anticipated that these decisions all would be made in this Order, the crux of the Joint Board's analysis is that the question of interstate/intrastate contribution should be coordinated with the issues of appropriate forward-looking mechanisms and appropriate revenue benchmarks. Because those issues will be resolved in the future, we believe it would be premature for us to assess contributions on intrastate as well as interstate revenues.

478. Our assessment procedure is as follows. Between January 1, 1998 and January 1, 1999, contributions for the existing high cost support mechanisms and low-income support programs will be assessed against interstate end-user telecommunications revenues. Beginning on January 1, 1999, the Commission will modify universal service assessments to fund 25 percent of the difference between cost of service defined by the applicable forward-looking economic cost method less the national benchmark, through a percentage contribution on interstate end-user telecommunications revenues. We have decided to institute this approach to assessment on January 1, 1999 to coordinate it with the shift of universal service support for rural, insular, and high cost areas served by large LECs from the access charge regime to the section 254 universal service mechanisms.

479. In response to COMSAT's comments, we clarify that carriers that provide interstate services must include all revenues derived from interstate and international telecommunications services. Thus, international telecommunications services billed to a domestic end user will be included in the contribution base of a carrier that provides interstate telecommunications services. Section 2(b) of the Act grants states the authority to regulate intrastate rates, but in contrast section 2(a) grants the Commission sole jurisdiction over interstate and foreign communications. Foreign communications are defined as a ''communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside of the United States.'' We find that it would serve the public interest to require carriers providing interstate telecommunications services to base their contributions on revenues derived from their interstate and foreign or international telecommunications services. Contributors that provide international telecommunications services benefit from universal service because they must either terminate or originate telecommunications on the domestic PSTN. Therefore, we find that contributors that provide international telecommunications services should contribute to universal service on the basis of revenues derived from international communication services, although revenues from communications between two international points would not be included in the revenue base.

480. Scope of Revenue Base for the Support Mechanisms for Eligible Schools, Libraries, and Rural Health Care Providers

We adopt the Joint Board's recommendation that ''universal support mechanisms for schools and libraries and rural health care providers be funded by contributions based on both the intrastate and interstate revenues of providers of interstate telecommunications services.'' We adopt this approach not only because the Joint Board recommended it, but also because the eligible schools, libraries, and rural health care mechanisms are new, unique support mechanisms that have not historically been supported through a universal service funding mechanism. Nonetheless, for now, we will provide for recovery of the entirety of these contributions via interstate mechanisms.

481. We find that our approach minimizes any perceived jurisdictional difficulties under section 2(b) because we do not require carriers to seek state authorization to recover the contributions attributable to intrastate

revenues. Nonetheless, carriers with interstate revenues far less than their intrastate revenues assert that they will be required to recover unfairly large contributions from their interstate customers and that this outcome is inequitable. These carriers misinterpret the statute's direction that contributions be ''equitable and non-discriminatory.'' ''Equitable'' does not mean ''equal.'' In the past, telecommunications subsidies have been raised by assessing greater amounts from services other than basic residential dialtone services. Competition in the telecommunications marketplace, however, should drive prices for services closer to cost and eliminate the viability of shifting costs from residential to business or from basic local service to long distance. Congress did direct that contributions be non-discriminatory. This we accomplish by making the formula for calculating contributions the same for all competitors competing in the same market segment.

482. As to the assessment of contributions for the support mechanisms for eligible schools, libraries, and rural health care providers, the Commission is adopting the Joint Board's recommendation that these contributions be based upon both interstate and intrastate revenues. We have selected this approach because these are new and unique federal programs and states have not supported these initiatives to the same extent that they have supported other universal service support mechanisms. In contrast to the high cost mechanisms, many states do not already have programs in place that would guarantee sufficient support mechanisms for eligible schools, libraries, and rural health care providers. Therefore, we are not as confident that a federal-state partnership would sufficiently support these new and unique support mechanisms, particularly in the early years of the program. Because section 254 obligates the Commission to ensure the sufficiency of this support program, we deem it necessary to adopt an approach that will guarantee that this statutory mandate is satisfied. In addition, assessing both intrastate and interstate revenues to fund the support mechanisms for eligible schools, libraries, and rural health care providers is more feasible than for the other mechanisms because the amount of the new support mechanisms will be smaller than the other mechanisms (i.e., the combined amounts of the federal and state high cost and low-income support mechanisms will be greater than the total amount of the schools, libraries, and rural health care mechanisms). Therefore, we believe that it is appropriate for us to assess a contributor based upon its intrastate and interstate revenues for the schools, libraries, and rural health care support mechanisms.

483. Basis for Assessing Contributions

We agree with the Joint Board's recommendation that we must assess contributions in a manner that eliminates the double payment problem, is competitively neutral and is easy to administer. We find that contributions should be based on end-user telecommunications revenues. Based on new information in the record, we find that this basis for assessing contributions represents a basis for our universal service support mechanisms more administratively efficient than the net telecommunications revenues method recommended by the Joint Board while still advancing the goals embraced by the Joint Board. We note that we will assess contributions, i.e., raise sufficient funds to cover universal service's funding needs, only after we have determined the total size of the support mechanisms.

484. We will assess contributions based on telecommunications revenues derived from end users for several reasons, including administrative ease and competitive neutrality. The net telecommunications revenues and end-user telecommunications revenues methods are relatively equivalent because they assess contributions based on substantially similar pools of revenues. Therefore, we conclude that contributions will be based on revenues derived from end users for telecommunications and telecommunications services, or ''retail revenues.'' Unlike retail revenues, however, end-user telecommunications revenues include revenues derived from SLCs. End-user revenues would also include revenues derived from other carriers when such carriers utilize telecommunications services for their own internal uses because such carriers would be end users for those services. This methodology is both competitively neutral and relatively easy to administer.

485. Basing contributions on end-user revenues, rather than gross revenues, is competitively neutral because it eliminates the problem of counting revenues derived from the same services twice. The double counting of revenues distorts competition because it disadvantages resellers.

486. We seek to avoid a contribution assessment methodology that distorts how carriers choose to structure their businesses or the types of services that they provide. Basing contributions on end-user revenues eliminates the double-counting problem and the market distortions assessments based on gross revenues create because transactions are only counted once at the end-user level. Although it will relieve wholesale carriers from contributing directly to the support mechanisms, the end-user method does not exclude wholesale revenues from the contribution base of carriers that sell to end users because wholesale charges are built into retail rates.

487. Calculating assessments based upon end-user telecommunications revenues also will be administratively easy to implement. Like the net telecommunications revenues approach, the end-user telecommunications revenues approach will require carriers to track their sales to end users; carriers, however, must already track their sales for billing purposes. Although the end-user telecommunications revenues method will require carriers to distinguish sales to end users from sales to resellers, we do not foresee that this will be difficult because resellers will have an incentive to notify wholesalers that they are purchasing services for resale in order to get a lower price that does not reflect universal service contribution requirements. Although the end-user telecommunications revenues approach requires that a distinction be made between retail and wholesale revenues, using end-user telecommunications revenues will still be easier to administer and less burdensome than the net telecommunications revenues approach because it will not require wholesale carriers to submit annual or monthly contributions directly to the administrator, as they would under the net telecommunications revenues approach.

488. Another reason we adopt an end-user telecommunications revenues method of assessing contributions rather than a net telecommunications revenues method is that, although the two methods are theoretically equivalent, the former method eliminates some economic distortions associated with the latter method that can occur in practice. As an initial matter, we observe that, contrary to some commenters' assertions, both methods are competitively neutral because they both eliminate double-counting of revenues and assess the same total amount of contributions.

489. Although the two assessment methods are theoretically equivalent, we conclude that, in practice, the net telecommunications revenues approach

is likely to cause distortions that could be avoided by using the end-user telecommunications revenues approach. For example, the theoretical equivalence of the two methods assumes that all carriers will be able to recover fully their contributions from their customers. Some carriers, however, particularly those with long-term contracts, may be unable to recover fully those costs. If contributions are assessed on the basis of net telecommunications revenues and some intermediate carriers cannot incorporate their contributions into their prices, uneconomic substitution could result because other carriers would have an incentive to purchase services from those intermediate carriers, rather than to provide those services with their own facilities, to reduce their direct contribution to universal service. Basing contributions on end-user telecommunications revenues eliminates this potential economic distortion because contributions will be assessed at the end-user level, not at the wholesale and end-user level. Contributors will not have more of an incentive to build their own facilities or purchase services for resale in order to reduce their contribution because, regardless of how the services are provided, their contributions will be assessed only on revenues derived from end users.

490. We state that ILECs are prohibited from incorporating universal service support into rates for unbundled network elements because universal service contributions are not part of the forward-looking costs of providing unbundled network elements. Although we do not mandate that carriers recover contributions in a particular manner, we note that carriers are permitted to pass through their contribution requirements to all of their customers of interstate services in an equitable and nondiscriminatory fashion. Furthermore, we find that universal service contributions constitute a sufficient public interest rationale to justify contract adjustments. Section 254 gives the Commission authority to require new contributions to the universal service support mechanisms from telecommunications carriers that provide interstate telecommunications services and other providers of interstate telecommunications. Contributions will be assessed against revenues derived from end users for telecommunications or telecommunications services. Some of those revenues will be derived from private contractual agreements. By assessing a new contribution requirement, we create an expense or cost of doing business that was not anticipated at the time contracts were signed. Thus, we find that it would serve the public interest to allow telecommunications carriers and providers to make changes to existing contracts for service in order to adjust for this new cost of doing business. We clarify, however, that this finding is not intended to pre-empt state contract laws.

491. Furthermore, we agree with the Joint Board and reject commenters' suggestions that the Commission mandate that carriers recover contributions through an end-user surcharge. The state Joint Board members also assert that state commissions ''should have the discretion to determine if the imposition of an end-user surcharge would render local rates unaffordable.'' A federally prescribed end-user surcharge would dictate how carriers recover their contribution obligations and would violate Congress's mandate and the wish of the state members of the Joint Board.

492. To the extent that carriers seek to pass all or part of their contributions on to their customers in customer bills, we wish to ensure that carriers include complete and truthful information regarding the contribution amount. We do not assume that contributors will provide false or misleading statements, but we are concerned that consumers receive complete information regarding the nature of the universal service contribution. Unlike the SLC, the universal service contribution is not a federally mandated direct end-user surcharge. We believe that it would be misleading for a carrier to characterize its contribution as a surcharge. Specifically, we believe that characterizing the mechanism as a surcharge would be misleading because carriers retain the flexibility to structure their recovery of the costs of universal service in many ways, including creating new pricing plans subject to monthly fees. As competition intensifies in the markets for local and interexchange services in the wake of the 1996 Act, it will likely lessen the ability of carriers and other providers of telecommunications to pass through to customers some or all of the former's contribution to the universal service mechanisms. If contributors, however, choose to pass through part of their contributions and to specify that fact on customers' bills, contributors must be careful to convey information in a manner that does not mislead by omitting important information that indicates that the contributor has chosen to pass through the contribution or part of the contribution to its customers and that accurately describes the nature of the charge.

493. In addition, we agree with the Joint Board that, if carriers provide services eligible for support from universal service support mechanisms at a discount or below cost, carriers may receive credits against their contributions. Contributions to the support mechanisms may be made in cash. In addition, carriers that provide services to eligible schools, libraries, or rural health care providers may offset their required contribution by an amount equal to the difference between the pre-discount price for service and the amount charged to the eligible institution. Allowing or requiring an offset will not prevent carriers from recovering the full, pre-offset contribution due on its revenues in the manner in which the carrier chooses.

494. Finally, we agree with SNET that carriers should not include support mechanisms payments when calculating their contributions. We find that payments received from the universal service support mechanisms do not qualify as revenues derived from end users for telecommunications revenues and should not be included in the assessment base. Finally, in response to Excel's comments that resellers should receive credits against their universal service contributions for the provision of supported services, we note that ''pure'' resellers may not be designated as ''eligible carriers'' under section 214(e) and may not receive universal service support payments. Carriers selling supported services to resellers, however, may be eligible to receive universal service support. In addition, carriers that offer supported services through the use of unbundled network elements, in whole or in part, may be eligible to receive universal service support.

495. Administration of the Support Mechanisms

Based on the Joint Board's recommendation and the record in this proceeding, we will create a Federal Advisory Committee (Committee), pursuant to the FACA, whose sole responsibility will be to recommend to the Commission through a competitive process a neutral, third-party administrator to administer the support mechanisms. We adopt the Joint Board's recommendation and conclude that administration by a central administrator would be most efficient and would ensure uniform application of the rules governing the collection and distribution of funding for universal service support mechanisms

nationwide. We also adopt the Joint Board's recommendation that NECA be appointed the temporary administrator of the support mechanisms.

496. Like the Joint Board, we believe that broad participation by representatives of contributors, support recipients, state PUCs, and other interested parties in the administrator selection process, as required by the FACA, will eliminate concerns that the chosen administrator will not be neutral. A Federal Advisory Committee may be established only after consultation with the Office of Management and Budget and the General Services Administration and the filing of a charter with Congress. The Commission has initiated this process and will solicit nominations to the Committee as soon as possible.

497. We agree with the Joint Board's recommendation and adopt their four proposed requirements. As a result, the administrator must: (1) Be neutral and impartial; (2) not advocate specific positions to the Commission in proceedings not related to the administration of the universal service support mechanisms; (3) not be aligned or associated with any particular industry segment; and (4) not have a direct financial interest in the support mechanisms established by the Commission.

498. We clarify the Joint Board's criteria as follows. First, the administrator must not advocate positions before the Commission in non-universal service administration proceedings related to common carrier issues, although membership in a trade association that advocates positions before the Commission will not render an entity ineligible to serve as the administrator. Second, the administrator may not be an affiliate of any provider of ''telecommunications services.'' An ''affiliate'' is a ''person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.'' A person shall be deemed to control another if such person possesses, directly or indirectly, (1) an equity interest by stock, partnership (general or limited) interest, joint venture participation, or member interest in the other person equal to ten (10%) percent or more of the total outstanding equity interests in the other person, or (2) the power to vote ten (10%) percent or more of the securities (by stock, partnership (general or limited) interest, joint venture participation, or member interest) having ordinary voting power for the election of directors, general partner, or management of such other person, or (3) the power to direct or cause the direction of the management and policies of such other person, whether through the ownership of or right to vote, voting rights attributable to the stock, partnership (general or limited) interest, joint venture participation, or member interest) of such other person, by contract (including but not limited to stockholder agreement, partnership (general or limited)) agreement, joint venture agreement, or operating agreement), or otherwise. Third, the administrator and any affiliate thereof may not issue a majority of its debt to, nor may it derive a majority of its revenues from any provider(s) of telecommunications services. Fourth, if the administrator has a Board of Directors that contains members with direct financial interests in entities that contribute to or benefit from the support mechanisms, no more than a third of the Board members may represent interests from any one segment of contributing carriers or support recipients, and the Board's composition must reflect the broad base of contributors to and recipients of universal service support. An individual does not have a direct financial interest in the support mechanisms if he or she is not an employee of a telecommunications carrier, provider of telecommunications, or a recipient of support mechanisms funds, does not own equity interests in bonds or equity instruments issued by any telecommunications carrier, and does not own mutual funds that specialize in the telecommunications industry. We also create a *de minimis* exemption from this rule. We will define an individual's ownership interest in the telecommunications industry as *de minimis* if in aggregate the individual, spouse, and minor children's impermissible interests do not exceed $5,000.00.

499. To ensure the administrator's neutrality and appearance of neutrality, we conclude that we must require that no one in a position of influence within the administrator's organization have a direct financial interest in the support mechanisms, subject to the Board of Directors' standard above. Any candidate must also have the ability to process large amounts of data efficiently and quickly and to bill large numbers of carriers. The administrator's costs will be added to the support mechanisms and will be funded by the contributing carriers.

500. Even though NECA has administered the existing high cost assistance fund and the TRS fund, many commenters question NECA's ability to act as a neutral arbitrator among contributing carriers because NECA's membership is restricted to ILECs, its Board of Directors is composed primarily of representatives of ILECs, and it has taken advocacy positions in several Commission proceedings. Given that the appearance of impartiality for the new administrator is essential, and considering the importance and magnitude of the universal service support programs, we agree with the Joint Board and find that NECA would not be qualified to be the permanent administrator. If, however, changes to its Board of Directors or its corporate structure render it able to satisfy the neutrality criteria discussed above, NECA would be permitted to participate in the permanent administrator selection process. Finally, in the interest of speedy implementation of the support mechanisms, we adopt the Joint Board's recommendation that NECA be appointed the temporary administrator of the support mechanisms, subject to changes in NECA's governance that render it more representative of non-ILEC interests. We note that the temporary administrator may not spend universal service support mechanisms' funds until it is appointed by the Commission.

501. We require in this Order that the Committee recommend a neutral, third-party administrator through a competitive process no later than six months after the Committee's first meeting. Within the six-month period, the Committee must create a document describing what the administrator of the support mechanisms will be required to do and the criteria by which candidates will be evaluated, solicit applications from qualifying entities, and recommend the most qualified candidate. We intend to act upon the Committee's recommendation within six months. The administrator will be appointed for a five-year term, beginning on the date that the Commission selects it as the administrator. We also require the chosen administrator to be prepared to administer all facets of the universal service support mechanisms within six months of its appointment. The Commission will review the administrator's performance to ensure that it is fulfilling its responsibilities in an acceptable and impartial manner two years after its appointment. At any time prior to the end of the administrator's five-year term, the Commission may re-appoint the administrator for up to another five years. Otherwise, the Commission will create another Federal Advisory Committee to recommend another neutral, third-party administrator.

502. The Commission will direct the chosen administrator to report annually to the Commission an itemization of monthly administrative costs that shall consist of all expenses, receipts, and payments associated with the administration of the universal service support mechanisms. The administrator shall file a cost allocation manual (CAM) with the Commission, and shall provide the Commission full access to all data collected pursuant to the administration of the universal service support mechanisms. We further require that the administrator shall be subject to a yearly audit by an independent accounting firm and an additional yearly audit by the Commission, if the Commission so requests. The administrator is further required to keep the universal service support mechanisms separate from all other funds under the control of the administrator.

503. The administrator is directed to maintain and report to the Commission detailed records relating to the determination and amounts of payments made and monies received in the universal service support mechanisms. Information based on these reports should be made public at least once a year as part of a Monitoring Report. Because the current Monitoring Program in CC Docket No. 87–339, which monitors the current Universal Service Fund, will end with the May 1997 report and because NARUC has petitioned the Commission to continue this Monitoring Program, we delegate to the Common Carrier Bureau, in consultation with the state staffs of the Joint Boards in CC Docket No. 96–45 and CC Docket No. 80–286, the creation of a new monitoring program to serve as a vehicle for these Monitoring Reports. We also delegate to the Bureau the details of the exact content and timing of release of these reports.

Final Regulatory Flexibility Analysis

504. As required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. section 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking and Order Establishing Joint Board. In addition, the Commission prepared an IFRA in conjunction with the Recommended Decision, seeking written public comment on the proposals in the NPRM and Recommended Decision. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended.

505. To the extent that any statement contained in this FRFA is perceived as creating ambiguity with respect to our rules or statements made in preceding sections of this Order, the rules and statements set forth in those preceding sections shall be controlling. We also note that future revisions of the rules may alter our analysis of the potential economic impact upon some small entities.

A. Need for and Objectives of This Report and Order and the Rules Adopted Herein

506. The Commission is required by sections 254(a)(2) and 410(c) of the Act, as amended by the 1996 Act, to promulgate these rules to implement promptly the universal service provisions of section 254. The principal goal of these rules is to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition.

507. The rules adopted in this Order establish universal service support mechanisms to preserve and advance universal service support. The rules are designed to implement as quickly and effectively as possible the national telecommunications policies embodied in the 1996 Act and to promote access to advanced telecommunications and information technologies to all Americans in all regions of the nation.

B. Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA

508. *Summary of the Initial Regulatory Flexibility Analysis.* The Commission performed an IRFA in the NPRM and an IRFA in connection with the Recommended Decision. In the IRFAs, the Commission sought comment on possible exemptions from the proposed rules for small telecommunications companies and measures to avoid significant economic impact on small business entities, as defined by section 601(3) of the RFA. The Commission also sought comment on the type and number of small entities, such as schools, libraries, and health care providers, potentially affected by the recommendations set forth in the Recommended Decision.

Comments

509. General Comments

Comments were filed in response to both the NPRM and Recommended Decision IRFAs. Although it agrees that no IRFA was required for the Recommended Decision, the SBA contends that the IRFA issued in connection with the Recommended Decision was untimely and did not adequately take into consideration the impact of the Joint Board recommendations upon small entities. The SBA also contends that the NPRM's lack of specificity concerning rules and reporting requirements made it difficult to evaluate the impact upon small business.

510. Businesses With Single Connections

Many commenters oppose the recommendation to reduce universal service support for businesses with single connections. The SBA contends that reduced levels of support would discourage or prohibit small businesses from utilizing telecommunications services. The SBA also contends that the Joint Board's recommendation to restrict support to businesses with a single connection effectively would define a small business in violation of the Small Business Act. The SBA proposes that entities with $5 million or less in annual gross revenue be exempt from any reduction of universal service support and that all other businesses receive support for up to five lines. The SBA asserts that restricting support to a single connection would adversely affect small government jurisdictions, including fire and police departments, that currently receive full universal service support. Some commenters contend that universal service support should not be extended to any business customers.

511. Businesses With Multiple Connections

Several commenters contend that universal service support should be extended to businesses with multiple connections. They cite the importance of multiple-connections for small businesses, the potential negative impact upon rural areas of excluding such support, and the principles of the Act that provide for affordable access to telecommunications services to all consumers, including reasonably comparable rates and access by rural consumers to telecommunications services. The SBA cites the vulnerability of small businesses to substantial rate increases. The SBA contends that the Recommended Decision construes the reference to ''consumers'' in section 254(b)(3) too narrowly by excluding support to small businesses. The SBA also contends that exclusion of universal service support for small businesses would violate the universal service mandate that rates be affordable and discourage access to advanced telecommunications services by small businesses.

512. Forward-Looking Cost Methodology

A few commenters state that forward-looking cost methodologies may not have the ability to accurately predict costs for small, rural telephone companies. Others contend that small, rural carriers in the continental United States should be exempt from forward-looking cost methodologies in the same manner as Alaska and insular areas because they face similar challenges.

513. Schools and Libraries

In response to the NPRM IRFA, NSBA II comments that the proposals in the NPRM would have a significant effect on a substantial number of small government entities, including 38,000 small government jurisdictions with school and library districts, in addition to the ''small telecommunications service providers'' mentioned in the NPRM. It contends that the bona fide request for service and applicable procedures may result in significant paperwork burdens on small government agencies and that restrictions on the resale or transfer of telecommunications services and network capacity may impose significant fiscal burdens on schools and libraries. In response to the Recommended Decision, Vermont PSB contends that a waiver from the processing and reporting requirements should be adopted for schools and libraries with fewer than 10 lines to avoid discouraging such organizations from applying for available discounts.

514. Some commenters contend that any entity that provides eligible services to a school or library should be eligible for universal service support. They state that such eligibility is provided under section 254(h) and that Congress sought to expand deployment of telecommunications and information services to schools and libraries. Small Cable II is concerned that the competitive bidding process for educational telecommunications services may provide ILECs with an unfair advantage. It contends that small businesses, such as small cable operators, must be allowed to compete for the opportunity to provide services supported by universal service on a level playing field. PageMart expresses concern that inclusion of such things as support for internal connections for schools and libraries may negatively affect small carriers by increasing the size of the universal service support mechanisms.

515. Other

California SBA asserts that small businesses will only benefit when competition is opened to all entities in the telecommunications industry. United Utilities contends that requiring carriers to treat the amount eligible for support to eligible health care providers as an offset to carriers' universal service support obligation is anti-competitive for small carriers whose funding obligations are insufficient to allow them to receive the full offset in the current year. A few commenters state that ''small'' carriers should be either exempt from contribution to universal support mechanisms or should be allowed to make discounted contributions.

Discussion

516. General

We disagree with the SBA's general criticisms of our IRFAs procedure. Although under no obligation to do so, the Commission prepared a second IRFA in connection with the Recommended Decision to expand upon and seek comment upon issues relating to small entities. These IRFAs sought comment on the many alternatives discussed in the body of the NPRM and Recommended Decision, including statutory exemptions for certain small companies. The numerous general public comments concerning the impact of our proposal on small entities, including comments filed directly in response to the IRFAs, as discussed above, lead us to conclude that the IRFAs were sufficiently timely and detailed to enable parties to comment meaningfully on the proposed rules and to enable us to prepare this FRFA. We have been working with, and will continue to work with, the SBA to ensure that both our IRFAs and the FRFA fully meet the requirements of the RFA.

517. Business Connections

We make no change in the existing support mechanisms to business connections until a forward-looking cost methodology is established to determine universal service support. All residential and business connections that are currently supported will continue to be supported. The Joint Board's recommendation will be revisited as we establish a forward-looking cost methodology, and, therefore, we do not find it necessary to address comments relating to the Joint Board's recommendation on the extent of support for business connections at this time.

518. Forward-Looking Cost Methodology

We have taken into consideration the concerns of Harris and others that forward-looking cost methodologies do not have the ability to predict costs for small, rural telephone companies. To minimize the financial impact of this change on small entities, we shall permit small, rural carriers to shift to a forward-looking cost methodology more gradually than larger carriers. We believe that upon development of an appropriate forward-looking cost methodology, the Commission's mechanism for calculating support for small, rural carriers will minimize the adverse effects of an immediate shift to a forward-looking cost methodology. In 1998 and 1999, small, rural carriers will continue to receive high cost loop support based on the existing system. We will revisit the issue of support for small, rural companies and the conversion to an alternative methodology when we adopt a forward-looking cost methodology for rural carriers. Small, rural carriers in Alaska and insular areas will not be required to transition to a forward-looking cost methodology until further review.

519. Schools and Libraries

Despite the concerns of some commenters that the IRFAs performed in conjunction with the NPRM and Recommended Decision overlooked small government jurisdictions, we note that the IRFA that was adopted pursuant to the Recommended Decision specifically acknowledged the 112,314 public and private schools and 15,904 libraries potentially affected by the recommendations made by the Joint Board. We also reject NSBA II's assertion that the Commission should not impose reporting requirements and restrictions upon resale of telecommunications services. In section 254(h)(3), Congress clearly prohibits eligible public institutions from reselling supported telecommunications services to ensure that only eligible institutions can purchase services at a discount.

520. To foster vigorous competition for serving schools and libraries, we conclude that non-telecommunications carriers must also be permitted to compete to provide these services in conjunction with telecommunications carriers or even on their own. Therefore, we encourage non-telecommunications carriers, many of which may be small businesses, either to enter into partnerships or joint ventures with telecommunications carriers that are not currently serving the areas in which the

libraries and schools are located or to offer services on their own. We have also made every effort to ensure that all entities, including small entities, are allowed to participate and compete in the universal service program on an equal basis by adopting the additional principle of competitive neutrality in the requirement for contribution, and distribution of, and the determination of eligibility for universal service support.

521. We share the concerns of PageMart that the size of the fund not infringe upon the ability of small entities to participate and utilize telecommunications services by unduly increasing the expense of such services. We have made every effort to implement the mandate established by Congress to provide discounted access to telecommunications services to schools and libraries in the most cost-effective and economical manner possible including, imposing a cap on the schools and libraries fund.

522. Other

We acknowledge the concern of United Utilities that requiring carriers to treat the support amount to eligible health care providers as an offset may be burdensome to small carriers whose funding obligations may be insufficient to allow recovery of the full offset in the current year. Although we agree with the Joint Board's recommendation initially to limit carriers to offsets, we also expressly agree that small carriers should not be required to carry forward such offset credits beyond one year. Accordingly, we conclude that telecommunications carriers providing services to rural health care providers at reasonably comparable rates under section 254(h)(1)(A) should treat the support amount as an offset toward the carrier's universal service support obligation for the year in which the expenses were incurred. To the extent that the amount of universal service support due to a carrier exceeds the carrier's universal service obligation, calculated on an annual basis, the carrier may receive a direct reimbursement in the amount of the difference. We believe allowing carriers to receive direct reimbursement on those terms should help ensure that they have adequate resources to cover the costs of providing supported services. Small carriers may find it difficult to sustain such costs absent prompt reimbursement.

523. We disagree with Florida PSC and others that suggest that ''small'' carriers should be treated differently from ''large'' carriers for purposes of assessing contributions to universal service. Section 254(d) requires that ''every telecommunications carrier that provides interstate telecommunications service shall contribute, on an equitable and non-discriminatory basis'' to preserve and advance universal service. This section makes no distinction between large and small carriers. While some commenters contend that the *de minimis* exemption should be applied to small carriers, we find the *de minimis* exemption should be limited to cases in which a carrier's contribution to universal service in any given year is less than $100.00.

C. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Report and Order Will Apply

524. The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction'' and the same meaning as the term ''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. 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). The RFA also applies to nonprofit organizations and to governmental organizations such as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000. As of 1992, the most recent figures available, there were 85,006 governmental entities in the United States.

525. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities having fewer than 1,500 employees. This FRFA first discusses generally the total number of small telephone companies falling within both of those SIC categories. Then, we discuss other small entities potentially affected and attempt to refine those estimates pursuant to this Report and Order.

526. Small incumbent LECs subject to these rules are either dominant in their field of operation or are not independently owned and operated, and, consistent with our prior practice, they are excluded from the definition of ''small entity'' and ''small business concerns.'' Accordingly, our use of the terms ''small entities'' and ''small business'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

527. We note that our analysis of the entities affected by the rules promulgated in this Order is subject to change as future revisions are made in the universal service rules. Moreover, we note that section XIII.B of the Order discusses specific examples of some of the entities affected by our rules but is not to be considered an exhaustive list of all of the entities potentially affected. We also note that our analysis as to the impact of the rules upon small entities may be revised pending any revision of the rules.

I. Telephone Companies (SIC 4813)

528. Total Number of Telephone Companies Affected

Many of the decisions and rules adopted herein may have a significant effect on a substantial number of the small telephone companies identified by the SBA. The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms would qualify as small entity telephone service firms or small incumbent LECs, as defined above, that may be affected by this Order.

529. Wireline Carriers and Service Providers

The SBA has developed a definition of small entities for telecommunications

companies other than radiotelephone (wireless) companies (Telephone Communications, Except Radiotelephone). The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. Of the 2,321 non-radiotelephone companies listed by the Census Bureau, 2,295 were reported to have fewer than 1,000 employees. Thus, at least 2,295 non-radiotelephone companies might qualify as small entities or small incumbent LECs or small entities based on these employment statistics. As it seems certain that some of these carriers are not independently owned and operated, however, this figure necessarily overstates the actual number of non-radiotelephone companies that would qualify as ''small business concerns'' under the SBA's definition. Consequently, we estimate using this methodology that there are fewer than 2,295 small entity telephone communications companies (other than radiotelephone companies) that may be affected by the proposed decisions and rules adopted in this Order.

530. Local Exchange Carriers

According to the most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. As some of these carriers have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

531. Interexchange Carriers

According to the most recent data, 130 companies reported that they were engaged in the provision of interexchange services. As some of these carriers have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 130 small entity IXCs that may be affected by the decisions and rules adopted in this Order.

532. Competitive Access Providers

According to the most recent data, 57 companies reported that they were engaged in the provision of competitive access services. We have no information on the number of carriers that are not independently owned and operated, nor on those that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 57 small entity CAPs that may be affected by the decisions and rules adopted in this Order.

533. Operator Service Providers

According to the most recent data, 25 companies reported that they were engaged in the provision of operator services. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 25 small entity operator service providers that may be affected by the decisions and rules adopted in this Order.

534. Pay Telephone Operators

According to the most recent data, 271 companies reported that they were engaged in the provision of pay telephone services. We have no information on the number of carriers that are not independently owned and operated, nor on those that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 271 small entity pay telephone operators that may be affected by the decisions and rules adopted in this Order.

535. Radiotelephone (Wireless) Carriers

We do not have information on the number of carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

536. Cellular Service Carriers

According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services. We have no information on the number of carriers that are not independently owned and operated, nor on those that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small entity cellular service carriers that may be affected by the decisions and rules adopted in this Order.

537. Mobile Service Carriers

According to the most recent data, 117 companies reported that they were engaged in the provision of mobile services. We have no information on the number of carriers that are not independently owned and operated, nor on those that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under the SBA's definition. Consequently, we estimate that there are fewer than 117 small entity mobile service carriers that may be affected by the decisions and rules adopted in this Order.

538. Broadband Personal Communications Service (PCS) Licensees

No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning bidders and the 93 qualifying bidders in the D, E, and F Blocks, for a total of 183 small PCS providers as defined by the SBA and the Commission's auction rules.

539. Narrowband PCS

The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for

narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions.

540. Rural Radiotelephone Service

The Commission has not adopted a definition of small business specific to the Rural Radiotelephone Service, which is defined in § 22.99 of the Commission's Rules. A subset of the Rural Radiotelephone Service is BETRS, or Basic Exchange Telephone Radio Systems. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA's definition of a small business.

541. Public Safety Radio Services

Public Safety Radio Services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. As we indicated, all governmental entities with populations of less than 50,000 fall within the definition of a small business. There are approximately 37,566 governmental entities with populations of less than 50,000.

542. Specialized Mobile Radio (SMR) Licensees

The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in this Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction.

543. Resellers

According to our most recent data, 260 companies reported that they were engaged in the resale of telephone services. We have no information on the number of carriers that are not independently owned and operated, nor on those that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 260 small entity resellers that may be affected by the decisions and rules adopted in this Order.

544. 900 Service

According to our most recent data, 68 carriers reported that they were engaged in 900 service. Consequently, we estimate that there are fewer than 68 small entity 900 service providers that may be affected by the decisions and rules adopted in this Order.

545. Private Line Service

According to our most recent data, 635 LECs and other carriers reported that they were engaged in private line service. Consequently, we estimate that there are fewer than 635 LECs and other carriers providing private line service that may be affected by the decisions and rules adopted in this Order.

546. Telegraph

According to our most recent data, 4 facilities based and 1 resale provider reported that they engaged in international telegraph service. According to the Census Bureau, there were 286 total telegraph firms and 247 had less than $5 million in annual revenue. Consequently, we estimate that there are less than 247 small telegraph firms that may be affected by the decisions and rules adopted in this Order.

547. Telex

According to our most recent data, 5 facilities based and 2 resale provider reported that they engaged in telex service. Consequently, we estimate that there are fewer than 7 telex providers that may be affected by the decisions and rules adopted in this Order.

548. Message Telephone Service

According to our most recent data, 1,092 carriers reported that they engaged in message telephone service. Consequently, we estimate that there are fewer than 1,092 message telephone service providers that may be affected by the decisions and rules adopted in this Order.

549. 800 Subscribers

According to our most recent data, the number of 800 numbers in use was 6,987,063. We do not have information on the number of carriers not independently owned and operated, nor having more than 1,500 employees, and thus are unable to estimate with greater precision the number of 800 subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 6,987,063 small entity 800 subscribers.

II. Cable System Operators (SIC 4841)

550. The SBA has developed a definition of small entities for cable and other pay television services that includes all such companies generating less than $11 million in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to the Census Bureau, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We note that cable system operators are included in our analysis due to their ability to provide telephony.

551. The Commission has developed with the SBA's approval our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are less than 1,439 small entity cable system operators that may be affected by the decisions and rules adopted in this Order. We conclude that only a small percentage of these entities currently provide qualifying ''telecommunications services'' required by the Act and, therefore, estimate that the number of such entities affected are significantly fewer than noted.

552. The Act also contains a definition of small cable system

operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less total 1,450. We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Act.

553. Direct Broadcast Satellites (DBS)

As of December 1996, there were eight DBS licensees. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these rules.

554. International Services

According to the Census Bureau, there were a total of 848 communications services, NEC in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million. We note that those entities providing only international service will not be affected by our rules. We do not, however, have sufficient data to estimate with greater detail those providing both international and interstate services. Consequently, we estimate that there are fewer than 775 small international service entities potentially impacted by our rules.

555. International Broadcast Stations

Commission records show that there are 20 international broadcast station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition. We note that those entities providing only international service will not be affected by our rules. We do not, however, have sufficient data to estimate with greater detail those providing both international and interstate services. Consequently, we estimate that there are fewer than 20 international broadcast stations potentially impacted by our rules.

III. Municipalities

556. The term ''small government jurisdiction'' is defined as ''government of . . . districts with populations of less than 50,000.'' The most recent figures indicate that there are 85,006 governmental entities in the United States. This number includes such entities as states, counties, cities, utility districts and school districts. Of the 85,006 governmental entities, 38,978 are counties, cities and towns. The remainder are primarily utility districts, school districts, and states. Of the 38,978 counties, cities, and towns, 37,566 or 96%, have populations of fewer than 50,000. Consequently, we estimate that there are 37,566 ''small government jurisdictions'' that will be affected by our rules.

IV. Rural Health Care Providers

557. Section 254(h)(5)(B) defines the term ''health care provider'' and sets forth the seven categories of health care providers eligible to receive universal service support. We estimate that there are: (1) 625 ''post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools,'' including 403 rural community colleges, 124 medical schools with rural programs, and 98 rural teaching hospitals; (2) 1,200 ''community health centers or health centers providing health care to migrants;'' (3) 3,093 ''local health departments or agencies'' including 1,271 local health departments and 1,822 local boards of health; (4) 2,000 ''community mental health centers;'' (5) 2,049 ''not-for-profit hospitals;'' and (6) 3,329 ''rural health clinics.'' We do not have sufficient information to make an estimate of the number of consortia of health care providers at this time. The total of these categorical numbers is 12,296. Consequently, we estimate that there are fewer than 12,296 health care providers potentially affected by the rules in this Order. According to the SBA definition, hospitals must have annual gross receipts of $5 million or less to qualify as a small business concern. There are approximately 3,856 hospital firms, of which 294 have gross annual receipts of $5 million or less. Although some of these small hospital firms may not qualify as rural health care providers, we are unable at this time to estimate with greater precision the number of small hospital firms which may be affected by this Order. Consequently, we estimate that there are fewer than 294 hospital firms affected by this Order.

V. Schools (SIC 8211) and Libraries (SIC 8231)

558. The SBA has established a definition of small elementary and secondary schools and small libraries as those with under $5 million in annual revenues. The most reliable source of information regarding the total number of kindergarten through 12th grade (K–12) schools and libraries nationwide of which we are aware appears to be data collected by the United States Department of Education and the National Center for Educational Statistics. Based on that information, it appears that there are approximately 86,221 public and 26,093 private K–12 schools in the United States (SIC 8211). It further appears that there are approximately 15,904 libraries, including branches, in the United States (SIC 8231). Consequently, we estimate that there are fewer than 86,221 public and 26,093 private schools and fewer than 15,904 libraries that may be affected by the decisions and rules adopted in this Order.

D. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Significant Alternatives and Steps Taken to Minimize the Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

559. Structure of the Analysis

In this section of the FRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that may apply to small entities and small incumbent LECs as a result of this Order. As a part of this discussion, we mention some of the types of skills that will be needed to meet the new requirements. We also describe the steps taken to minimize the economic impact of our decisions on small entities and small incumbent LECs, including the significant alternatives considered and rejected.

Summary Analysis: Section III

Principles

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

560. There are no reporting or other compliance requirements relating directly to the principles enumerated in section 254(b) or relating directly to the additional principle of competitive neutrality, as adopted by the

Commission pursuant to section 254(b)(7).

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

561. As set forth in section III.C, we conclude that a fair and reasonable application of the principles enumerated by Congress in section 254(b) and the additional principle of competitive neutrality will favorably impact all business entities, including smaller entities, and promote universal service. By adopting the additional principle of competitive neutrality, we seek to ensure that all entities, including smaller entities, are treated on an equal basis so that contributions to and disbursements from the universal service support mechanisms will not be unfairly biased either in favor of or against any entity or group. We acknowledge the comments of certain rural telephone carriers, many of whom may be small entities, who contend that promotion of competition must be considered only secondary to the advancement of universal service. These commenters contend that certain provisions of the 1996 Act are intended to provide ''rural safeguards'' such as eligibility determinations for rural telephone carriers under section 214(e)(2). We balance these interests by acknowledging that a principal purpose of section 254 is to create mechanisms that will sustain universal service as competition emerges. We expect that applying the policy of competitive neutrality will promote the most efficient technologies that, over time, may provide competitive alternatives in rural areas and thereby benefit rural consumers. We also recognize technological neutrality as a concept encompassed by competitive neutrality. In doing so, the Commission has expanded universal service support to many small entities, both as providers and consumers of telecommunications services, in accordance with congressional intent to promote competition and provide affordable access to telecommunications and information services.

Summary Analysis: Section IV

Definition of Universal Service

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

562. All eligible carriers will be required to provide each of the core services designated for universal service support pursuant to section 254(c)(1) in order to receive universal service support, subject to certain enumerated exceptions. Upon a showing by an otherwise eligible carrier that exceptional circumstances prevent that carrier from providing single-party service, access to E911 service, or toll limitation services, a state commission may grant petitions by carriers for a period of time during which otherwise eligible carriers that are unable to provide those services can still receive universal service support while they make the network upgrades necessary to offer these services.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

563. As set forth in section IV.B.2, we find that universal service support should be provided for eligible carriers that provide each of the designated services. In addition, we define the services designated for support in a competitively neutral manner, which permits wireless and other potential competing carriers to offer each of the designated services. This approach will permit cellular and other wireless carriers and non-incumbent providers, many of which may be small businesses, to compete in high cost areas.

564. In section IV.C, we seek to strike a reasonable balance between the need for single-party service, access to E911, and toll limitation services for low-income consumers, and the recognition that exceptional circumstances may prevent some carriers, particularly smaller carriers, from offering these services at present. Thus, we take a number of actions in this section to minimize the burdens on smaller entities wishing to receive universal service support. For example, state commissions will be permitted to approve an eligible carrier's requests for periods of time during which the carrier can receive universal service support while making the network upgrades needed to offer single-party service, access to E911, or toll limitation service. To the extent that this class of carriers includes smaller carriers, this approach reduces the burden on these small carriers by permitting additional time to comply with the requirement to provide all universal services prior to receiving support.

565. Although commenters suggest other services for inclusion in the definition of the supported core services, as set forth in section IV.B.2, we decline to expand the definition to include additional services at this time. We conclude that an overly broad definition of the § 254(c)(1) core services might have the unintended effect of creating a barrier to entry for some carriers, many of which may be small entities, because these carriers might be technically unable to provide the additional services.

566. As set forth in section IV.D, we acknowledge the many comments both in favor of and opposed to the Joint Board's recommendation to restrict support to businesses with a single connection. We note, however, that we are adopting a plan for implementing the new universal service mechanisms that includes extending the existing support mechanisms until such time as a forward-looking cost methodology is established. Under this approach, all residential and business connections that are currently supported will continue to receive support. This approach will benefit small telecommunications carriers and, tangentially, small businesses located in rural areas. We will, however, re-examine whether to adopt the Joint Board's recommendation to limit support for designated services to single residential connections and businesses with a single connection during the course of implementing a forward-looking cost methodology. As we currently make no change in the existing support mechanisms and will revisit this issue at a later date, we find that comments relating to this issue will be addressed at that time.

567. We do not establish service quality standards in section IV.E. Rather, we find that, to the extent possible, the Commission should rely on existing data, including the ARMIS data filed by price-cap LECs, to monitor service quality. We find that creating federal service quality standards would burden carriers, including small carriers, and would be inconsistent with the 1996 Act's goal of a ''pro-competitive, de-regulatory national policy framework.''

Summary Analysis: Section V

Affordability

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

568. The 1996 Act does not require, and we did not adopt, any new reporting, recordkeeping or other compliance requirements in this section.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

569. As set forth in section V.B, we agree with commenters that consumer income levels should be among the factors considered when assessing rate affordability. We find that a rate that is affordable to most consumers in affluent areas may not be affordable to lower income consumers. We conclude, in light of the significant disparity in income levels throughout the country, that per capita income of a local or regional area, and not a national median, should be considered in determining affordability. In doing so, we decline to adopt proposals to establish nationwide standards for measuring the impact of consumer income levels on affordability. We find that establishing a formula based on percentage of consumers' disposable income dedicated to telecommunications services would over-emphasize income levels in relation to other non-rate factors that may affect affordability and fail to reflect the effect of local circumstances on the affordability of a particular rate. We similarly reject proposals to define affordability based on a percentage of national median income and because such a standard would tend to overestimate the price at which service is affordable when applied to a service area where income level is significantly below the national median. We conclude that this approach will benefit small businesses located in rural areas by taking into consideration the economic factors relating to local areas rather than applying uniform national standards in making determinations relating to affordability.

570. Small entities will be impacted by our determination, as set forth in section V.B, that the states should have primary responsibility for monitoring the affordability of telephone service rates and in working in concert with the Commission to ensure the affordability of such rates. The Commission will work with affected states to determine the causes of both declining statewide subscribership levels and below average statewide subscribership levels. We conclude that small businesses, as well as other telecommunications consumers, will benefit from the joint effort of the states and Commission to monitor the affordability of telephone service rates and identify potential corrective measures.

Summary Analysis: Section VI

Carriers Eligible for Universal Service Support

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

571. To receive most types of universal service support, the Act requires that a carrier must demonstrate to the relevant state commission that it has complied with criteria that Congress established in section 214(e), implemented by this Order. The statutory criteria require that a telecommunications carrier be a common carrier and offer, throughout a service area designated by the state commission, the services supported by federal universal service support mechanisms, either using its own facilities or a combination of its own facilities and resale of another carrier's services. A carrier must also advertise the availability of and charges for these services throughout its service area. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advanced notice to the state commission of such relinquishment. Applying for designation as an eligible carrier and demonstrating fulfillment of the statutory criteria may require administrative and legal skills.

572. Pursuant to section 214(e)(5), a state commission must seek the Commission's concurrence before a new definition of a rural service area may be adopted. The state commission or the affected carrier must submit the proposal to the Commission, which may require legal and administrative skills.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

573. As set forth in section VI.B, we adopt no additional federal criteria for eligibility, requiring only that carriers meet the eligibility criteria established by Congress in the 1996 Act. We reject arguments calling for more stringent eligibility rules, such as requiring new entrants to comply with any state rules applicable to the incumbent carrier, that could have imposed additional burdens on new entrants, many of which may be small entities. We conclude that a carrier can use any technology to meet the eligibility criteria, thus preserving the competitive neutrality of the eligibility requirements, and protecting all providers, including small providers. Our interpretation of the section 214(e) facilities requirement promotes the universal service policies adopted by Congress and avoids imposing undue burdens on all eligible carriers, including small carriers. This interpretation enables small competitive carriers to become eligible telecommunications carriers. We also conclude that any burdens that might be placed on small incumbent LECs facing competition from competitive LECs may be avoided or mitigated by the states when they consider petitions for exemptions, suspensions or modifications of the requirements of section 251(c) by rural telephone companies and when they consider designating multiple eligible carriers pursuant to section 214(e)(3).

574. Additionally, as discussed in section VI.C, where states alone are responsible for designating a carrier's service area, we encourage states to adopt service areas that are not unreasonably large because unreasonably large service areas might discourage competitive entry or favor some carriers, including large carriers. We also indicate that, if a state commission agrees and the Commission does not disagree, the service area served by a rural telephone company (which is likely to be a small company), should be the study area in which they currently provide service. This requirement minimizes any burdens rural telephone companies would face from needing to recalculate costs over a differently-sized area. This requirement also protects small incumbent LECs from competitors that may target only the most financially lucrative customers in an area. We find that these provisions should minimize burdens on small entities.

575. We also conclude that the ''pro-competitive, de-regulatory'' intent of the 1996 Act would be furthered if we take action to minimize any procedural delay caused by the need for federal-state coordination to redefine rural service areas. Under the procedures we adopt, after a state has concluded that a service area definition different from a rural telephone company's study area is appropriate, either the state or a carrier must seek the agreement of the Commission. Upon the receipt of the proposal, the Commission will issue a public notice on the proposal. If the Commission does not act upon the proposal within 90 days of the public notice release date, the proposal will be deemed approved by the Commission and may take effect according to state procedure without further action on the part of the Commission. This procedure minimizes the burden on all parties,

including small parties, that might seek to alter the definition of a rural service area.

Summary Analysis: Section VII

High Cost Support

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

576. Small, rural carriers comprise the specific class of small entities that are subject to high cost reporting requirements. We define ''rural'' as those carriers that meet the statutory definition of a ''rural telephone company'' set forth at 47 U.S.C. 153(37).

577. To receive high cost support small, rural carriers have been required, under previous rules, to report the number of lines they serve and their embedded costs at the end of each year. Because small, rural carriers will receive support based on their embedded costs from 1998 until a forward-looking cost methodology is chosen, their reporting and recordkeeping requirements will remain the same. These requirements should not affect small entities disproportionately because in order to receive support, large, non-rural carriers must also report the number of lines they serve and their embedded costs.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

578. Currently, an ILEC is eligible for support if its embedded loop costs, as reported annually, exceed 115 percent of the national average loop cost. We anticipate that we will adopt a forward-looking cost methodology for large, non-rural carriers to take effect on January 1, 1999. Until a forward-looking cost methodology for non-rural carriers takes effect, large, non-rural carriers will continue to receive high cost loop support and LTS based on the mechanisms in place for small, rural carriers.

579. To minimize the financial impact of this rule change on small entities, however, we shall permit small, rural carriers to shift to a forward-looking cost methodology more gradually than the large carriers. We believe that the Commission's mechanism for calculating support for small, rural carriers will minimize the adverse effects of an immediate shift to a forward-looking cost methodology. In 1998 and 1999, small, rural carriers will continue to receive high cost loop support based on the existing system. Beginning on January 1, 2000, the nationwide average loop costs, on which carriers' high cost loop support is currently based, will be indexed to changes in the GDP–CPI. Starting January 1, 1998, DEM weighting for small, rural carriers will continue to be calculated under the existing prescribed formulas, but the interstate allocation factor will be maintained at 1996 levels. LTS support for rural carriers will be indexed to changes in the nationwide average loop costs starting in 1998. We will revisit the issue of support for small, rural companies and the conversion to an alternative methodology when we adopt a forward-looking cost methodology for rural carriers. We find that a gradual shift for rural carriers should enable these carriers to adjust their operations in preparation for the use of a forward-looking cost methodology.

580. All carriers' high cost loop support for corporate operations expense, however, will be limited to 115 percent of an amount defined by a formula based upon a statistical study that predicts corporate operations based on the number of access lines. Because we will determine the benchmark for corporate and overhead expenses based on a carrier's number of lines, any limitation on corporate expenses would not disproportionately impact small carriers. We will also continue the current cap limiting growth of the high cost loop support mechanism. In order to ensure that the index accurately represents small carriers' loop growth, we will reset the cap based on small carriers' cost studies once large carriers move to a forward-looking cost methodology. In addition, carriers may petition the Commission for a waiver to receive additional support should they experience unusual circumstances that require support in excess of the amount distributed.

581. Some commenters support the Joint Board's recommendation to place rural carriers on a protected support mechanism pending the adoption of a forward-looking cost methodology. Many commenters also advocate continuing the existing high cost support mechanisms according to the existing rules. Other commenters, however, offered alternative proposals to modify the existing system based on embedded costs. The proposals included: capping support levels; changing the benchmark for high cost loop support to an indexed nationwide average loop cost; maintaining the interstate DEM allocation factor to a historic level; and calculating LTS based on the percentage of the common line pool represented by LTS in 1996. A few commenters, however, suggest placing rural carriers on a forward-looking mechanism immediately.

582. We decline to adopt the Joint Board's recommendation to calculate support for each line based on protected historical amounts at this time because we conclude that such a mechanism would not provide rural carriers adequate support for providing universal service because carriers would not be able to afford prudent facility upgrades. Instead, we adopt the proposal to calculate high cost loop support based on an inflation adjusted nationwide loop cost. We also adopt the proposal to calculate DEM weighting assistance by maintaining the interstate allocation factor defined by the weighted DEM at 1996 levels for each of their study areas. We find, however, that the proposal to calculate LTS based on the percentage of the common line pool represented by LTS in 1996 will not work because we will no longer be able to determine a nationwide CCL charge once the non-pooling carriers switch to per-line, rather than a per-minute, CCL charge. Instead, we adopt a modified form of the Joint Board's recommendation regarding LTS by calculating a rural carrier's LTS support based on the percentage of increase of the nationwide average loop cost because increases in LTS support shall be tied to changes in common line revenue requirements. In order to control the growth of the support mechanisms without impacting an individual carrier disproportionately, we adopt the proposal to cap support levels by continuing to cap the high cost loop support mechanism. We conclude that we should not convert small, rural carriers to an alternative forward-looking cost methodology immediately because the carriers may not be able to absorb a significant change in support levels.

Summary Analysis: Section VIII

Support for Low-Income Consumers

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

583. The state commission shall file or require the carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in the federal rules, and stating the number of qualifying low-income consumers and the amount of state assistance. These recommended reporting and recordkeeping requirements may require clerical and administrative skills.

584. Consumers in participating states who seek to receive Lifeline support shall follow state consumer

qualification guidelines. Consumers in non-participating states who seek to receive Lifeline support shall sign a document, provided by the carrier offering Lifeline service, certifying under penalty of perjury that the consumer receives benefits from one of the programs included in the federal default qualification standard. Carriers in non-participating states shall provide consumers seeking Lifeline service with such forms.

585. Carriers can request from their state utilities regulator a period of time during which they may receive universal service support for serving Lifeline consumers while they complete upgrading their switches in order to be able to offer toll-limitation. Carriers may also request from their state utilities regulator a waiver of the requirement prohibiting disconnection of local service for non-payment of toll charges.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

586. Based on the Commission's prior experience administering Lifeline, we find that requiring carriers to keep track of the number of their Lifeline consumers and to file information with the federal universal service Administrator will not impose a significant burden on small carriers since little information is required and the information is generally accessible. Accordingly, we do not anticipate that this requirement will impose a significant burden on small carriers.

Summary Analysis: Section IX

Insular Areas

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

587. Section 254(b)(3) establishes the principle that consumers in insular areas should have access to telecommunications and information services that are reasonably comparable, and at rates that are reasonably comparable, to those provided in urban areas. The 1996 Act does not require and we did not establish any new reporting or recordkeeping requirements in this section.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

588. As set forth in section IX.C, we find that residents and carriers in the insular areas, including the Pacific Island territories, should have access to all the universal service programs, including those for high cost support, low-income assistance, schools, libraries, and rural health care providers. To the extent that they qualify, we conclude that small entities in insular areas will benefit, both as consumers and providers of telecommunications and information services, from such support.

Summary Analysis: Section X

Schools and Libraries

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

589. We will require service providers to certify to the Administrator that the price offered to schools, libraries, library consortia, or consortia that include schools or libraries is no more than the lowest corresponding price. This requirement is designed to ensure that schools, libraries, and library consortia receive the lowest possible pre-discount price. We also require service providers to keep and retain careful records of how they have allocated the costs of shared facilities used by consortia to ensure that only eligible schools, libraries, and library consortia derive the benefits of discounts under § 254(h) and to ensure that no prohibited resale occurs.

590. We will require, for schools and school districts, that the person responsible for ordering telecommunications and other supported services and facilities certify to the Administrator the percentage of students eligible for the national school lunch program. We also permit schools to use federally approved alternative mechanisms to compute the percentage of students eligible for the national school lunch program. This latter option is particularly helpful to schools that either do not participate in the school lunch program or that have a tradition of undercounting eligible students (e.g., secondary schools, urban schools with highly transient populations, and some rural schools). We require libraries to certify to the percentage of students eligible for the national school lunch program in the school district in which the library is located or to which children would attend public school. This requirement is necessary to enable the Administrator to determine how disadvantaged the entity is and, thus, its eligibility for the greater discounts provided to more disadvantaged entities.

591. We will also require that schools and libraries secure a certification from their state or an independent entity approved by the Commission that they have a technology plan for using the services ordered pursuant to section 254(h). Moreover, we will also require them to certify that they have budgeted sufficient funds, and that such funding will have been approved prior to the start of service, to support all of the costs they will face to use effectively all of the purchases they make under this program. This requirement will help to ensure that schools and libraries avoid the waste that might arise if schools and libraries ordered expensive services before they had other resources needed to use those services effectively.

592. We will require schools, libraries, library consortia, and consortia that include schools or libraries to send a description of the services they are requesting to a subcontractor of the Administrator. The subcontractor will then post a description of the services sought on an Internet website for all potential competing service providers to review. We conclude that this requirement will help achieve Congress's intent that schools and libraries take advantage of the potential for competitive bids. We conclude that the request for service should be signed by the person authorized to order telecommunications and other supported services and facilities for the school, library, or library consortium, certifying the following under oath: (1) The school or library is an eligible entity under section 254(h)(4); (2) the services requested will be used solely for educational purposes; and (3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value. If the services are being purchased as part of an aggregated purchase with other entities, schools, libraries, and library consortia will also be required to list the identities of all consortium members. Requiring schools, libraries, library consortia and consortia that include schools or libraries to disclose the identities of consortia members should be minimally burdensome because we only require the institutions to provide basic information, such as the names of all consortia members, addresses, and telephone numbers.

593. We will require schools and libraries, as well as carriers, to maintain records for their purchases of telecommunications and other supported services and facilities at discounted rates, similar to the kinds of procurement records that they already keep for other purchases. We expect that schools and libraries should be able to produce such records at the request of any auditor appointed by a state education department, the

Administrator, or any other state or federal agency with jurisdiction to review such records for possible misuse. We conclude carriers should provide notification on the availability of discounts. We find that these reporting and recordkeeping requirements are necessary to ensure that schools and libraries use the discounted telecommunications services for the purposes intended by Congress. For all of these requirements described in this section some administrative, accounting, and clerical skills may be required.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives.

594. The requirement that service providers certify to the Administrator that the prices they charge to eligible schools, libraries, library consortia, and consortia that include schools or libraries are no more than the lowest corresponding price should be minimally burdensome, given that service providers could be expected to review the prices they charge to similarly situated customers when they set the price for schools and libraries. We reject suggestions to require all carriers to offer services at total service long-run incremental cost levels because of the burdens it would create. Similarly, because schools and libraries that form consortia with non-eligible entities will need to inform the service provider of what portion of shared facilities purchased by the consortia should be charged to eligible schools and libraries (and discounted by the appropriate amounts), it should not be burdensome for carriers to maintain records of those allocations for some appropriate amount of time.

595. With respect to service providers, we reject the suggestion to interpret ''geographic area'' to mean the entire state in which a service provider serves. This could force service providers to serve areas in a state that they were not previously serving, thereby unreasonably burdening small carriers that were only prepared to serve some small segment of a state. We also reject an annual carrier notification requirement. We conclude that we should only require that carriers provide notification on availability of discounts.

596. Schools and libraries should not be significantly burdened by the requirement that they certify the following: (1) That they are eligible for support under sections 254(h)(4) and 254(h)(5); (2) that the services purchased at a discount are used for educational services; and (3) that those services will not be resold. Assuming that schools and libraries will need to inform carriers about what discount they are eligible to receive, there should be no significant burden imposed by requiring them to certify that they will satisfy the statutory requirements imposed by Congress. Requiring schools, libraries, library consortia and consortia that include schools or libraries to disclose the identities of consortia members should be minimally burdensome because we only require the institutions to provide basic information, such as the names of all consortia members, addresses, and telephone numbers. This information should be readily available to schools, libraries, and library consortia and will be necessary for the Administrator to compile in the event of an audit designed to prevent waste, fraud, and abuse. We note, however, that schools and libraries need not participate in consortia for purposes of the universal service discount program. We conclude that by purchasing as a consortium, individual schools and libraries would be in a better position to take advantage of any price discounts a provider may offer as a result of either efficiencies that it may enjoy from supplying services to a large customer, or from the natural incentives for sellers in a competitive market to offer quantity discounts to large users. We find that the possibility of reaping such benefits will often lead schools and libraries to join consortia despite any attendant administrative burdens.

597. The requirement that schools and libraries submit a description of the services and facilities that they are requesting to the subcontractor of the Administrator should also be minimally burdensome. School and library boards generally require schools and libraries to seek competitive bids for substantial purchases; this forces them to create a description of their purchase needs. We find that it will be minimally burdensome to require schools, libraries, and library consortia to submit a copy of that description to the subcontractor. We further find that this requirement will be much less burdensome than requiring schools and libraries to submit a description of their requests to all telecommunications carriers in their state, as proposed by one commenter. It also will be less burdensome than a requirement that schools and libraries demonstrate that they have participated in a more formal competitive bidding process.

598. We conclude that it will not be unreasonably burdensome to require schools and libraries to secure certification from their state or an independent entity approved by the Commission, that they have undertaken a technology assessment/inventory and adopted a plan for deploying any resources necessary to use their discounted services and facilities effectively. We expect that few schools or libraries will propose to spend their own money for discounted services until they believe that they could use the services effectively. Therefore, requiring them to secure a certification from an independent expert source that they had done such planning and conducted a technology assessment will be a minimally burdensome way to ensure that schools and libraries are aware of the other resources they need to procure before ordering discounted telecommunications and other supported services and facilities. Furthermore, we observe that the Commission will provide information to schools and libraries lacking information about what resources they may need through a Department of Education website. Although this alternative is more burdensome than the use of a self-certification standard, we find that it is necessary to provide the level of accountability that is in the public interest.

599. We also conclude that the least burdensome manner for schools to demonstrate that they are disadvantaged will be to certify to the Administrator the percentage of students eligible for the national school lunch program in the individual schools or school district because the vast majority of schools already participate in the national student lunch program. We also conclude that allowing schools to use federally approved proxies as a method for computing the percentage of eligible students lessens the administrative burden for schools that either do not participate in the national school lunch program or have a tradition of undercounting eligible students. We also find that requiring libraries to demonstrate their level of disadvantage by relying on national school lunch data for the school district in which they are located provides a reasonable result with a minimal burden. Many libraries urged that they be allowed to use census poverty data, rather than the student lunch eligibility standard. In fact, the ALA volunteered to provide every library with the appropriate poverty level figures, based on the use of a commercially available software program for calculating poverty levels for a 1-mile radius around each library from census data. Those parties, however, failed to provide support for

us to conclude that the poverty level in a 1-mile radius of the library was a reasonable approximation of the poverty level for the library's entire service area. Meanwhile, eligible schools and libraries that prefer not to provide information on their levels of economic disadvantage will still qualify for the minimum 20 percent discount on eligible purchases.

600. To foster vigorous competition for serving schools and libraries, we conclude that non-telecommunications carriers must also be permitted to compete to provide these services in conjunction with telecommunications carriers or even their own. Therefore, we encourage non-telecommunications carriers either to enter into partnerships or joint ventures with telecommunications carriers that are not currently serving the areas in which the libraries and schools are located or to offer services on their own. We encourage small businesses both to form such joint ventures and compete on their own.

Summary Analysis: Section XI

Health Care Providers

Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

601. Section 254(h)(1)(A) provides that a telecommunications carrier shall be required to provide rural health care providers with services at rates reasonably comparable to those charged for similar services in urban areas of their state. The providing telecommunications carrier shall then be entitled to universal service support based on the difference, if any, between the rate charged to the health care provider and the rate for similar services provided to other customers in comparable rural areas of the state. We find that every health care provider, including small entities, that makes a request for universal service support for telecommunications services shall be required to submit to the Administrator a written request, signed by an authorized officer of the health care provider, certifying under oath information designed to ensure that universal service support to eligible health care providers is used for its intended purpose and not abused. These requirements may require some administrative, accounting, and legal skills.

602. To minimize the administrative burden on health care providers to the extent consistent with section 254, we adopt the least burdensome certification plan that will provide safeguards that are adequate to ensure that the supported services will be obtained lawfully and for their intended purpose.

603. We are requiring the Administrator to establish and administer a monitoring and evaluation program to oversee the use of supported services by health care providers and the pricing of those services by carriers. Accordingly, health care providers, as well as carriers, will be required to maintain the same kind of procurement records for purchases under this program as they now keep for other purchases involving government programs or third-party payors. Health care providers must be able to produce such records at the request of any auditor appointed by the Administrator or any state or federal agency with jurisdiction that might conduct audits. Health care providers may be subject to random compliance audits to ensure that services are being used for the provision of state authorized health care, that they are complying with other certification requirements, that they are otherwise eligible to receive universal service support, that rates charged comply with the statute and regulations and that prohibitions against resale or transfer for profit are strictly enforced, particularly with respect to consortia. Such information will permit the Commission to determine whether universal service support policies require adjustment. The Administrator shall also develop a method for obtaining information from health care providers regarding which services they are purchasing and how such services are being used, and shall submit an annual report to the Commission. This report will enable the Commission to monitor the progress of health care providers in obtaining access to telecommunications and other information services.

604. We encourage carriers across the country to notify eligible health care providers in their service areas of the availability of lower rates resulting from universal service support so that rural health care providers are able to take full advantage of the supported services.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

605. We have considered several certification plans suggested by commenters. We seek to adopt the least burdensome certification plan that will provide adequate safeguards to ensure that the supported services are being used for their intended purpose. We reject a suggestion that certification include verification of the existence of a technology plan and a checklist of other information for tracking universal service. Although such plans might be useful in a discount plan where disincentives to overpurchasing are needed, we find that such a requirement will be unnecessarily burdensome where health care providers, many of whom may be small entities, would be required to invest substantial resources in order to pay urban rates for these services. We also reject, for similar reasons, suggestions that health care providers be required to certify that hardware, wiring, on-site networking, and training would be deployed simultaneously with the service. Finally, we reject a proposal that the financial officers of health care provider organizations be required to attest under oath that funds have been used as intended by the 1996 Act, because we find that the pre-expenditure certification described above, which will be submitted to the carrier along with the request for services, is sufficient under these circumstances.

606. To minimize the administrative burden on regulators and carriers, to the extent consistent with section 254, we find that the urban rate should be based on the rates charged for similar services in the urban area with a population of at least 50,000 closest to the health care provider's location. We conclude that this one-step process will be easy to use and understand and will, therefore, be less administratively burdensome than other possible approaches. This method is also preferable to one that would require information about private contract rates, which are proprietary and cannot be obtained without elaborate confidentiality safeguards.

607. We acknowledge the concern of some commenters that requiring carriers to treat the amount of support for health care providers as an offset to the carrier's universal service obligation is anti-competitive for small carriers that have such small funding obligations that they would not receive the full offset to which they were entitled in the current year. Therefore, while we adopt the Joint Board's recommendation to limit carriers to offsets rather than direct reimbursement for the first year's service, we also adopt modifications to reflect these concerns. Although we disagree with NYNEX's suggestion that the statute precludes a mandatory offset rule, we conclude that allowing direct compensation under some circumstances is consistent with the statutory language and sound policy. We conclude that telecommunications carriers providing services to health care providers at reasonably comparable rates under the provisions of section

254(h)(1)(A) should treat the amount eligible for support as an offset toward the carrier's universal service support obligation for the year in which the expenses were incurred. To the extent that the amount of universal service support due to a carrier exceeds the carrier's universal service obligation, calculated on an annual basis, however, we find that the carrier may receive a direct reimbursement in the amount of the difference.

608. This approach should address the potential problem when the total amount of a carrier's rate reductions exceed its universal service obligation in any one year. Moreover, allowing carriers to receive direct reimbursements should help ensure that they have adequate resources to cover the costs of providing supported services. As some commenters suggest, small carriers will find it difficult to sustain such costs absent prompt reimbursement. Pursuant to this approach, those small carriers who do not contribute to the universal service fund because they are subject to the *de minimis* exemption may receive direct reimbursement as well. We agree with the Joint Board that an offset mechanism is both less vulnerable to manipulation and more easily administered and monitored than direct reimbursement. We conclude, however, that the approach we adopt appropriately balances the concerns of carriers whose rate reductions exceed their contributions in a given year against the need to adopt a reimbursement method that may be easily administered and monitored.

609. To identify rural health care providers, we adopt the Office of Management and Budget's Metropolitan Statistical Area method of designating rural areas along with the Goldsmith Modification because it will meet the ''ease of administration'' criterion. Since lists of MSA counties and Goldsmith-identified census blocks and tracts already exist, updated to 1995, it should be relatively easy for any health care provider to determine if it is located in a rural area and, therefore, whether it will meet the test of eligibility for support.

Summary Analysis: Section XII

Subscriber Line Charges and Carrier Common Line Charges

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

610. The Commission's universal service rules regarding the interstate subscriber line charge and carrier common line charges will not impose any additional reporting requirements on any entities, including small entities. Although we changed the amount of the charges, the changes will have no impact on the information collection requirement, and will not extend the charges to additional carriers. Some accounting skills may be necessary to modify the charges.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

611. Because the SLC and CCL charges will recover ILECs' costs for portions of their network, reporting requirements were deemed necessary to track the costs and allow for their recovery. No alternatives were presented that would have eliminated or substantially reduced those reporting requirements. The Commission's findings have no impact on the information collection requirement and will not extend the charges to any additional carriers.

612. We note, in section XII.C, that some commenters suggest that the SLC cap for businesses with single connections be raised above the $3.50 cap. We reject this suggestion noting that the SLC charge is assessed directly on local telephone subscribers and, therefore, has an impact on universal service concerns such as affordability of rates. We do not agree with the SBA that the SLC should be reduced for businesses with multiple connections. While not all businesses with multiple connections may be large corporations, we conclude that such businesses have demonstrated that telecommunication services are affordable by subscribing to multiple connections. We are also concerned that a reduction in SLC caps would have a negative impact on the economic efficiency of the Commission's common line recovery regime. We conclude that a reduction in the SLC cap for businesses with multiple connections is not warranted at this time.

Summary Analysis: Section XIII

Administration

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

613. Section 254(d) states ''that all telecommunications carriers that provide interstate telecommunications services shall make equitable and nondiscriminatory contributions'' toward the preservation and advancement of universal service. We shall require all telecommunications carriers that provide interstate telecommunications services and some providers of interstate telecommunications to contribute to the universal service support mechanisms. Contributions for support for programs for high cost areas and low-income consumers will be assessed on the basis of interstate and international end-user telecommunications revenues. Contributions for support for programs for schools, libraries, and rural health care providers will be assessed on the basis of interstate, intrastate, and international end-user telecommunications revenues. Contributors will be required to submit information regarding their end-user telecommunications revenues. Approximately 5,000 telecommunications carriers and providers will be required to submit contributions. These tasks may require some administrative, accounting, and legal skills.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

614. We reject the suggestion of some commenters that CMRS providers, many of whom may qualify as small businesses, should not be required to contribute, or should be allowed to contribute at a reduced rate, due to their contention that they will not be eligible to receive universal service support. We note that section 254(d) provides that ''every telecommunications carrier that provides interstate telecommunications services shall contribute on an equitable and nondiscriminatory basis'' with no such exemption for any CMRS providers or ineligible carriers. We find, however, that entities that provide only international telecommunications services are not required to contribute to universal service support because they are not ''telecommunications carriers that provide interstate telecommunications.'' To the extent that small carriers provide only international telecommunications service, they will not be required to contribute to the universal service support mechanisms.

615. As set forth in section XIII.D, we conclude that small carriers should not be given preferential treatment in the determination of contributions to the universal service support mechanisms solely on the basis of being small entities because of section 254(d)'s explicit directive that every telecommunications carrier that provides interstate telecommunications services shall contribute to the preservation and advancement of

universal service. We have considered the suggestions of commenters regarding various graduated contribution schemes that would favor small entities. We reject these suggestions based on the language of the statute, legislative history, and the regulatory burdens that such graduated schemes would entail. We have considered commenter suggestions that small carriers be exempted from contribution on the basis of the *de minimis* provision of section 254(d). We reject these suggestions on the basis of the legislative history surrounding section 254(d) that provides that the *de minimis* exemption should be limited to those carriers for whom the cost of collecting the contribution exceeds the amount of the contribution. As set forth in section XIII.D, we find that if a contributor's contribution to universal service in any given year is less than $100.00, that contributor will not be required to submit a contribution for that year. We conclude that expanding the definition of *de minimis* to include ''small'' carriers would violate the ''pro-competitive'' intent of the 1996 Act and require complex administration and regulation to determine and monitor eligibility for the exemption. We believe that small entities may benefit under the *de minimis* exemption as interpreted in the Order without an explicit exemption for all small entities. We also believe that small payphone aggregators, such as grocery store owners, will be exempt from contribution requirements pursuant to our *de minimis* exemption.

E.Report to Congress

616. The Commission shall send a copy of this FRFA, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A summary of this FRFA will also be published in the **Federal Register**.

Ordering Clauses

Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 214, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 214, 254, 303(r), 403, and 410, the Report and order is Adopted, including the collection of information provisions contained herein, effective July 17, 1997.

It is further ordered that part 54 of the Commission's rules, 47 CFR part 54 is added as set forth below, effective July 17, 1997; except for subpart E which will become effective January 1, 1998.

It is further ordered that part 36 of the Commission's rules, 47 CFR part 36 is amended as set forth below, effective July 17, 1997.

It is further ordered that part 69 of the Commission's rules, 47 CFR part 69 is amended as set forth below, effective July 17, 1997.

It is further ordered that, pursuant to section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c)(1), authority is delegated to the Chief, Common Carrier Bureau, to perform the following functions: (1) To propose, approve, or deny a new definition of a service area of a rural telephone company pursuant to 47 U.S.C. 214(e)(5) and 47 CFR 54.307; (2) to review an appeal filed by a carrier contending that a state commission has improperly denied a request for waiver of the rule prohibiting disconnection of Lifeline service for non-payment of toll charges; and (3) to resolve a carrier's request for a waiver of the rule prohibiting disconnection of Lifeline service for non-payment of toll charges when the relevant state commission chooses not to act on such a request.

It is further ordered that if any portion of this Order or any regulation implementing this Order is held invalid, either generally or as applied to particular persons or circumstances, the remainder of the Order or regulations, or their application to other persons or circumstances, shall not be affected.

List of Subjects

47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

47 CFR Part 54

Health facilities, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Parts 36 and 69 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 is revised to read as follows:

Authority: 47 U.S.C. Secs. 151, 154 (i) and (j), 205, 221(c), 254, 403 and 410.

2. Section 36.125 is amended by removing and reserving paragraphs (c), (d), and (e), adding paragraphs (a)(3), (a)(4) and (a)(5), and revising paragraphs (b) and (f) to read as follows:

§ 36.125 Local Switching Equipment—Category 3.

(a) * * *

(3) Dial equipment minutes of use (DEM) is defined as the minutes of holding time of the originating and terminating local switching equipment. Holding time is defined in the Glossary.

(4) The interstate allocation factor is the percentage of local switching investment apportioned to the interstate jurisdiction.

(5) The interstate DEM factor is the ratio of the interstate DEM to the total DEM. A weighted interstate DEM factor is the product of multiplying a weighting factor, as defined in paragraph (f) of this section, to the DEM factor. The state DEM factor is the ratio of the state DEM to the total DEM.

(b) Beginning January 1, 1993, Category 3 investment for study areas with 50,000 or more access lines is apportioned to the interstate jurisdiction on the basis of the interstate DEM factor. Category 3 investment for study areas with 50,000 or more access lines is apportioned to the state jurisdiction on the basis of the state DEM factor.

(c) [Reserved]

(d) [Reserved]

(e) [Reserved]

(f) Beginning January 1, 1993 and ending December 31, 1997, for study areas with fewer than 50,000 access lines, Category 3 investment is apportioned to the interstate jurisdiction by the application of an interstate allocation factor that is the lesser of either .85 or the product of the interstate DEM factor specified in paragraph (a)(5) of this section multiplied by a weighting factor, as determined by the table below. Beginning January 1, 1998, for study areas with fewer than 50,000 access lines, Category 3 investment is apportioned to the interstate jurisdiction by the application of an interstate allocation factor that is the lesser of either .85 or the sum of the interstate

DEM factor specified in paragraph (a)(5) of this section and the difference between the 1996 weighted interstate DEM factor and the 1996 interstate DEM factor. The Category 3 investment that is not assigned to the interstate jurisdiction pursuant to this paragraph is assigned to the state jurisdiction.

Number of access lines in service in study area	Weighting factor
0–10,000	3.0
10,001–20,000	2.5
20,001–50,000	2.0
50,001–or above	1.0

* * * * *

3. Section 36.601 is amended by revising paragraphs (a) and (c) to read as follows:

§ 36.601 General.

(a) The term Universal Service Fund in this subpart refers only to the support for loop-related costs included in § 36.621. The term Universal Service in part 54 of this chapter refers to the comprehensive discussion of the Commission's rules implementing section 254 of the Communications Act of 1934, as amended, 47 U.S.C. 254, which addresses universal service support for rural, insular, and high cost areas, low-income consumers, schools and libraries, and health care providers. The expense adjustment calculated pursuant to this subpart F shall be added to interstate expenses and deducted from state expenses after expenses and taxes have been apportioned pursuant to subpart D of this part.

* * * * *

(c) The annual amount of the total nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total loop cost expense adjustment for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the July 31st filing. The total loop cost expense adjustment shall consist of the loop cost expense adjustments, including amounts calculated pursuant to §§ 36.612(a) and 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the calendar year preceding the July 31st filing and the number of total working loops on December 31 of the second calendar year preceding that filing, both calculated pursuant to § 36.611(a)(8). Beginning January 1, 1999, non-rural carriers shall no longer receive support pursuant to this subpart F. Beginning January 1, 1999, the total loop cost expense adjustment shall not exceed the total amount of the loop cost expense adjustment provided to rural carriers for the immediately preceding calendar year, adjusted to reflect the rate of change in the total number of working loops of rural carriers during the calendar year preceding the July filing. In addition, effective on January 1 of each year, beginning January 1, 1999, the maximum annual amount of the total loop cost expense adjustment for rural carriers must be further increased or decreased to reflect:

(1) The addition of lines served by carriers that were classified as non-rural in the prior year but which, in the current year, meet the definition of ''rural telephone company;'' and

(2) The deletion of lines served by carriers that were classified as rural in the prior year but which, in the current year, no longer meet the definition of ''rural telephone company.'' A rural carrier is defined as a carrier that meets the definition of a ''rural telephone company'' in § 51.5 of this chapter. Limitations imposed by this subsection shall apply only to amounts calculated pursuant to this subpart F.

4. Section 36.611 is revised to read as follows:

§ 36.611 Submission of information to the National Exchange Carrier Association (NECA).

In order to allow determination of the study areas that are entitled to an expense adjustment, each incumbent local exchange carrier (ILEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to part 69 of this chapter) with the information listed below for each of its study areas. This information is to be filed with the Association by July 31st of each year. The information filed on July 31st of each year will be used in the jurisdictional allocations underlying the cost support data for the access charge tariffs to be filed the following October. An incumbent local exchange carrier is defined as a carrier that meets the definition of an ''incumbent local exchange carrier'' in § 51.5 of this chapter.

(a) Unseparated, i.e., state and interstate, gross plant investment in Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 and Exchange Line Central Office (CO) Circuit Equipment Category 4.13. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(b) Unseparated accumulated depreciation and noncurrent deferred federal income taxes, attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. These amounts shall be calculated as of December 31st of the calendar year preceding each July 31st filing, and shall be stated separately.

(c) Unseparated depreciation expense attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual depreciation expense for the calendar year preceding each July 31st filing.

(d) Unseparated maintenance expense attributable to Exchange Line C&WF Subcategory 1.3 investment and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual repair expense for the calendar year preceding each July 31st filing.

(e) Unseparated corporate operations expenses, operating taxes, and the benefits and rent portions of operating expenses. The amount for each of these categories of expense shall be the actual amount for that expense for the calendar year preceding each July 31st filing. The amount for each category of expense listed shall be stated separately.

(f) Unseparated gross telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(g) Unseparated accumulated depreciation and noncurrent deferred federal income taxes attributable to total unseparated telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(h) The number of working loops for each study area. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. This figure shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

5. Section 36.612 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 36.612 Updating information submitted to the National Exchange Carrier Association.

(a) Any telecommunications company may update the information submitted

to the National Exchange Carrier Association pursuant to § 36.611(a)(1) through (a)(8) of this part one or more times annually on a rolling year basis. Carriers wishing to update the preceding calendar year data filed July 31st may:

* * * * *

6. Section 36.613 is amended by revising the first sentence of the introductory text of paragraph (a) to read as follows:

§ 36.613 Submission of information by the National Exchange Carrier Association.

(a) On October 1 of each year, the National Exchange Carrier Association shall file with the Commission and any other party designated as the Permanent Administrator the information listed below. * * *

7. Section 36.621 is amended by revising paragraph (a)(4) to read as follows:

§ 36.621 Study area total unseparated loop cost.

(a) * * *

(4) Corporate Operations Expenses, Operating Taxes and the benefits and rent portions of operating expenses, as reported in § 36.611(a)(5) attributable to investment in C&WF Category 1.3 and COE Category 4.13. This amount is calculated by multiplying the total amount of these expenses and taxes by the ratio of the unseparated gross exchange plant investment in C&WF Category 1.3 and COE Category 4.13, as reported in § 36.611(a)(1), to the unseparated gross telecommunications plant investment, as reported in § 36.611(a)(6). Total Corporate Operations Expense, for purposes of calculating universal service support payments beginning January 1, 1998, shall be limited to the lesser of:

(i) The actual average monthly per-line Corporate Operations Expense; or

(ii) A per-line amount computed according to paragraphs (a)(4)(ii)(A) and (a)(4)(ii)(B) of this section. To the extent that some carriers' corporate operations expenses are disallowed pursuant to these limitations, the national average unseparated cost per loop shall be adjusted accordingly.

(A) For study areas of 10,000 or fewer working loops; [$27.12 minus (.002 times the number of working loops)] times 1.15.

(B) For study areas of more than 10,000 working loops; $7.12 times 1.15, which equals $8.19.

8. Section 36.622 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 36.622 National and study area average unseparated loop costs.

* * * * *

(c) The National Average Unseparated Loop Cost per Working Loop shall be the greater of:

(1) The amount calculated pursuant to the method described in paragraph (a) of this section; or

(2) An amount calculated to produce the maximum total Universal Service Fund allowable pursuant to § 36.601(c).

(d) Beginning January 1, 2000, the National Average Unseparated Loop Cost per Working Loop shall be the greater of:

(1) The 1997 national-average unseparated loop cost per working loop plus an annual inflation adjustment. The annual inflation adjustment shall be based on the Gross Domestic Product Chained Price Index (GDP-CPI) of the year which the loop costs are reported pursuant to § 36.611. As an example, the inflation-adjusted nationwide average loop cost for the year 2000 shall be calculated in the following manner:

1998 GDP-CPI ÷ 1997 GDP-CPI × 1997 nationwide average loop cost = 2000 inflation-adjusted nationwide average loop cost.

or

(2) An amount calculated to produce the maximum total Universal Service Fund allowable pursuant to § 36.601(c).

9. In § 36.701, paragraph (c) is added to read as follows:

§ 36.701 General

* * * * *

(c) This subpart shall be effective through December 31, 1997. On January 1, 1998, Lifeline Connection Assistance shall be provided in accordance with part 54, subpart E of this chapter.

10. Part 54 of Title 47 of the Code of Federal Regulations is added to read as follows:

PART 54—UNIVERSAL SERVICE

Subpart A—General Information

Sec.
54.1 Basis and purpose.
54.5 Terms and definitions.
54.7 Intended use of federal universal service support.

Subpart B—Services Designated for Support

54.101 Supported services for rural, insular and high cost areas.

Subpart C—Carriers Eligible for Universal Service Support

54.201 Designation of eligible telecommunications carriers, generally.
54.203 Designation of eligible telecommunications carriers for unserved areas.
54.205 Relinquishment of universal service.
54.207 Service areas.

Subpart D—Universal Service Support for High Cost Areas

54.301 Local switching support.
54.303 Long term support.
54.305 Sale or transfer of exchanges.
54.307 Support to a competitive eligible telecommunications carrier.

Subpart E—Universal Service Support for Low Income Consumers

54.400 Terms and definitions.
54.401 Lifeline defined.
54.403 Lifeline support amount.
54.405 Carrier obligation to offer Lifeline.
54.407 Reimbursement for offering Lifeline.
54.409 Consumer qualification for Lifeline.
54.411 Link up program defined.
54.413 Reimbursement for revenue forgone in offering a Link Up program.
54.415 Consumer qualification for Link Up.
54.417 Transition to the new Lifeline and Link Up programs.

Subpart F—Universal Service Support for Schools and Libraries

54.500 Terms and definitions.
54.501 Eligibility for services provided by telecommunications carriers.
54.502 Supported telecommunications services.
54.503 Other supported special services.
54.504 Requests for service.
54.505 Discounts.
54.507 Cap.
54.509 Adjustments to the discount matrix.
54.511 Ordering services.
54.513 Resale.
54.515 Distributing support.
54.516 Auditing.
54.517 Services provided by non-telecommunications carriers.

Subpart G—Universal Service Support for Health Care Providers

54.601 Eligibility.
54.603 Competitive bidding.
54.605 Determining the urban rate.
54.607 Determining the rural rate.
54.609 Calculating support.
54.611 Distributing support.
54.613 Limitations on supported services for rural health care providers.
54.615 Obtaining services.
54.617 Resale.
54.619 Audit program.
54.621 Access to advanced telecommunications and informationservices.
54.623 Cap.

Subpart H—Administration

54.701 Administrator of universal service support mechanisms.
54.703 Contributions.
54.705 *De minimis* exemption.
54.707 Audit controls.

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

Subpart A—General Information

§ 54.1 Basis and purpose.

(a) *Basis.* These rules are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of these rules is to implement section 254 of the Communications Act of 1934, as amended, 47 USC 254.

§ 54.5 Terms and definitions.

Terms used in this part have the following meanings:

Act. The term ''Act'' refers to the Communications Act of 1934, as amended.

Administrator. The ''administrator'' is the entity that administers the universal service support mechanisms in accord with subpart H of this part.

Competitive eligible telecommunications carrier. A ''competitive eligible telecommunications carrier'' is a carrier that meets the definition of an ''eligible telecommunications carrier'' below and does not meet the definition of an ''incumbent local exchange carrier'' in § 51.5 of this chapter.

Eligible telecommunications carrier. ''Eligible telecommunications carrier'' means a carrier designated as such by a state commission pursuant to § 54.201.

Incumbent local exchange carrier. ''Incumbent local exchange carrier'' or ''ILEC'' has the same meaning as that term is defined in § 51.5 of this chapter.

Information service. ''Information service'' is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Internet access. ''Internet access'' includes the following elements:

(1) The transmission of information as common carriage;

(2) The transmission of information as part of a gateway to an information service, when that transmission does not involve the generation or alteration of the content of information, but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services, and that do not affect the presentation of such information to users; and

(3) Electronic mail services (e-mail).

Interstate telecommunication. ''Interstate telecommunication'' is a communication or transmission:

(1) From any State, Territory, or possession of the United States (other than the Canal zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia,

(2) From or to the United States to or from the Canal Zone, insofar as such communications or transmission takes place within the United States, or

(3) Between points within the United States but through a foreign country.

Interstate transmission. ''Interstate transmission'' is the same as interstate telecommunication.

Intrastate telecommunication. ''Intrastate telecommunication'' is a communication or transmission from within any State, Territory, or possession of the United States, or the District of Columbia to a location within that same State, Territory, or possession of the United States, or the District of Columbia.

Intrastate transmission. ''Intrastate transmission'' is the same as intrastate telecommunication.

LAN. ''LAN'' is a local area network, which is a set of high-speed links connecting devices, generally computers, on a single shared medium, usually on the user's premises.

Rural area. A ''rural area'' is a nonmetropolitan county or county equivalent, as defined in the Office of Management and Budget's (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s and identifiable from the most recent Metropolitan Statistical Area (MSA) list released by OMB, or any contiguous non-urban Census Tract or Block Numbered Area within an MSA-listed metropolitan county identified in the most recent Goldsmith Modification published by the Office of Rural Health Policy of the U.S. Department of Health and Human Services.

Rural telephone company. ''Rural telephone company'' has the same meaning as that term is defined in § 51.5 of this chapter.

State commission. The term ''state commission'' means the commission, board or official (by whatever name designated) that, under the laws of any state, has regulatory jurisdiction with respect to intrastate operations of carriers.

Technically feasible. ''Technically feasible'' means capable of accomplishment as evidenced by prior success under similar circumstances. For example, preexisting access at a particular point evidences the technical feasibility of access at substantially similar points. A determination of technical feasibility does not consider economic, accounting, billing, space or site except that space and site may be considered if there is no possibility of expanding available space.

Telecommunications. ''Telecommunications'' is the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications carrier. A ''telecommunications carrier'' is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services as defined in section 226 of the Act. A telecommunications carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage. This definition includes cellular mobile radio service (CMRS) providers, interexchange carriers (IXCs) and, to the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services. Private mobile radio service (PMRS) providers are telecommunications carriers to the extent they provide domestic or international telecommunications for a fee directly to the public.

Telecommunications channel. ''Telecommunications channel'' means a telephone line, or, in the case of wireless communications, a transmittal line or cell site.

Telecommunications service. ''Telecommunications service'' is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

§ 54.7 Intended use of federal universal service support.

A carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Subpart B—Services Designated for Support

§ 54.101 Supported services for rural, insular and high cost areas.

(a) *Services designated for support.* The following services or functionalities shall be supported by Federal universal service support mechanisms:

(1) *Voice grade access to the public switched network.* ''Voice grade access'' is defined as a functionality that enables a user of telecommunications services to

transmit voice communications, including signalling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For purposes of this part, voice grade access shall occur within the frequency range of between approximately 500 Hertz and 4,000 Hertz, for a bandwidth of approximately 3,500 Hertz;

(2) *Local usage.* ''Local usage'' means an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;

(3) *Dual tone multi-frequency signaling or its functional equivalent.* ''Dual tone multi-frequency'' (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;

(4) *Single-party service or its functional equivalent.* ''Single-party service'' is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

(5) *Access to emergency services.* ''Access to emergency services'' includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code ''911,'' to call emergency services through a Public Service Access Point (PSAP) operated by the local government. ''Enhanced 911'' is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. ''Access to emergency services'' includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;

(6) *Access to operator services.* ''Access to operator services'' is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

(7) *Access to interexchange service.* ''Access to interexchange service'' is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;

(8) *Access to directory assistance.* ''Access to directory assistance'' is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

(9) *Toll limitation for qualifying low-income consumers.* Toll limitation for qualifying low-income consumers is described in subpart E of this part.

(b) *Requirement to offer all designated services.* An eligible telecommunications carrier must offer each of the services set forth in paragraph (a) of this section in order to receive Federal universal service support.

(c) *Additional time to complete network upgrades.* A state commission may grant the petition of a telecommunications carrier that is otherwise eligible to receive universal service support under § 54.201 requesting additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible telecommunications carrier will be permitted to receive universal service support for the duration of the period designated by the state commission. State commissions should grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period should extend only as long as the relevant state commission finds that exceptional circumstances exist and should not extend beyond the time that the state commission deems necessary for that eligible telecommunications carrier to complete network upgrades. An otherwise eligible telecommunications carrier that is incapable of offering one or more of these three specific universal services must demonstrate to the state commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

Subpart C—Carriers Eligible for Universal Service Support

§ 54.201 Designation of eligible telecommunications carriers, generally.

(a) Carriers eligible to receive support.

(1) Beginning January 1, 1998, only eligible telecommunications carriers designated under paragraphs (b) through (d) of this section shall receive universal service support distributed pursuant to part 36 and part 69 of this chapter, and subparts D and E of this part.

(2) Only eligible telecommunications carriers designated under paragraphs (b) through (d) of this section shall receive universal service support distributed pursuant to subpart G of this part. This paragraph does not apply to support distributed pursuant to § 54.621(a).

(3) This paragraph does not apply to support distributed pursuant to subpart F of this part.

(b) A state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for a service area designated by the state commission.

(c) Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

(d) A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, throughout the service area for which the designation is received:

(1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(2) Advertise the availability of such services and the charges therefore using media of general distribution.

(e) For the purposes of this section, the term *facilities* means any physical components of the telecommunications network that are used in the transmission or routing of the services

that are designated for support pursuant to subpart B of this part.

(f) For the purposes of this section, the term ''own facilities'' includes, but is not limited to, facilities obtained as unbundled network elements pursuant to part 51 of this chapter, provided that such facilities meet the definition of the term ''facilities'' under this subpart.

(g) A state commission shall not require a common carrier, in order to satisfy the requirements of paragraph (d)(1) of this section, to use facilities that are located within the relevant service area, as long as the carrier uses facilities to provide the services designated for support pursuant to subpart B of this part within the service area.

(h) A state commission shall designate a common carrier that meets the requirements of this section as an eligible telecommunications carrier irrespective of the technology used by such carrier.

(i) A state commission shall not designate as an eligible telecommunications carrier a telecommunications carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

§ 54.203 Designation of eligible telecommunications carriers for unserved areas.

(a) If no common carrier will provide the services that are supported by federal universal service support mechanisms under section 254(c) of the Act and subpart B of this part to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a state commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

(b) Any carrier or carriers ordered to provide such service under this section shall meet the requirements of section 54.201(d) and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

§ 54.205 Relinquishment of universal service.

(a) A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission of such relinquishment.

(b) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

§ 54.207 Service areas.

(a) The term *service area* means a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. A service area defines the overall area for which the carrier shall receive support from federal universal service support mechanisms.

(b) In the case of a service area served by a rural telephone company, *service area* means such company's ''study area'' unless and until the Commission and the states, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Act, establish a different definition of service area for such company.

(c) If a state commission proposes to define a service area served by a rural telephone company to be other than such company's study area, the Commission will consider that proposed definition in accordance with the procedures set forth in this paragraph.

(1) A state commission or other party seeking the Commission's agreement in redefining a service area served by a rural telephone company shall submit a petition to the Commission. The petition shall contain:

(i) The definition proposed by the state commission; and

(ii) The state commission's ruling or other official statement presenting the state commission's reasons for adopting its proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.

(2) The Commission shall issue a Public Notice of any such petition within fourteen (14) days of its receipt.

(3) The Commission may initiate a proceeding to consider the petition within ninety (90) days of the release date of the Public Notice.

(i) If the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with paragraph (b) of this section and section 214(e)(5) of the Act.

(ii) If the Commission does not act on the petition within ninety (90) days of the release date of the Public Notice, the definition proposed by the state commission will be deemed approved by the Commission and shall take effect in accordance with state procedures.

(d) The Commission may, on its own motion, initiate a proceeding to consider a definition of a service area served by a rural telephone company that is different from that company's study area. If it proposes such different definition, the Commission shall seek the agreement of the state commission according to this paragraph.

(1) The Commission shall submit a petition to the state commission according to that state commission's procedures. The petition submitted to the relevant state commission shall contain:

(i) The definition proposed by the Commission; and

(ii) The Commission's decision presenting its reasons for adopting the proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.

(2) The Commission's proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with paragraph (b) of this section and section 214(e)(5) of the Act.

(e) The Commission delegates its authority under paragraphs (c) and (d) of this section to the Chief, Common Carrier Bureau.

Subpart D—Universal Service Support for High Cost Areas

§ 54.301 Local switching support.

Beginning January 1, 1998, eligible rural telephone company study areas

with 50,000 or fewer access lines shall receive support for local switching costs, defined as Category 3 local switching costs under part 36 of this chapter, using the following formula: the carrier's annual unseparated local switching revenue requirement shall be multiplied by the local switching support factor. The local switching support factor shall be defined as the difference between the 1996 weighted interstate DEM factor, calculated pursuant to § 36.125(f) of this chapter, and the 1996 unweighted interstate DEM factor. If the number of a study area's access lines increases such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lower weighted interstate DEM factor shall be applied to the carrier's 1996 unweighted interstate DEM factor to derive a new local switching support factor. Beginning January 1, 1998, the sum of the unweighted interstate DEM factor and the local switching support factor shall not exceed .85. If the sum of those two factors would exceed .85, the local switching support factor must be reduced to a level that would reduce the sum of the factors to .85.

§ 54.303 Long term support.

Beginning January 1, 1998, eligible telephone companies that participate in the NECA Carrier Common Line pool and competitive eligible local telecommunications carriers will receive Long Term Support. Long Term Support shall be the equivalent of the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Common Carrier Line charge as calculated pursuant to § 69.105(b)(1) of this chapter. For calendar years 1998 and 1999, the Long Term Support for each eligible service area shall be adjusted each year to reflect the annual percentage change in the actual nationwide average loop cost as filed by the fund administrator in the previous calendar year, pursuant to § 36.622 of this chapter. Beginning January 1, 2000, the Long Term Support shall be adjusted each year to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP–CPI).

§ 54.305 Sale or transfer of exchanges.

A carrier that acquires telephone exchanges from an unaffiliated carrier shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges. A carrier that has entered into a binding commitment to buy exchanges prior to May 7, 1997 will receive support for the newly acquired lines based upon the average cost of all of its lines, both those newly acquired and those it had prior to execution of the sales agreement.

§ 54.307 Support to a competitive eligible telecommunications carrier.

(a) *Calculation of support.* A competitive eligible telecommunications carrier shall receive universal service support to the extent that the competitive eligible telecommunications carrier captures an incumbent local exchange carrier's (ILEC) subscriber lines or serves new subscriber lines in the ILEC's service area.

(1) A competitive eligible telecommunications carrier shall receive support for each line it serves based on the support the ILEC receives for each line.

(2) The ILEC's per-line support shall be calculated by dividing the ILEC's universal service support by the number of loops served by that ILEC at its most recent annual loop count.

(3) A competitive eligible telecommunications carrier that uses switching functionalities purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for switching or the per-line DEM support of the ILEC, if any. A competitive eligible telecommunications carrier that uses loops purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for the loop or the ILEC's per-line payment from the high cost loop support and LTS, if any. The ILEC providing nondiscriminatory access to unbundled network elements to such competitive eligible telecommunications carrier shall receive the difference between the level of universal service support provided to the competitive eligible telecommunications carrier and the per-customer level of support previously provided to the ILEC.

(4) A competitive eligible telecommunications carrier that provides the supported services using neither unbundled network elements purchased pursuant to § 51.307 of this chapter nor wholesale service purchased pursuant to section 251(c)(4) of the Act will receive the full amount of universal service support previously provided to the ILEC for that customer.

(b) *Submission of information to the Administrator.* In order to receive universal service support, a competitive eligible telecommunications carrier must provide the Administrator on or before July 31st of each year the number of working loops it serves in a service area. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. This figure shall be calculated as of December 31st of the year preceding each July 31st filing.

Subpart E—Universal Service Support for Low-Income Consumers

§ 54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Qualifying low-income subscriber.* A ''qualifying low-income subscriber'' is a subscriber who meets the low-income eligibility criteria established by the state commission, or, in states that do not provide state Lifeline support, a subscriber who participates in one of the following programs: Medicaid; food stamps; supplemental security income; federal public housing assistance; or Low-Income Home Energy Assistance Program.

(b) *Toll blocking.* ''Toll blocking'' is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) *Toll control.* ''Toll control'' is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) *Toll limitation.* ''Toll limitation'' denotes both toll blocking and toll control.

§ 54.401 Lifeline defined.

(a) As used in this subpart, *Lifeline* means a retail local service offering:

(1) That is available only to qualifying low-income consumers;

(2) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(3) That includes the services or functionalities enumerated in § 54.101 (a)(1) through (a)(9). The carriers shall offer toll limitation to all qualifying low-

income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation, that service shall become part of that consumer's Lifeline service.

(b) Eligible telecommunications carriers may not disconnect Lifeline service for non-payment of toll charges.

(1) State commissions may grant a waiver of this requirement if the local exchange carrier can demonstrate that:

(i) It would incur substantial costs in complying with this requirement;

(ii) It offers toll limitation to its qualifying low-income consumers without charge; and

(iii) Telephone subscribership among low-income consumers in the carrier's service area is greater than or equal to the national subscribership rate for low-income consumers. For purposes of this paragraph, a *low-income consumer* is one with an income below the poverty level for a family of four residing in the state for which the carrier seeks the waiver. The carrier may reapply for the waiver.

(2) A carrier may file a petition for review of the state commission's decision with the Commission within 30 days of that decision. If a state commission has not acted on a petition for a waiver of this requirement within 30 days of its filing, the carrier may file that petition with the Commission on the 31st day after that initial filing.

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.

(d) The state commission shall file or require the carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart and stating the number of qualifying low-income consumers and the amount of state assistance. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this Subpart.

§ 54.403 Lifeline support amount.

(a) The federal baseline Lifeline support amount shall equal $3.50 per qualifying low-income consumer. If the state commission approves an additional reduction of $1.75 in the amount paid by consumers, additional federal Lifeline support in the amount of $1.75 will be made available to the carrier providing Lifeline service to that consumer. Additional federal Lifeline support in an amount equal to one-half the amount of any state Lifeline support will be made available to the carrier providing Lifeline service to a qualifying low-income consumer if the state commission approves an additional reduction in the amount paid by that consumer equal to the state support multiplied by 1.5. The federal Lifeline support amount shall not exceed $7.00 per qualifying low-income consumer.

(b) Eligible carriers that charge federal End-User Common Line charges or equivalent federal charges shall apply the federal baseline Lifeline support to waive Lifeline consumers' federal End-User Common Line charges. Such carriers shall apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the state has approved of such additional support. Other carriers shall apply the federal baseline Lifeline support amount, plus the additional support amount, where applicable, to reduce their lowest tariffed (or otherwise generally available) residential rate for the services enumerated in § 54.101(a)(1) through (a)(9), and charge Lifeline consumers the resulting amount.

(c) Lifeline support for providing toll limitation shall equal the eligible telecommunications carrier's incremental cost of providing either toll blocking or toll control, whichever is selected by the particular consumer.

§ 54.405 Carrier obligation to offer Lifeline.

All eligible telecommunications carriers shall make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers.

§ 54.407 Reimbursement for offering Lifeline.

(a) Universal service support for providing Lifeline shall be provided directly to the eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves, under administrative procedures determined by the Administrator.

(b) The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served. For each consumer receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amount described in § 54.403(c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the carrier's standard, non-Lifeline rate.

(c) In order to receive universal service support reimbursement, the eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with § 54.401. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this Subpart.

§ 54.409 Consumer qualification for Lifeline.

(a) To qualify to receive Lifeline service in states that provide state Lifeline service support, a consumer must meet the criteria established by the state commission. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income.

(b) To qualify to receive Lifeline in states that do not provide state Lifeline support, a consumer must participate in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program. In states not providing state Lifeline support, each carrier offering Lifeline service to a consumer must obtain that consumer's signature on a document certifying under penalty of perjury that consumer receives benefits from one of the programs mentioned in this paragraph and identifying the program or programs from which that consumer receives benefits. On the same document, a qualifying low-income consumer also must agree to notify the carrier if that consumer ceases to participate in the program or programs.

§ 54.411 Link Up program defined.

(a) For purposes of this subpart, the term ''Link Up'' shall describe the following assistance program for qualifying low-income consumers, which an eligible telecommunications carrier shall offer as part of its obligation set forth in §§ 54.101(a)(9) and 54.101(b):

(1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reduction shall be half of the customary charge or $30.00, whichever is less; and

(2) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be

for connection charges of up to $200.00 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements.

(b) A qualifying low-income consumer may choose one or both of the programs set forth in paragraph (a) of this section.

(c) A carrier's Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

§ 54.413 Reimbursement for revenue forgone in offering a Link Up program.

(a) Eligible telecommunications carriers may receive universal service support reimbursement for the revenue they forgo in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with § 54.411.

(b) In order to receive universal service support reimbursement for providing Link Up, eligible telecommunications carriers must keep accurate records of the revenues they forgo in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with § 54.411. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart. The forgone revenues for which the eligible telecommunications carrier may receive reimbursement shall include only the difference between the carrier's customary connection or interest charges and the charges actually assessed to the participating low-income consumer.

§ 54.415 Consumer qualification for Link Up.

(a) In states that provide state Lifeline service, the consumer qualification criteria for Link Up shall be the same criteria that the state established for Lifeline qualification in accord with § 54.409(a).

(b) In states that do not provide state Lifeline service, the consumer qualification criteria for Link Up shall be the same as the criteria set forth in § 54.409(b).

§ 54.417 Transition to the new Lifeline and Link Up programs.

The rules in this subpart shall take effect on January 1, 1998.

Subpart F—Universal Service Support for Schools and Libraries

§ 54.500 Terms and definitions.

Terms used in this subpart have the following meanings:

(a) *Elementary school.* An ''elementary school'' is a non-profit institutional day or residential school that provides elementary education, as determined under state law.

(b) *Internal connections.* A given service is eligible for support as a component of the institution's internal connections only if it is necessary to transport information to individual classrooms. Thus, internal connections includes items such as routers, hubs, network file servers, and wireless LANs and their installation and basic maintenance because all are needed to switch and route messages within a school or library.

(c) *Library.* A ''library'' includes:

(1) A public library;

(2) A public elementary school or secondary school library;

(3) An academic library;

(4) A research library, which for the purposes of this definition means a library that:

(i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) Is not an integral part of an institution of higher education; and

(5) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

(d) *Library consortium.* A ''library consortium'' is any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of these rules, references to library will also refer to library consortium.

(e) *Lowest corresponding price.* ''Lowest corresponding price'' is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services.

(f) *National school lunch program.* The ''national school lunch program'' is a program administered by the U.S. Department of Agriculture and state agencies that provides free or reduced price lunches to economically disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget is eligible for a reduced price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget is eligible for a free lunch.

(g) *Pre-discount price.* The ''pre-discount price'' means, in this subpart, the price the service provider agrees to accept as total payment for its telecommunications or information services. This amount is the sum of the amount the service provider expects to receive from the eligible school or library and the amount it expects to receive as reimbursement from the universal service support mechanisms for the discounts provided under this subpart.

(h) *Secondary school.* A ''secondary school'' is a non-profit institutional day or residential school that provides secondary education, as determined under state law. A secondary school does not offer education beyond grade 12.

§ 54.501 Eligibility for services provide by telecommunications carriers.

(a) Telecommunications carriers shall be eligible for universal service support under this subpart for providing supported services to eligible schools, libraries, and consortia including those entities.

(b) Schools.

(1) Only schools meeting the statutory definitions of ''elementary school,'' as defined in 20 U.S.C. 8801(14), or ''secondary school,'' as defined in 20 U.S.C. 8801(25), and not excluded under paragraphs (a)(2) or (a)(3) of this section shall be eligible for discounts on telecommunications and other supported services under this subpart.

(2) Schools operating as for-profit businesses shall not be eligible for discounts under this subpart.

(3) Schools with endowments exceeding $50,000,000 shall not be eligible for discounts under this subpart.

(c) Libraries:

(1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (Pub. L. 104–208) and not excluded under paragraphs (b)(2) or (b)(3) of this section shall be eligible for discounts under this subpart.

(2) A library's eligibility for universal service funding shall depend on its funding as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible for discounts as libraries under this subpart.

(3) Libraries operating as for-profit businesses shall not be eligible for discounts under this subpart.

(d) Consortia:

(1) For purposes of seeking competitive bids for telecommunications services, schools and libraries eligible for support under this subpart may form consortia with other eligible schools and libraries, with health care providers eligible under subpart G of this part, and with public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, when ordering telecommunications and other supported services under this subpart. With one exception, eligible schools and libraries participating in consortia with ineligible private sector members shall not be eligible for discounts for interstate services under this subpart. A consortium may include ineligible private sector entities if the pre-discount prices of any services that such consortium receives from ILECs are generally tariffed rates.

(2) For consortia, discounts under this subpart shall apply only to the portion of eligible telecommunications and other supported services used by eligible schools and libraries.

(3) State agencies may receive discounts on the purchase of telecommunications and information services that they make on behalf of and for the direct use of eligible schools and libraries, as through state networks.

(4) Service providers shall keep and retain records of rates charged to and discounts allowed for eligible schools and libraries—on their own or as part of a consortium. Such records shall be available for public inspection.

§ 54.502 Supported telecommunications services.

For the purposes of this subpart, supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services.

§ 54.503 Other supported special services.

For the purposes of this subpart, other supported special services provided by telecommunications carriers include Internet access and installation and maintenance of internal connections.

§ 54.504 Requests for service.

(a) *Competitive bidding requirement.* All eligible schools, libraries, and consortia including those entities shall participate in a competitive bidding process, pursuant to the requirements established in this subpart, but this requirement shall not preempt state or local competitive bidding requirements.

(b) *Posting of requests for service.* (1) Schools, libraries, and consortia including those entities wishing to receive discounts for eligible services under this subpart shall submit requests for services to a subcontractor designated by the administrator for this purpose. Requests for services shall include, at a minimum, the following information, to the extent applicable to the services requested:

(i) The computer equipment currently available or budgeted for purchase for the current, next, or other future academic years, as well as whether the computers have modems and, if so, what speed modems;

(ii) The internal connections, if any, that the school or library has in place or has budgeted to install in the current, next, or future academic years, or any specific plans for an organized voluntary effort to connect the classrooms;

(iii) The computer software necessary to communicate with other computers over an internal network and over the public telecommunications network currently available or budgeted for purchase for the current, next, or future academic years;

(iv) The experience of, and training received by, the relevant staff in the use of the equipment to be connected to the telecommunications network and training programs for which funds are committed for the current, next, or future academic years;

(v) Existing or budgeted maintenance contracts to maintain computers; and

(vi) The capacity of the school's or library's electrical system in terms of how many computers can be operated simultaneously without creating a fire hazard.

(2) The request for services shall be signed by the person authorized to order telecommunications and other supported services for the school or library and shall include that person's certification under oath that:

(i) The school or library is an eligible entity under §§ 254(h)(4) and 254(h)(5) of the Act and the rules adopted under this subpart;

(ii) The services requested will be used solely for educational purposes;

(iii) The services will not be sold, resold, or transferred in consideration for money or any other thing of value;

(iv) If the services are being purchased as part of an aggregated purchase with other entities, the request identifies all co-purchasers and the services or portion of the services being purchased by the school or library;

(v) All of the necessary funding in the current funding year has been budgeted and approved to pay for the ''non-discount'' portion of requested connections and services as well as any necessary hardware, software, and to undertake the necessary staff training required to use the services effectively;

(vi) The school, library, or consortium including those entities has complied with all applicable state and local procurement processes; and

(vii) The school, library, or consortium including those entities has a technology plan that has been certified by its state or an independent entity approved by the Commission.

(3) After posting a description of services from a school, library, or consortium of these entities on the school and library website, the administrator's subcontractor shall send confirmation of the posting to the entity requesting services. That entity shall then wait at least four weeks from the date on which its description of services is posted on the website before making commitments with the selected providers of services. The confirmation from the administrator shall include the date after which the requestor may sign a contract with its chosen provider(s).

(c) *Rate disputes.* Schools, libraries, and consortia including those entities, and service providers may have recourse to the Commission, regarding interstate rates, and to state commissions, regarding intrastate rates, if they reasonably believe that the lowest corresponding price is unfairly high or low.

(1) Schools, libraries, and consortia including those entities may request lower rates if the rate offered by the carrier does not represent the lowest corresponding price.

(2) Service providers may request higher rates if they can show that the lowest corresponding price is not compensatory, because the relevant school, library, or consortium including those entities is not similarly situated to

and subscribing to a similar set of services to the customer paying the lowest corresponding price.

§ 54.505 Discounts.

(a) *Discount mechanism.* Discounts for eligible schools and libraries shall be set as a percentage discount from the pre-discount price.

(b) *Discount percentages.* The discounts available to eligible schools and libraries shall range from 20 percent to 90 percent of the pre-discount price for all eligible services provided by eligible providers, as defined in this subpart. The discounts available to a particular school, library, or consortium of only such entities shall be determined by indicators of poverty and high cost.

(1) For schools and school districts, the level of poverty shall be measured by the percentage of their student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism. School districts applying for eligible services on behalf of their individual schools may calculate the district-wide percentage of eligible students using a weighted average. For example, a school district would divide the total number of students in the district eligible for the national school lunch program by the total number of students in the district to compute the district-wide percentage of eligible students. Alternatively, the district could apply on behalf of individual schools and use the respective percentage discounts for which the individual schools are eligible.

(2) For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism in the public school district in which they are located. If the library is not in a school district then its level of poverty shall be based on an average of the percentage of students eligible for the national school lunch program in each of the school districts that children living in the library's location attend. Library systems applying for discounted services on behalf of their individual branches shall calculate the system-wide percentage of eligible families using an unweighted average based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program in the public school district in which they are located for each of their branches or facilities.

(3) The administrator shall classify schools and libraries as ''urban'' or ''rural'' based on location in an urban or rural area, according to the following designations.

(i) Schools and libraries located in metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method, shall be designated as urban, except for those schools and libraries located within metropolitan counties identified by census block or tract in the Goldsmith Modification.

(ii) Schools and libraries located in non-metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method, shall be designated as rural. Schools and libraries located in rural areas within metropolitan counties identified by census block or tract in the Goldsmith Modification shall also be designated as rural.

(c) *Matrix.* The administrator shall use the following matrix to set a discount rate to be applied to eligible interstate services purchased by eligible schools, school districts, libraries, or library consortia based on the institution's level of poverty and location in an ''urban'' or ''rural'' area.

Schools and Libraries discount matrix	Discount level	
How disadvantaged?	Urban discount	Rural discount
% of students eligible for national school lunch program		
<1	20	25
1–19	40	50
20–34	50	60
35–49	60	70
50–74	80	80
75–100	90	90

(d) *Consortia.* Consortia applying for discounted services on behalf of their members shall calculate the portion of the total bill eligible for a discount using a weighted average based on the share of the pre-discount price for which each eligible school or library agrees to be financially liable. Each eligible school, school district, library or library consortia will be credited with the discount to which it is entitled.

(e) *Interstate and intrastate services.* Federal universal service support for schools and libraries shall be provided for both interstate and intrastate services.

(1) Federal universal service support under this subpart for eligible schools and libraries in a state is contingent upon the establishment of intrastate discounts no less than the discounts applicable for interstate services.

(2) A state may, however, secure a temporary waiver of this latter requirement based on unusually compelling conditions.

§ 54.507 Cap.

(a) *Amount of the annual cap.* The annual cap on federal universal service support for schools and libraries shall be $2.25 billion per funding year, and all funding authority for a given funding year that is unused shall be carried forward into subsequent years for use in accordance with demand, as determined by the administrator, with two exceptions. First, no more than $1 billion shall be collected or spent for the funding period from January 1, 1998 through June 30, 1998. Second, no more than half of the unused portion of the funding authority for calendar year 1998 shall be spent in calendar year 1999, and no more than half of the unused funding authority from calendar years 1998 and 1999 shall be used in calendar year 2000.

(b) *Funding year.* The funding year for purposes of the schools and libraries cap shall be the calendar year.

(c) *Requests.* Funds shall be available to fund discounts for eligible schools and libraries and consortia of such eligible entities on a first-come-first-served basis, with requests accepted beginning on the first of July prior to each funding year. The administrator's subcontractor shall maintain a running tally of the funds that the administrator has already committed for the existing

funding year on the school and library website.

(d) *Annual filing requirement.* Schools and libraries, and consortia of such eligible entities shall file new funding requests for each funding year no sooner than the July 1 prior to the start of that funding year.

(e) *Long term contracts.* If schools and libraries enter into long term contracts for eligible services, the administrator shall only commit funds to cover the pro rata portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

(f) *Rules of priority.* When expenditures in any funding year reach the level where only $250 million remains before the cap will be reached, funds shall be distributed in accordance to the following rules of priority:

(1) The administrator's subcontractor shall post a message on the school and library website, notify the Commission, and take reasonable steps to notify the educational and library communities that commitments for the remaining $250 million of support will only be made to the most economically disadvantaged schools and libraries (those in the two most disadvantaged categories) for the next 30 days or the remainder of the funding year, whichever is shorter.

(2) The most economically disadvantaged schools and libraries (those in the two most disadvantaged categories) that have not received discounts from the universal service support mechanism in the previous or current funding years shall have exclusive rights to secure commitments for universal service support under this subpart for a 30-day period or the remainder of the funding year, whichever is shorter. If such schools and libraries have received universal service support only for basic telephone service in the previous or current funding years, they shall remain eligible for the highest priority once spending commitments leave only $250 million remaining before the funding cap is reached.

(3) Other economically disadvantaged schools and libraries (those in the two most disadvantaged categories) that have received discounts from the universal service support mechanism in the previous or current funding years shall have the next highest priority, if additional funds are available at the end of the 30-day period or the funding year, whichever is shorter.

(4) If funds still remain after all requests submitted by schools and libraries described in paragraphs (f)(2) and (f)(3) of this section during the 30-day period have been met, the administrator shall allocate the remaining available funds to all other eligible schools and libraries in the order in which their requests have been received, until the $250 million is exhausted or the funding year ends.

§ 54.509 Adjustments to the discount matrix.

(a) *Estimating future spending requests.* When submitting their requests for specific amounts of funding for a funding year, schools, libraries, library consortia, and consortia including such entities shall also estimate their funding requests for the following funding year to enable the administrator to estimate funding demand for the following year.

(b) *Reduction in percentage discounts.* If the estimates schools and libraries make of their future funding needs lead the Administrator to predict that total funding requests for a funding year will exceed the available funding then the Administrator shall calculate the percentage reduction to all schools and libraries, except those in the two most disadvantaged categories, necessary to permit all requests in the next funding year to be fully funded. The administrator must then request the Commission's approval of the recommended adjustments.

(c) *Remaining funds.* If funds remain under the cap at the end of the funding year in which discounts have been reduced below those set in the matrices above, the administrator shall consult with the Commission to establish the best way to distribute those funds.

§ 54.511 Ordering services.

(a) *Selecting a provider of eligible services.* In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers.

(b) *Lowest corresponding price.* Providers of eligible services shall not charge schools, school districts, libraries, library consortia, and consortia including any of those entities a price above the lowest corresponding price for supported services, unless the Commission, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory.

(c) *Schools and libraries bound by existing contracts.* Schools and libraries bound by existing contracts for service shall not be required to breach those contracts in order to qualify for discounts under this subpart during the period for which they are bound. This exemption from competitive bidding requirements, however, shall not apply to voluntary extensions of existing contracts.

§ 54.513 Resale.

(a) *Prohibition on resale.* Eligible services purchased at a discount under this subpart shall not be sold, resold, or transferred in consideration of money or any other thing of value.

(b) *Permissible fees.* This prohibition on resale shall not bar schools, school districts, libraries, and library consortia from charging either computer lab fees or fees for classes in how to navigate over the Internet. There is no prohibition on the resale of services that are not purchased pursuant to the discounts provided in this subpart.

§ 54.515 Distributing support.

(a) A telecommunications carrier providing services eligible for support under this subpart to eligible schools and libraries shall treat the amount eligible for support under this subpart as an offset against the carrier's universal service support obligation for the year in which the costs for providing eligible services were incurred.

(b) If the total amount of support owed to a carrier, as set forth in paragraph (a) of this section, exceeds its universal service obligation, calculated on an annual basis, the carrier may receive a direct reimbursement in the amount of the difference.

(c) Any reimbursement due a carrier shall be made after the offset is credited against that carrier's universal service obligation.

(d) Any reimbursement due a carrier shall be submitted to that carrier no later than the end of the first quarter of the calendar year following the year in which the costs were incurred and the offset against the carrier's universal service obligation was applied.

§ 54.516 Auditing.

(a) *Recordkeeping requirements.* Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases.

(b) *Production of records.* Schools and libraries shall produce such records at the request of any auditor appointed by a state education department, the administrator, or any state or federal agency with jurisdiction.

(c) *Random audits.* Schools and libraries shall be subject to random

compliance audits to evaluate what services they are purchasing and how such services are being used.

§ 54.517 Services provided by non-telecommunications carriers.

(a) Non-telecommunications carriers shall be eligible for universal service support under this subpart for providing covered services for eligible schools, libraries and consortia including those entities.

(b) Supported services. Non-telecommunications carriers shall be eligible for universal service support under this subpart for providing Internet access and installation and maintenance of internal connections.

(c) Requirements. Such services provided by non-telecommunications carriers shall be subject to all the provisions of this subpart, except §§ 54.501(a), 54.502, 54.503, 54.515.

Subpart G—Universal Service Support for Health Care Providers

§ 54.601 Eligibility.

(a) *Health care providers.* (1) Only an entity meeting the definition of ''health care provider'' as defined in this section shall be eligible to receive supported services under this subpart.

(2) For purposes of this subpart, a ''health care provider'' is any:

(i) Post-secondary educational institution offering health care instruction, including a teaching hospital or medical school;

(ii) Community health center or health center providing health care to migrants;

(iii) Local health department or agency;

(iv) Community mental health center;

(v) Not-for-profit hospital;

(vi) Rural health clinic; or

(vii) Consortium of health care providers consisting of one or more entities described in paragraphs (a)(2)(i) through (a)(2)(vi) of this section.

(3) Only public or non-profit health care providers shall be eligible to receive supported services under this subpart.

(4) Except with regard to those services provided under § 54.621, only a rural health care provider shall be eligible to receive supported services under this subpart. A ''rural health care provider'' is a health care provider located in a rural area, as defined in this part.

(5) Each separate site or location of a health care provider shall be considered an individual health care provider for purposes of calculating and limiting support under this subpart.

(b) *Consortia.* (1) An eligible health care provider may join a consortium with other eligible health care providers; with schools, libraries, and library consortia eligible under Subpart F; and with public sector (governmental) entities to order telecommunications services. With one exception, eligible health care providers participating in consortia with ineligible private sector members shall not be eligible for supported services under this subpart. A consortium may include ineligible private sector entities if such consortium is only receiving services at tariffed rates or at market rates from those providers who do not file tariffs.

(2) For consortia, universal service support under this subpart shall apply only to the portion of eligible services used by an eligible health care provider.

(3) Telecommunications carriers shall carefully maintain complete records of how they allocate the costs of shared facilities among consortium participants in order to charge eligible health care providers the correct amounts. Such records shall be available for public inspection.

(4) Telecommunications carriers shall calculate and justify with supporting documentation the amount of support for which each member of a consortium is eligible.

(c) *Services.* (1) Any telecommunications service of a bandwidth up to and including 1.544 Mbps that is the subject of a properly completed bona fide request by a rural health care provider shall be eligible for universal service support, subject to the limitations described in this subpart. The length of a supported telecommunications service may not exceed the distance between the health care provider and the point farthest from that provider on the jurisdictional boundary of the nearest large city as defined in § 54.605(c).

(2) Limited toll-free access to an Internet service provider shall be eligible for universal service support under § 54.621.

§ 54.603 Competitive bidding.

(a) *Competitive bidding requirement.* To select the telecommunications carriers that will provide services eligible for universal service support to it under this subpart, each eligible health care provider shall participate in a competitive bidding process pursuant to the requirements established in this subpart and any additional and applicable state, local, or other procurement requirements.

(b) *Posting of requests for service.* (1) Health care providers seeking to receive telecommunications services eligible for universal service support under this subpart shall submit a description of the services requested. Requests shall be signed by the person authorized to order telecommunications services for the health care provider and shall include that person's certification under oath that:

(i) The requester is a public or non-profit entity that falls within one of the seven categories set forth in the definition of health care provider, listed in § 54.601(a);

(ii) The requester is physically located in a rural area, unless the health care provider is requesting services provided under § 54.621;

(iii) If the health care provider is requesting services provided under § 54.621, that the requester cannot obtain toll-free access to an Internet service provider;

(iv) The requested service or services will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law in the state in which such health care services or instruction are provided;

(v) The requested service or services will not be sold, resold or transferred in consideration of money or any other thing of value; and

(vi) If the service or services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement, including the identities of all co-purchasers and the portion of the service or services being purchased by the health care provider.

(2) The Administrator shall post each request for eligible services that it receives from an eligible health care provider on its website designated for this purpose.

(3) After posting a description of services from a health care provider on the website, the Administrator shall send confirmation of the posting to the entity requesting services. That health care provider shall then wait at least 28 days from the date on which its description of services is posted on the website before making commitments with the selected telecommunications carrier(s).

(4) After selecting a telecommunications carrier, the health care provider shall certify to the Administrator that it is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of

providing the required health care services. The health care provider shall submit to the Administrator paper copies of other responses or bids received in response to the request for services.

(5) The confirmation from the Administrator shall include the date after which the requester may sign a contract with its chosen telecommunications carrier(s).

§ 54.605 Determining the urban rate.

(a) If a rural health care provider requests an eligible service to be provided over a distance that is less than or equal to the ''standard urban distance,'' as defined in paragraph (d) of this section, for the state in which it is located, the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a similar service provided over the same distance in the nearest large city in the state, calculated as if it were provided between two points within the city.

(b) If a rural health care provider requests an eligible service to be provided over a distance that is greater than the ''standard urban distance'' for the state in which it is located, the urban rate shall be no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a similar service provided over the standard urban distance in the nearest large city in the state, calculated as if the service were provided between two points within the city.

(c) The ''nearest large city'' is the city located in the eligible health care provider's state, with a population of at least 50,000, that is nearest to the health care provider's location, measured point to point, from the health care provider's location to the point on that city's jurisdictional boundary closest to the health care provider's location.

(d) The ''standard urban distance'' for a state is the average of the longest diameters of all cities with a population of 50,000 or more within the state, calculated by the Administrator.

§ 54.607 Determining the rural rate.

(a) The rural rate shall be the average of the rates actually being charged to commercial customers, other than health care providers, for identical or similar services provided by the telecommunications carrier providing the service in the rural area in which the health care provider is located. The rates included in this average shall be for services provided over the same distance as the eligible service. The rates averaged to calculate the rural rate must not include any rates reduced by universal service support mechanisms. The ''rural rate'' shall be used as described in this subpart to determine the credit or reimbursement due to a telecommunications carrier that provides eligible telecommunications services to eligible health care providers.

(b) If the telecommunications carrier serving the health care provider is not providing any identical or similar services in the rural area, then the rural rate shall be the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area over the same distance as the eligible service by other carriers. If there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that this method for calculating the rural rate is unfair, then the carrier shall submit for the state commission's approval, for intrastate rates, or the Commission's approval, for interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner.

(1) The carrier must provide, to the state commission, or intrastate rates, or to the Commission, for interstate rates, a justification of the proposed rural rate, including an itemization of the costs of providing the requested service.

(2) The carrier must provide such information periodically thereafter as required, by the state commission for intrastate rates or the Commission for interstate rates. In doing so, the carrier must take into account anticipated and actual demand for telecommunications services by all customers who will use the facilities over which services are being provided to eligible health care providers.

§ 54.609 Calculating support.

(a) Except with regard to services provided under § 54.621 and subject to the limitations set forth in this Subpart, the amount of universal service support for an eligible service provided to a rural health care provider shall be the difference, if any, between the urban rate and the rural rate charged for the service, as defined herein.

(b) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health care provider participating in an eligible health care consortium must establish the applicable rural rate for the health care provider's portion of the shared telecommunications services, as well as the applicable urban rate. Absent documentation justifying the amount of universal service support requested for health care providers participating in a consortium, the Administrator shall not allow telecommunications carriers to offset, or receive reimbursement for, the amount eligible for universal service support.

§ 54.611 Distributing support.

(a) A telecommunications carrier providing services eligible for support under this subpart to eligible health care providers shall treat the amount eligible for support under this subpart as an offset against the carrier's universal service support obligation for the year in which the costs for providing eligible services were incurred.

(b) If the total amount of support owed to a carrier, as set forth in paragraph (a) of this section, exceeds its universal service obligation, calculated on an annual basis, the carrier may receive a direct reimbursement in the amount of the difference.

(c) Any reimbursement due a carrier shall be made after the offset is credited against that carrier's universal service obligation.

(d) Any reimbursement due a carrier shall be submitted to that carrier no later than the end of the first quarter of the calendar year following the year in which the costs were incurred and the offset against the carrier's universal service obligation was applied.

§ 54.613 Limitations on supported services for rural health care providers.

(a) Upon submitting a bona fide request to a telecommunications carrier, each eligible rural health care provider is entitled to receive the most cost-effective, commercially-available telecommunications service using a bandwidth capacity of 1.544 Mbps, at a rate no higher than the highest urban rate, as defined in this subpart, at a distance not to exceed the distance between the eligible health care provider's site and the farthest point from that site that is on the jurisdictional boundary of the nearest large city, as defined in § 54.605(c).

(b) The rural health care provider may substitute any other service or combination of services with transmission capacities of less than 1.544 Mbps transmitted over the same or a shorter distances, so long as the total annual support amount for all such services combined, calculated as provided in this subpart, does not exceed what the support amount would have been for the service described in paragraph (a) of this section. If the rural health care provider is located in an area where a service using a bandwidth

capacity of 1.544 Mbps is not available, then the total annual support amount for that provider shall not exceed what the support amount would have been under paragraph (a) of this section, calculated using the rural rate for a service of that capacity in another area of the state.

(c) This section shall not affect a rural health care provider's ability to obtain supported services under § 54.621.

§ 54.615 Obtaining services.

(a) *Selecting a provider.* In selecting a telecommunications carrier, a health care provider shall consider all bids submitted and select the most cost-effective alternative.

(b) *Receiving supported rate.* Except with regard to services provided under § 54.621, upon receiving a bona fide request for an eligible service from an eligible health care provider, as set forth in paragraph (c) of this section, a telecommunications carrier shall provide the service at a rate no higher than the urban rate, as defined in § 54.605, subject to the limitations set forth in this Subpart.

(c) *Bona fide request.* In order to receive services eligible for universal service support under this subpart, an eligible health care provider must submit a request for services to the telecommunications carrier, Signed by an authorized officer of the health care provider, and shall include that person's certification under oath that:

(1) The requester is a public or non-profit entity that falls within one of the seven categories set forth in the definition of health care provider, listed in § 54.601(a);

(2) The requester is physically located in a rural area, unless the health care provider is requesting services provided under § 54.621;

(3) If the health care provider is requesting services provided under § 54.621, that the requester cannot obtain toll-free access to an Internet service provider;

(4) The requested service or services will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law in the state in which such health care services or instruction are provided;

(5) The requested service or services will not be sold, resold or transferred in consideration of money or any other thing of value;

(6) If the service or services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement, including the identities of all co-purchasers and the portion of the service or services being purchased by the health care provider; and

(7) The requester is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services.

(d) *Annual renewal.* The certification set forth in paragraph (c) of this section shall be renewed annually.

§ 54.617 Resale.

(a) *Prohibition on resale.* Services purchased pursuant to universal service support mechanisms under this subpart shall not be sold, resold, or transferred in consideration for money or any other thing of value.

(b) *Permissible fees.* The prohibition on resale set forth in paragraph (a) of this section shall not prohibit a health care provider from charging normal fees for health care services, including instruction related to such services rendered via telecommunications services purchased under this subpart.

§ 54.619 Audit program.

(a) *Recordkeeping requirements.* Health care providers shall maintain for their purchases of services supported under this subpart the same kind of procurement records that they maintain for other purchases.

(b) *Production of records.* Health care providers shall produce such records at the request of any auditor appointed by the Administrator or any other state or federal agency with jurisdiction.

(c) *Random audits.* Health care providers shall be subject to random compliance audits to ensure that requesters are complying with the certification requirements set forth in § 54.615(c) and are otherwise eligible to receive universal service support and that rates charged comply with the statute and regulations.

(d) *Annual report.* The Administrator shall use the information obtained under paragraph (a) of this section to evaluate the effects of the regulations adopted in this subpart and shall report its findings to the Commission on the first business day in May of each year.

§ 54.621 Access to advanced telecommunications and information services.

(a) Each eligible health care provider that cannot obtain toll-free access to an Internet service provider shall be entitled to receive the lesser of the toll charges incurred for 30 hours of access per month to an Internet service provider or $180 per month in toll charge credits for toll charges imposed for connecting to an Internet service provider.

(b) Both telecommunications carriers designated as eligible telecommunications carriers pursuant to § 54.201(d) and telecommunications carriers not so designated that provide services described in paragraph (a) of this section shall be eligible for universal service support under this section.

§ 54.623 Cap.

(a) *Amount of the annual Cap.* The annual cap on federal universal service support for health care providers shall be $400 million per funding year.

(b) *Funding year.* The funding year for purposes of the health care providers cap shall be the calendar year.

(c) *Requests.* Funds shall be available to eligible health care providers on a first-come-first-served basis, with requests accepted beginning on the first of July prior to each funding year.

(d) *Annual filing requirement.* Health care providers shall file new funding requests for each funding year.

(e) *Long term contracts.* If health care providers enter into long term contracts for eligible services, the Administrator shall only commit funds to cover the portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

Subpart H—Administration

§ 54.701 Administrator of universal service support mechanisms.

(a) A Federal Advisory Committee (Committee) shall recommend a neutral, third-party administrator of the universal service support programs to the Commission within six months of the Committee's first meeting. The Commission shall act upon that recommendation within six months. The Administrator must:

(1) Be neutral and impartial;

(2) Not advocate specific positions before the Commission in non-universal service administration proceedings related to common carrier issues, except that membership in a trade association that advocates positions before the Commission will not render it ineligible to serve as the Administrator;

(3) Not be an affiliate of any provider of telecommunications services; and

(4) Not issue a majority of its debt to, nor derive a majority of its revenues from any provider(s) of

telecommunications services. This prohibition also applies to any affiliates of the Administrator.

(b) If the Administrator has a Board of Directors that includes members with direct financial interests in entities that contribute to or receive support from the universal service support programs, no more than a third of the Board members may represent any one category (e.g., local exchange carriers, interexchange carriers, wireless carriers, schools, libraries) of contributing carriers or support recipients, and the Board's composition must reflect the broad base of contributors to and recipients of universal service.

(1) An individual does not have a direct financial interest in entities that contribute to or receive support from the universal service support programs if he or she is not an employee of a telecommunications carrier or of a recipient of universal service support programs funds, does not own equity interests in bonds or equity instruments issued by any telecommunications carrier, and does not own mutual funds that specialize in the telecommunications industry. If a mutual fund invests more than 50 percent of its money in telecommunications stocks and bonds, then it specializes in the telecommunications industry.

(2) An individual's ownership interest in entities that contribute to or receive support from the universal service support programs is *de minimis* if in aggregate the individual, spouse, and minor children's impermissible interests do not exceed $5,000.

(c) The Administrator chosen by the Committee shall begin administering the support programs within six months of its appointment. The Administrator's performance shall be reviewed by the Commission after two years. The Administrator shall serve an initial term of five years. At any time prior to nine months before the end of the Administrator's five-year term, the Commission may re-appoint the Administrator for another term of not more than five years. Otherwise, nine months before the end of the Administrator's term, the Commission will create another Federal Advisory Committee to recommend another neutral, third-party administrator.

(d) The Committee's, Administrator's, and Temporary Administrator's reasonable administrative projected annual costs shall be included within the universal service support programs' projected expenses.

(e) The Administrator and Temporary Administrator shall keep the universal service support program funds separate from all other funds under the control of the Administrator or Temporary Administrator.

(f) The Administrator and Temporary Administrator shall be subject to a yearly audit by an independent accounting firm and may be subject to an additional audit by the Commission, if the Commission so requests.

(1) The Administrator and the Temporary Administrator shall report annually to the Commission an itemization of monthly administrative costs that shall include all expenses, receipts, and payments associated with the administration of the universal service support programs and shall provide the Commission full access to the data collected pursuant to the administration of the universal service support programs.

(2) Pursuant to § 64.903 of this chapter, the Administrator shall file with the Commission a cost allocation manual (CAM), that describes the accounts and procedures the Administrator will use to allocate the shared costs of administering the universal service support programs and its other operations.

(3) Information based on the Administrator's and Temporary Administrator's reports will be made public at least once a year as part of a Monitoring Report.

(g) The Administrator and Temporary Administrator shall report quarterly to the Commission on the disbursement of universal service support program funds. The Administrator and Temporary Administrator shall keep separate accounts for the amounts of money collected and disbursed for eligible schools and libraries, rural health care providers, low-income consumers, and high cost and insular areas.

(h) The Administrator and Temporary Administrator shall be subject to close-out audits at the end of their terms.

§ 54.703 Contributions.

(a) Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support programs. Interstate telecommunications include, but are not limited to:

(1) Cellular telephone and paging services;
(2) Mobile radio services;
(3) Operator services;
(4) Personal communications services (PCS);
(5) Access to interexchange service;
(6) Special access service;
(7) WATS;
(8) Toll-free service;
(9) 900 service;
(10) Message telephone service (MTS);
(11) Private line service;
(12) Telex;
(13) Telegraph;
(14) Video services;
(15) Satellite service;
(16) Resale of interstate services; and
(17) Payphone services.

(b) Every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators shall contribute to the programs for eligible schools, libraries, and health care providers on the basis of its interstate, intrastate, and international end-user telecommunications revenues. Entities providing open video systems (OVS), cable leased access, or direct broadcast satellite (DBS) services are not required to contribute on the basis of revenues derived from those services.

(c) Every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators shall contribute to the programs for high cost, rural and insular areas, and low-income consumers on the basis of its interstate and international end-user telecommunications revenues. Entities providing OVS, cable leased access, or DBS services are not required to contribute on the basis of revenues derived from those services.

§ 54.705 De minimis exemption.

If a contributor's contribution to universal service in any given year is less than $100, that contributor will not be required to submit a contribution or Universal Service Worksheet for that year. If a contributor improperly claims exemption from the contribution requirement, it will subject to the criminal provisions of sections 220 (d) and (e) of the Act regarding willful false submissions and will be required to pay the amounts withheld plus interest.

§ 54.707 Audit controls.

The Administrator shall have authority to audit contributors and carriers reporting data to the administrator. The Administrator shall establish procedures to verify discounts, offsets, and support amounts provided

by the universal service support programs, and may suspend or delay discounts, offsets, and support amounts provided to a carrier if the carrier fails to provide adequate verification of discounts, offsets, or support amounts provided upon reasonable request, or if directed by the Commission to do so. The Administrator shall not provide reimbursements, offsets or support amounts pursuant to part 36 and § 69.116 through 69.117 of this chapter, and subparts D, E, and G of this part to a carrier until the carrier has provided to the Administrator a true and correct copy of the decision of a state commission designating that carrier as an eligible telecommunications carrier in accordance with § 54.201.

PART 69—ACCESS CHARGES

11. The authority citation for part 69 is revised to read as follows:

Authority: 47 U.S.C. Secs. 154(i) and (j), 201, 202, 203, 205, 18, 254, and 403.

12. Section 69.2(y) is revised to read as follows:

§ 69.2 Definitions.

* * * * *

(y) *Long Term Support (LTS)* means funds that are provided pursuant to § 54.303 of part 54.

* * * * *

13. Section 69.104 is amended by revising paragraphs (j), (k), and (l) to read as follows:

§ 69.104 End user common line.

* * * * *

(j) Until December 31, 1997, the End User Common Line charge for a residential subscriber shall be 50% of the charge specified in § 69.104(c) and (d) if the residential local exchange service rate for such subscribers is reduced by an equivalent amount, provided, That such local exchange service rate reduction is based upon a means test that is subject to verification.

(k) Paragraphs (k)(1) through (2) of this section are effective until December 31, 1997. * * *

(l) Until December 31, 1997, in connection with the filing of access tariffs pursuant to § 69.3(a), telephone companies shall calculate for the association their projected revenue requirements attributable to the operation of paragraphs (j) through (k) of this section. The projected amount will be adjusted by the association to reflect the actual lifeline assistance benefits paid in the previous period. If the actual benefits exceeded the projected amount of that period, the differential will be added to the projection for the ensuing period. If the actual benefits were less than the projected amount for that period, the differential will be subtracted from the projection for the ensuing period. Until December 31, 1997, the association shall so adjustamounts to the Lifeline Assistance revenue requirement, bill and collect such amounts from interexchange carriers pursuant to § 69.117 and distribute the funds to qualifying telephone companies pursuant to § 69.603(d).

* * * * *

14. Section 69.116 is amended by revising the introductory text to read as follows:

§ 69.116 Universal service fund.

Effective August 1, 1988 through December 31, 1997:

* * * * *

15. Section 69.117 is amended by revising the introductory text to read as follows:

§ 69.117 Lifeline assistance.

Effective August 1, 1988 through December 31, 1997:

* * * * *

16. Section 69.203 is amended by revising paragraph (f) and adding a sentence before the first sentence of paragraph (g)(l) to read as follows:

§ 69.203 Transitional end user common line charges.

* * * * *

(f) Until December 31, 1997, the End User Common Line charge for a residential subscriber shall be 50% of the charge specified in paragraphs (d) and (e) if the residential local exchange rate for such subscribers is reduced by an equivalent amount, provided that such local exchange service rate reduction is based upon a means test that is subject to verification.

(g)(1) Paragraphs (g)(1) and (g)(2) are effective until December 31, 1997.* * *

* * * * *

17. Section 69.612 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 69.612 Long term and transitional support.

A telephone company that does not participate in the association Common Line tariff shall have computed by the association:

(a) *Long term support obligation*. (1) Beginning July 1, 1994 and until December 31, 1997, the Long Term Support payment obligation of telephone companies that do not participate in the NECA Common Line tariff shall equal the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to § 69.105(b)(1).

(2) For the period from April 1, 1989 through June 30, 1994, the Long Term Support payment obligation shall be funded by all telephone companies that are not association Common Line tariff participants and do not receive transitional support pursuant to § 69.612(b). The percentage of the total annual Long Term Support requirement paid by each telephone company in this group that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The remaining amount of Long Term Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The association shall inform each telephone company about its mandatory Long Term Support obligations within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to § 69.603(e).

(3) Beginning July 1, 1994, and thereafter, the Long Term Support payment obligation shall be funded by each telephone company that files its own Carrier Common Line tariff does not receive transitional support. The percentage of the total annual Long Term Support requirement paid by each of these companies shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The association shall inform each telephone company about its Long Term Support obligation within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to § 69.603(f).

* * * * *

[FR Doc. 97–15081 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–P

Federal Register

Tuesday
June 17, 1997

Part III

Federal Communications Commission

47 CFR Part 63

Rules and Policies on Foreign Participation in the U.S. Telecommunications Market: Final and Proposed Rules and International Settlement Rates, Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 97–142, FCC 97–195]

Rules and Policies on Foreign Participation in the U.S. Telecommunications Market

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On June 4, 1997, the Federal Communications Commission (''Commission'') adopted a decision making technical corrections to the rules governing the entry of foreign-affiliated carriers into the U.S. market for basic telecommunications services. The rules it corrected were adopted in the *Foreign Carrier Entry* proceeding (60 FR 67332, December 29, 1996). The Commission took this action at the same time that it adopted a Notice of Proposed Rulemaking that proposes changes to the effective competitive opportunities test and related rules adopted in the *Foreign Carrier Entry* proceeding (*See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market* (FCC 97–195, IB Docket No. 97–142), published elsewhere in this issue).

EFFECTIVE DATE: July 17, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Susan O'Connell, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION:

1. On February 15, 1997, the United States and 68 other countries concluded an agreement to open markets for basic telecommunications services. This agreement, negotiated under the auspices of the World Trade Organization (WTO), covers 95 percent of the global market for basic telecommunications services. In light of the WTO Agreement, on June 4, 1997, the Federal Communications Commission initiated a proceeding to review its rules governing the entry of foreign affiliated entities into the U.S. market for basic telecommunications services. The Commission also amended Part 63 of its rules to reflect several technical corrections. (*Review of Market Entry and Regulation of Foreign-Affiliated Entities,* FCC 97–195, Order and Notice of Proposed Rulemaking, IB Docket No. 97–142.)

2. The Commission revised § 63.18(e)(3) of the rules that sets forth the equivalency test currently applied in authorizing the use of private lines between the U.S. and all countries for the provision of switched services. The equivalency test, as set forth in § 63.18(e)(3), was adopted in the *Foreign Carrier Entry* proceeding (60 FR 67332, December 29, 1995). In drafting the rule, the word ''reasonable'' was inadvertently omitted. As corrected, this paragraph will provide in relevant part that the ''charges, terms and conditions for interconnection to foreign domestic carrier facilities'' be both ''reasonable and nondiscriminatory.''

3. Section 63.11(b) was amended to clarify the Commission's notification requirement for U.S. international carriers. In the *Foreign Carrier Entry Order,* the Commission required that any U.S. international carrier that knows of a planned investment by a foreign carrier of a ten percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier shall notify the Commission within sixty days prior to the acquisition of such interest. The Commission has found that carriers have interpreted this rule to include only investments by foreign carriers and not investments by their parent holding companies. The Commission intended that the prior notification requirement provide it with an opportunity to determine whether a particular planned investment in a U.S. carrier raises concerns that a foreign carrier with market power may, as a result of the investment, obtain a financial incentive to discriminate in favor of the U.S. carrier. Such an incentive can exist whether the foreign carrier itself makes the investment in the U.S. carrier or whether the investment is made by an entity that directly or indirectly controls the foreign carrier, is controlled by the foreign carrier, or is under direct or indirect common control with the foreign carrier. The Commission amended § 63.11 to cover all such ownership interests. The Commission also deleted the word ''within'' from the first sentence of § 63.11(b) to make clear that carriers must notify the Commission of these planned investments at least 60 days before they are consummated.

4. The Commission also amended § 63.11(b) to make clear the current obligation of U.S. carriers that have notified the Commission of a 10 percent or greater planned investment by a foreign carrier or affiliated company to maintain the accuracy of the initial report by notifying the Commission of additional investment interests by the foreign carrier or an affiliated company.

5. The Commission's decision also included an NPRM that solicits comments on a number of proposals governing foreign participation in the U.S. market for basic telecommunications services. (*See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market* and the public notice soliciting supplemental comments in the *International Settlement Rates* proceeding, IB Docket No. 96–261 [61 FR 68702, December 30, 1996] published elsewhere in this issue.)

Ordering Clause

It is further ordered that the minor changes to part 63 of the Commission's rules, as set forth in the attachment, are hereby adopted effective July 17, 1997.

List of Subjects in 47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 63 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

1. The authority citation for Part 63 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 403 and 533, unless otherwise noted.

2. Section 63.11 is amended by revising paragraph (b) to read as follows:

§ 63.11 Notification by and prior approval for U.S. international carriers that have or propose to acquire ten percent investments by, and/or an affiliation with, a foreign carrier.

* * * * *

(b) Any carrier authorized to provide international communications service under this part that knows of a planned investment by a foreign carrier of a ten percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier shall notify the Commission sixty days prior to the acquisition of such interest. Any such authorized carrier shall report a ten percent or greater planned investment

in the capital stock of the carrier by a foreign carrier, or by any entity that directly or indirectly controls or is controlled by a foreign carrier, or that is under direct or indirect common control with a foreign carrier. The notification shall certify to the information specified in paragraph (c) of this section. Carriers that have filed a notification pursuant to this paragraph are required to maintain the accuracy of the initial filing by notifying the Commission of additional investment interests by the foreign carrier or an affiliated company.

* * * * *

3. Section 63.18 is amended by revising paragraph (e)(3)(i)(B) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(B) Reasonable and nondiscriminatory charges, terms and conditions for interconnection to foreign domestic carrier facilities for termination and origination of international services, with adequate means of enforcement;

* * * * *

[FR Doc. 97–15700 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 97–142, FCC 97–195]

Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Order and Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On June 4, 1997, the Federal Communications Commission (Commission) released a Notice of Proposed Rulemaking (NPRM) that proposes changes to the effective competitive opportunities (ECO) test and related rules adopted in the *Foreign Carrier Entry Order,* 60 FR 67332 (December 29, 1995). The NPRM also proposes conforming changes to the Commission's framework for permitting flexible settlement arrangements between U.S. and foreign carriers. The Commission believes that it is time to revisit its rules in light of an agreement by the United States and 68 other countries negotiated under the auspices of the World Trade Organization (WTO) to open markets for basic telecommunications services.

DATES: Comments are due on or before July 9, 1997, and reply comments are due on or before August 12, 1997. Written comments by the public on the proposed and/or modified information collections are due August 18, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Doug Klein, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–0424; Susan O'Connell, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1484. For additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

1. On June 4, 1997, the Commission released a Notice of Proposed Rulemaking in Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket No. 97–142 (FCC 97–195) (NPRM) that proposes changes to the rules and policies governing foreign participation in the U.S. market for basic telecommunications services. These rules and policies were adopted by the Commission in the *Foreign Carrier Entry* proceeding, 60 FR 67332 (December 29, 1995). The NPRM also proposes changes to the Commission's framework for permitting flexible settlement arrangements between U.S. and foreign carriers.

2. The NPRM proposes rules that the Commission believes would be more appropriate in the liberalized competitive environment that will exist when the recent World Trade Organization (WTO) agreement on basic telecommunications services takes effect on January 1, 1998. The WTO agreement was concluded on February 15, 1997, when 69 countries, including the United States and virtually all of its major trading partners, agreed to open their markets for basic telecommunications services to competition from foreign carriers. This agreement covers 95 percent of the global market for basic telecommunications services. Sixty-five of these countries, including the United States, have committed to enforce fair rules of competition for basic telecommunications services that are modeled on U.S. law and regulations. Fifty-two of these countries, which account for approximately 90 percent of telecommunications revenues in WTO Member countries, have granted market access for international services. Thus, most of the world's major trading nations have made binding commitments to transition rapidly from monopoly provision of basic telecommunications services to open entry and procompetitive regulation of these services. Due to these changed circumstances, the Commission believes that it is time to revisit its rules governing foreign participation in the U.S. telecommunications market. The Commission seeks comments on a number of tentative conclusions and proposals.

3. The NPRM tentatively concludes that it is no longer necessary to apply an ''effective competitive opportunities'' (ECO) analysis to Section 214 applications filed by carriers from WTO Member countries that seek to provide U.S. international services. The NPRM proposes to afford streamlined processing to these applications. The NPRM also proposes to adopt measures to improve the Commission's ability to detect, deter and remedy anticompetitive conduct by foreign carriers that have market power in particular destination countries.

4. The NPRM also tentatively concludes that it is no longer necessary to apply an equivalency analysis as the basis for authorizing all U.S. carriers to provide switched services over resold or facilities-based private lines between the United States and WTO Member countries. In addition, the NPRM tentatively concludes that it is no longer necessary to apply an ECO test for cable landing licenses for cables between the United States and other WTO Member countries. The NPRM also tentatively concludes that the Commission should eliminate the ECO test as part of its § 310(b)(4) public interest analysis of Title III applications for common carrier radio licenses filed by carriers with indirect foreign ownership from WTO Member countries.

5. The NPRM tentatively concludes that the Commission should retain the existing ECO test for Section 214, Title III common carrier, and cable landing license applications from entities from non-WTO Member countries. The NPRM proposes that the Commission deny Section 214, Title III common carrier, and cable landing license applications from entities from WTO Member countries if a grant of the application would pose a very high risk to competition in the U.S. telecommunications market that could not be addressed by conditions that we could impose on the authorization.

6. The NPRM tentatively concludes that, if the Commission eliminates the ECO test for Section 214 purposes, it should also eliminate the test as the basis for permitting U.S. carriers to negotiate alternative settlement arrangements with carriers from WTO Member countries. The NPRM proposes to adopt a presumption in favor of permitting flexibility for carriers from WTO Member countries. The NPRM proposes that this presumption may be rebutted by a showing that market conditions in the country in question are not sufficient to prevent a carrier with market power in that country from discriminating against U.S. carriers. The NPRM also proposes to continue to apply the ECO test as the threshold standard for permitting flexibility with carriers that are from countries that are *not* WTO Members.

7. The NPRM proposes changes to the Commission's regulation of U.S. carriers classified as dominant on particular U.S. international routes due to an affiliation with a foreign carrier that has market power in the destination country. The NPRM proposes to adopt dominant carrier safeguards that would apply to dominant foreign-affiliated carriers depending on the risk of competitive harm the carrier poses. The basic dominant carrier regulations would consist of a minimal set of safeguards that would apply to U.S.

carriers affiliated with foreign carriers that have market power in a destination country that has eliminated legal barriers to international facilities-based entry and authorized multiple international facilities-based carriers. The supplemental safeguards provide for greater oversight of carrier conduct and would apply to foreign carriers with market power that cannot meet this standard.

8. The proposed basic dominant carrier safeguards would require such carriers to notify the Commission quarterly of the addition of circuits on the dominant route, specifying the joint owner of the circuit. Such carriers would also be required to file with the Commission quarterly traffic and revenue reports for the dominant route. They would also be required to maintain complete records of the provisioning and maintenance of basic network facilities and services they procure from the foreign carrier affiliate. The NPRM also seeks comment on whether the Commission should require some level of structural separation between such carriers and their affiliated foreign carriers.

9. The Commission proposed that carriers subject to supplemental dominant carrier regulation on particular routes would be required to obtain Section 214 approval to add circuits on the affiliated route. These carriers would also be required to file quarterly circuit status reports for that route with the Commission, which would be made publicly available. In addition, they would be required to file an electronic summary of contracts submitted under § 43.51 of the Commission's rules, 47 CFR 43.51. They would also be required to file quarterly reports summarizing their records on the provisioning and maintenance of basic network facilities and services procured from their affiliated foreign carriers. These U.S. carriers would also be required to comply with stricter limits on certain arrangements for the sharing of information, customers and joint marketing. The basic dominant carrier safeguards would also apply to carriers that are subject to supplemental safeguards, to the extent the basic safeguards do not conflict with them. The NPRM also seeks comment on whether the Commission should require some level of separation between a carrier subject to supplemental dominant carrier regulation and its affiliated foreign carrier. The Commission expresses the belief that it may be appropriate to apply stricter separation requirements to these U.S. carriers than to carriers with foreign affiliates that face competition in their markets. The NPRM proposes to allow all U.S. carriers regulated as dominant due to an affiliation with a foreign carrier to file tariffs on one days' notice and to accord such tariffs a presumption of lawfulness.

10. The NPRM also proposes to delineate the types of arrangements the Commission considers to be prohibited by the § 63.14 ''no special concessions'' rule, which applies generally to arrangements between U.S. and foreign carriers. It additionally proposes to modify the rule to apply only to concessions granted to U.S. carriers by foreign carriers with market power in a destination country, as opposed to all foreign carriers.

11. Finally, the Commission proposes changes to its rules that afford streamlined processing to certain international Section 214 applications.

Initial Regulatory Flexibility Analysis

12. Pursuant to the Regulatory Flexibility Act of 1990, 5 U.S.C. §§ 601–612, the Commission's Initial Regulatory Flexibility Analysis with respect to the NPRM is as follows:

13. *Reason for Action.* The Commission is issuing this Notice of Proposed Rulemaking to seek comment on possible changes to our rules and policies for allowing foreign-affiliated entities to participate in the U.S. telecommunications market. In light of the recent agreement reached by Members of the World Trade Organization to liberalize the provision of basic telecommunications services, we believe it is appropriate to relax our scrutiny of applications filed by affiliates of entities from WTO Member countries for authority pursuant to § 214 of the Communications Act, 47 U.S.C. § 214, and the Cable Landing License Act, 47 U.S.C. §§ 34–39; and to relax our scrutiny of indirect foreign investment in holders of common carrier radio licenses under § 310(b)(4) of the Communications Act, 47 U.S.C. § 310(b)(4). We also believe that other changes to our regulation of foreign-affiliated entities are appropriate in light of the WTO agreement and our experience applying our current rules.

14. *Objectives.* The objective of this proceeding is to increase competition in the U.S. market for basic telecommunications services while minimizing the risk of anticompetitive harm. In light of the changed circumstances that will result from the WTO agreement on basic telecommunications and our nearly two years of experience with our current rules on market entry, we believe that reducing entry barriers for applicants affiliated with entities from WTO Member countries is the appropriate way to accomplish that objective. The Commission believes that the ''effective competitive opportunities'' test developed in its *Foreign Carrier Entry Order* is no longer necessary as applied to countries that are members of the WTO. Instead, we propose to rely primarily on regulatory safeguards and settlement-rate benchmarks to prevent anticompetitive conduct in the U.S. telecommunications marketplace. We propose some revisions to those regulatory safeguards in this Notice.

15. *Legal basis.* This Notice of Proposed Rulemaking is adopted pursuant to §§ 1, 4(i), 201(b), 214, 303(r), 307, 309(a), 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 214, 303(r), 307, 309(a), 310.

16. *Description, potential impact, and number of small entities affected.* The RFA generally defines *small entity* as having the same meaning as the terms *small business, small organization,* and *small governmental jurisdiction* and defines *small business* as having the same meaning as the term *small business* concern under § 3 of the Small Business Act unless the Commission has developed one or more definitions that are appropriate for its activities. The Small Business Act defines *small business* concern as one that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

17. The rules proposed in this Notice apply only to entities providing international common carrier services pursuant to Section 214 of the Communications Act; entities providing domestic or international wireless common carrier services under § 309 of the Act; and entities licensed to construct and operate submarine cables under the Cable Landing License Act.

18. Because the small incumbent local exchange carriers (LECs) subject to these rules are either dominant in their fields of operations or are not independently owned and operated, consistent with our prior practice, they are excluded from the definitions of *small entity* and *small business concern.* Accordingly, our use of the terms *small entities* and *small businesses* does not encompass small incumbent LECs. Out of an abundance of caution, however, for the purposes of this initial regulatory flexibility analysis, we will consider small incumbent LECs to be within this analysis, where a small incumbent LEC is any incumbent LEC that arguably might be defined by the SBA as a ''small business concern.''

19. *Section 214 International Common Carrier Services.* Entities providing international common carrier service pursuant to Section 214 of the Act fall into the SBA's Standard Industrial Classification (SIC) categories for Radiotelephone Communications (SIC 4812) and Telephone Communications, Except Radiotelephone (SIC 4813). The SBA's definition of *small entity* for those categories is one with fewer than 1,500 employees. We discuss below the number of small entities falling within these two subcategories that may be affected by the rules proposed in this Notice.

20. The most reliable source of information regarding the number of international common carriers is the data that we collect annually in connection with the *Telecommunications Industry Revenue: Telecommunications Relay Service Fund Worksheet Data (TRS Worksheet).* In 1995, 445 toll carriers filed TRS fund worksheets. We believe that between 50 and 200 carriers failed to file TRS fund worksheets. We believe also that fewer than 10 toll carriers had 1,500 or more employees. Thus, at most 635 international carriers would be classified as small entities. Many TRS filers, however, are affiliated with other carriers, and therefore the number of aggregated carriers is far fewer than the preceding estimate. Of the 445 toll filers, 239 reported no carrier affiliates. Adding 50 non-filers gives a lower estimate of 289 international carriers that would be classified as small entities. Thus, our best estimate of the total number of small entities is between 289 and 635. We are unable at this time to estimate with greater precision the number of international carriers that would qualify as small business entities under the SBA's definition. While not all of these entities may have provided international service in 1995, we expect that many of these entities will seek to do so in the future, as will additional entrants into the market.

21. *Title III Common Carrier Services. Cellular licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The closest applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular services carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the *TRS Worksheet.* According to the most recent data, 792 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular services carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 792 small cellular service carriers.

22. *220 MHz Radio Services.* Because the Commission has not yet defined a small business with respect to 220 MHz radio services, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity employing less than 1,500 persons. With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) for Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years, and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Since this definition has not yet been approved by the SBA, we will utilize the SBA's definition applicable to radiotelephone companies. Given the fact that nearly all radiotelephone companies employ fewer than 1,500 employees, with respect to the approximately 3,800 incumbent licensees in this service, we will consider them to be small businesses under the SBA definition.

23. *Common Carrier Paging.* The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging services. Under that proposal, a small business would be either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Since the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons. At present, there are approximately 74,000 Common Carrier Paging licensees. We estimate that the majority of common carrier paging providers would qualify as small businesses under the SBA definition.

24. *Mobile Service Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers such as paging companies. The closest applicable definition under the SBA rules is for radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that the Commission collects annually in connection with the *TRS Worksheet.* According to the most recent data, 117 companies reported that they were engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under the SBA's definition. Consequently, we estimate that fewer than 117 mobile service carriers are small entities.

25. *Broadband Personal Communications Services (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has defined *small entity* in the auctions for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenue of not more than $15 million for the preceding three calendar years. These regulations defining *small entity* in the context of broadband PCS auctions have been approved by the SBA. No small business within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small businesses won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully; therefore, there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning bidders and the 93 qualifying bidders in the D, E, and F Blocks, for a total of 183 small PCS providers as defined by the SBA and the Commission's auction rules.

26. *Narrowband PCS.* The Commission does not know how many narrowband PCS licenses will be

granted or auctioned, as it has not yet determined the size or number of such licenses. Two auctions of narrowband PCS licenses have been conducted for a total of 41 licenses, out of which 11 were obtained by small businesses owned by members of minority groups and/or women. Small businesses were defined as those with average gross revenues for the prior three fiscal years of $40 million or less. For purposes of this initial regulatory flexibility analysis, the Commission is utilizing the SBA definition applicable to radiotelephone companies, i.e., an entity employing less than 1,500 persons. Not all of the narrowband PCS licenses have yet been awarded. There is therefore no basis to determine the number of licenses that will be awarded to small entities in future auctions. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective narrowband PCS licensees can be made, we assume, for purposes of the evaluations and conclusions in this Initial Regulatory Flexibility Analysis, that all the remaining narrowband PCS licenses will be awarded to small entities.

27. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small business specific to the Rural Radiotelephone Service, which is defined in § 22.99 of the Commission's Rules. A significant subset of the Rural Radiotelephone Service is BETRS, or Basic Exchange Telephone Radio Systems (the parameters of which are defined in § § 22.757 and 22.759 of the Commission's Rules). Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them have fewer than 1,500 employees.

28. *Air-Ground Radiotelephone.* The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service, which is defined in § 22.99 of the Commission's Rules. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing fewer than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

29. *Specialized Mobile Radio Licensees (SMR).* Pursuant to § 90.814(b)(1) of our rules, the Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz Specialized Mobile Radio (SMR) licenses to firms that had revenues of less than $15 million in each of the three previous calendar years. This regulation defining ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations or how many of these providers have annual revenues of less than $15 million. We do know that one of these firms has over $15 million in revenues. We assume that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected includes these 60 small entities.

30. *Microwave Video Services.* Microwave services includes common carrier, private operational fixed, and broadcast auxiliary radio services. At present, there are 22,015 common carrier licensees. Inasmuch as the Commission has not yet defined *small business* with respect to microwave services, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with less than 1,500 employees. Although some of these companies may have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of common carrier microwave service providers that would qualify under the SBA's definition. We therefore estimate that there are fewer than 22,015 small common carrier licensees in the microwave video services.

31. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. Some of those licensees are common carriers. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition.

32. *Local Multipoint Distribution Service (LMDS).* The Commission has so far licensed only one licensee in this service, and that licensee is not providing service as a common carrier. There will be a total of 986 LMDS licenses. Licensees will be permitted to decide whether to provide common carrier service, and we have no way of estimating how many will choose to do so. Because there will be no restrictions on the number of licenses a given entity may acquire, we have no way of estimating how many total licensees there will be. We also cannot estimate the number of common carrier licensees that will qualify as small entities.

33. *Space Stations (Geostationary).* Very few systems are currently operated on a common carrier basis. Because we do not collect information on annual revenue or number of employees of all these licensees, we cannot estimate with precision the number of such licensees that may constitute a small business entity. It is likely that no more than one such entity that is currently operating as a common carrier would constitute a small business entity. There may be a small increase in the number of such entities in the future as a result of recent licensing action in the Ka-band.

34. *Space Stations (Non-geostationary).* These systems by and large do not operate as common carriers. Because we do not collect information on annual revenue or number of employees, we cannot estimate with precision whether any carrier that may choose to operate on a common carrier basis constitutes a small business entity. The trend is for such systems to operate on a non-common carrier basis. These systems, of which there will be a limited number, by and large are not yet operational and are still being licensed and constructed.

35. *Earth Stations.* The vast majority of earth stations licensed by the Commission are not operated on a common carrier basis. Earth stations that communicate with non-geostationary and Ka-band satellite systems may operate on a common carrier basis but these systems are not yet operational and are still being licensed and constructed. We are unable to estimate at this time the number of earth stations communicating with such systems that may operate on a common carrier basis and, of those, the number that will be licensed to small business entities.

36. *Submarine Cable Landing Licenses.* Our proposals would affect all holders of and future applicants for cable landing licenses, whether or not they operate their cables as common carriers. We have no way of knowing how many applications for cable landing licenses will be filed in coming years, but that number will likely increase if we adopt our proposal to lower the barriers to granting licenses

for cables to WTO Member countries. Since 1992, there have been approximately 35 applications for cable landing licenses. The total number of licensees is difficult to determine, because many licenses are jointly held by several licensees. Our rules will also permit more current licensees to accept additional investment from entities from WTO Member countries.

37. *Reporting, recordkeeping, and other compliance requirements.* The actions contained in this Notice of Proposed Rulemaking may affect large and small carriers. We propose to require that U.S. carriers whose foreign affiliates have market power maintain or provide certain records regarding their foreign affiliates. Our proposals would in most cases reduce the burdens that are currently imposed on such carriers, and we anticipate that the remaining requirements would not impose a significant economic burden on small entities. A variety of skills may be required to comply with the proposed requirements, but all of the skills that may be required are of the type needed to conduct a carrier's normal course of business. No additional outside professional skills should be required, with the possible exception of preparing an initial Section 214 or cable landing license application and of preparing a submission for our consideration under § 310(b)(4), all of which would be simplified by our proposals.

38. *Section 214 and the Cable Landing License Act.* The proposed revisions to our rules and policies pursuant to Section 214 and the Cable Landing License Act would significantly reduce the burdens on international common carriers. Our proposal would reduce the burden on foreign-affiliated carriers seeking to enter the market by requiring only that they show that their foreign affiliate is from a country that is a Member of the World Trade Organization. We believe this to be a minimal burden for most small entities and a significant reduction of burdens relative to our current application requirements.

39. The proposed ''basic dominant carrier safeguards'' would be less burdensome to most international common carriers than our current regulations. Carriers would no longer be required to obtain approval before adding or discontinuing circuits. Instead, they would be required only to file quarterly notification of additions of circuits. We propose to eliminate the requirement that dominant carriers file their international service tariffs on no less than 14 days' notice. Instead, we would allow those carriers to file their international service tariffs on one day's notice and accord them a presumption of lawfulness. This change would reduce regulatory burdens and increase the ability of carriers to innovate and efficiently respond to changes in demand and cost. We propose to retain the requirements that carriers file quarterly traffic and revenue reports and keep records of provisioning and maintenance of basic network facilities and services procured from the foreign affiliate. We anticipate that most of the entities subject to dominant carrier regulation would not be small entities, but we seek comment on that tentative conclusion.

40. This Notice proposes to impose supplemental dominant carrier regulation on U.S. carriers whose foreign affiliates do not face facilities-based competition for international services in the destination countries in which they have market power. We believe that additional regulation of those carriers is necessary to ensure that the foreign carrier does not discriminate in favor of its U.S. affiliate. These additional requirements may include stricter structural separation between the U.S. carrier and its foreign affiliate; stricter limits on certain arrangements for the sharing of information, customers, and joint marketing; prior approval for addition of circuits; quarterly circuit status reports; filing an electronic summary of § 43.51 contracts; and quarterly provisioning and maintenance reports. We anticipate that few if any small entities would be subject to supplemental regulation, but we seek comment on that tentative conclusion.

41. The Notice also seeks comment on whether, in light of our proposal to liberalize our rules on market entry, we need to impose as a dominant carrier safeguard some level of structural separation between the U.S. carrier and its foreign affiliate.

42. We have considered the impact on small and large entities in developing these proposals, and we view these proposed regulations as critical to preventing anticompetitive conduct. We also believe that these safeguards would protect small entities from entities that are affiliated with large foreign carriers by preventing foreign affiliates from leveraging their market power to the disadvantage of small, independent entities. We seek comment on whether we can further reduce the burdens on small entities and still achieve our goal of preventing anticompetitive behavior in the U.S. market.

43. *Section 310(b)(4).* We also propose to reduce the burdens on common carrier licensees with foreign investment from WTO Member countries. Section 310(b)(4) of the Communications Act has always required that we make a finding about whether indirect foreign investment in excess of 25 percent would serve the public interest. Our proposal here would, in many cases, greatly simplify the required showing by licensees or potential licensees. An applicant that could show that its foreign investor's principal place of business is in a country that is a Member of the WTO would in most cases have to make no further showing. An applicant whose foreign investment comes from a country that is not a WTO Member would still have to show that it satisfies the effective competitive opportunities test, but that burden would not be greater than that imposed by our current requirements.

44. This Notice asks for comment on whether we should adopt specific criteria for denial of Title III common carrier (and Section 214) applications that present such an unusual danger of anticompetitive effects that they should be denied even though the foreign investment is from WTO Member countries. We also ask whether we can further reduce regulatory burdens by eliminating our review of increases in foreign ownership by licensees that already have more than 25 percent foreign ownership. We also seek comment on other ways in which the consideration of foreign investment under § 310(b)(4) could be made less burdensome for small entities.

45. *Accounting Rate Flexibility.* We propose to reduce the burden on U.S. carriers that seek approval of alternative settlement rate arrangements with foreign carriers from WTO Member countries. Currently, a carrier seeking such approval must file a detailed petition for declaratory ruling showing that the alternative arrangement is permitted under the criteria adopted in our *Flexibility Order*, Regulation of International Accounting Rates, Docket No. CC 90–337, *Phase II, Fourth Report and Order*, 62 FR 5535, February 6, 1997) (*Flexibility Order*). We propose here to require only that an applicant show that the foreign carrier is operating in a country that is a Member of the WTO. An opposing party would have the burden of showing that market conditions in the country in question are not sufficient to prevent a carrier with market power from discriminating against U.S. carriers.

46. *Federal rules that overlap, duplicate, or conflict with the Commission's proposal.* None.

47. *Any significant alternatives minimizing impact on small entities and consistent with stated objectives.* In

developing the proposals contained in this Notice, we have attempted to minimize the burdens on all entities in order to allow maximum participation in the U.S. telecommunications markets while achieving our other objectives. We seek comment on the impact of our proposals on small entities and on any possible alternatives that could minimize the impact of our rules on small entities. In particular, we seek comment on alternatives to the reporting, recordkeeping, and other compliance requirements discussed above. We also seek specific comment on the impact on small entities of our proposals to modify our dominant carrier safeguards.

48. *Comments are solicited* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this Notice of Proposed Rulemaking, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with § 603(a) of the Regulatory Flexibility Act.

Initial Paperwork Reduction Act of 1995 Analysis

49. This Notice of Proposed Rulemaking contains either a proposed or a modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due August 18, 1997. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

50. We do not anticipate that the proposed rules will have any impact on the paperwork burden imposed under the Commission's *Flexibility Policy* established in the *Fourth Report and Order*, CC Docket No. 90–337, Phase I [62 FR 5535, February 6, 1997]; [OMB Control Nos. 3060–0160 and 3060–0764].

51. The rule changes proposed here have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose no new or modified requirements or burdens on the public. Accordingly, their implementation is not subject to approval by the Office of Management and Budget under that Act.

OMB Approval Number: 3060–0686.

Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements.

Type of Review: Revision of existing collection.

Respondents: Business or other For-Profit.

Number of Respondents: 3,238.

Estimated Time Per Response: 14 hours.

Total Annual Burden: 23,603 hours.

Estimated costs per respondent: $263.

Needs and Uses: The information collections are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications services, or to construct and operate submarine cables, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections are necessary for the Commission to maintain effective oversight of U.S. carriers that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign carriers that have market power. The information collected is necessary for the Commission to ensure that rates, terms and conditions for international service are just and reasonable, as required by the Communications Act of 1934.

52. The information collections under § 310(b)(4) of the Act are necessary to determine, under that section, whether a greater than 25 percent indirect foreign ownership interest in a U.S. common carrier ratio licensee would be inconsistent with the public interest.

Ordering Clauses

53. Accordingly, it is ordered that, pursuant to §§ 1, 4(i), 201(b), 214, 303(r), 307, 309(a), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 214, 303(r), 307, 309(a), 310, this notice of proposed rulemaking is hereby adopted.

54. The Commission's decision also included minor changes to part 63 of the Commission's rules, which are published elsewhere in this issue.

55. It is further ordered that the Secretary shall send a copy of this notice of proposed rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

List of Subjects in 47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15703 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 96–261, DA 97–1173]

International Settlement Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for supplemental comments.

SUMMARY: On June 4, 1997, the Federal Communications Commission adopted an Order and Notice of Proposed Rulemaking to review its rules and policies governing foreign participation in the U.S. market for basic telecommunications services. (*See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market* (FCC 97–195, IB Docket No. 97–142) published elsewhere in this issue.) In light of that NPRM, the Commission released a Public Notice soliciting supplemental comments in another ongoing FCC proceeding, *International Settlement Rates*, IB Docket No. 96–261 [61 FR 68702, December 30, 1996]. In the Public Notice, the Commission states that parties should submit supplemental comments and reply comments on only one specific proposal.

DATES: Supplemental Comments must be submitted on or before June 24, 1997, and Supplemental Reply Comments must be submitted on or before July 2, 1997.

ADDRESSES: All supplemental comments and supplemental reply comments should be addressed to: Office of the Secretary, Federal Communications Commission, Washington D.C. 20554. All supplemental comments and supplemental reply comments will be

available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M St., N.W. Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Kathryn O'Brien, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–0439.

SUPPLEMENTARY INFORMATION:

International Bureau Seeks Additional Comments in the Settlement Rate Benchmarks Proceeding (Notice of Proposed Rulemaking)

On June 4, 1997, the Commission adopted an Order and Notice of Proposed Rulemaking initiating a review of its rules and policies governing the participation of foreign carriers into the U.S. market for basic telecommunications services. *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket 97–142, *Order and Notice of Proposed Rulemaking*, FCC 97–195 (released June 4, 1997) (*Foreign Participation Notice*). In the *Foreign Participation Notice*, the Commission stated that it may be necessary to apply to U.S. facilities-based private line carriers the benchmark settlement rate conditions that the Commission proposed to apply to U.S. private line resellers in International Settlement Rates, IB Docket 96–261, *Notice of Proposed Rulemaking*, FCC 96–484 (released December 19, 1996) (*Benchmarks* proceeding). In the *Foreign Participation Notice*, the Commission therefore proposed generally to prohibit a U.S. facilities-based private line carrier from originating or terminating U.S. switched traffic over its facilities-based private lines until all U.S. carriers' settlement rates for the country or location at the foreign end of the private line are within the benchmark settlement range to be established in the *Benchmarks* proceeding.

In light of this proposal, the International Bureau invites interested parties to file supplemental comments and supplemental reply comments on this specific proposal in the *Benchmarks* proceeding. Parties should limit their supplemental comments and supplemental replies to this specific proposal. The Commission will decide whether to adopt rules to implement this and other proposed benchmark settlement rate conditions in the *Benchmarks* proceeding.

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file supplemental comments on or before June 24, 1997, and supplemental reply comments on or before July 2, 1997. We do not anticipate granting any extensions of this pleading cycle. To file formally in this proceeding, you must file an original and four copies of all submissions. If you want each Commissioner to receive a personal copy of your submission, you must file an original plus nine copies. You should send your submission to: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

A copy of each pleading should also be sent to Kathryn O'Brien, International Bureau, FCC, Room 845A, 2000 M Street, N.W., Washington, D.C. 20554, and to the Commission's contractor for public service records duplication: ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Supplemental comments will be available for inspection and copying in the FCC's Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. Copies also can be obtained from ITS at (202) 857–3800.

We will treat this proceeding as non-restricted (*i.e.*, permit-but-disclose) for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR 1.1200–1.1216. For further information concerning this matter, please contact Kathryn O'Brien, Telecommunications Division, International Bureau, at (202) 418–0439.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15702 Filed 6–16–97; 8:45 am]

BILLING CODE 6712–01–P

federal register

Tuesday
June 17, 1997

Part IV

Environmental Protection Agency

40 CFR Parts 261, 268, 271, and 302
Hazardous Waste Management System: Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Authorization of State Hazardous Waste Programs; and CERCLA Hazardous Substance Designation and Reportable Quantities; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 268, 271, and 302

[EPA530–Z–97–FFF; FRL–5839–7]

RIN 2050–AD59

Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Authorization of State Hazardous Waste Programs; and CERCLA Hazardous Substance Designation and Reportable Quantities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its regulations to conform with the federal appeals court ruling in *Dithiocarbamate Task Force* v. *EPA,* 98 F.3d 1394 (D.C.Cir. 1996), that invalidated, in part, Agency regulations listing certain carbamate wastes as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). These regulations pertain to hazardous waste management of carbamate industry wastes under RCRA, related rules affecting the list of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and regulations issued under state programs approved by the Administrator. Under the court's decision, and amended in today's rule, the vacated federal hazardous waste listings and regulatory requirements based on those listings are to be treated as though they have never been in effect. State regulations, which may be more stringent than federal rules, were not necessarily affected by the court's ruling.

EFFECTIVE DATE: This final rule takes effect on May 29, 1997.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–97–2CPF–FFFFF.

The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from the docket at no charge; additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline between 9:00a.m.–6:00 p.m. EST, toll-free, at 800–424–9346; 703–412–9810 from Government phones or if in the Washington, DC local calling area; or 800–553–7672 for the hearing impaired. For more detailed information on specific aspects of the rulemaking, contact Caroline Gerwe by calling 703–308–3540 or by writing, to U.S. Environmental Protection Agency, Office of Solid Waste, Hazardous Waste Identification Division, 401 M St., SW., (Mailcode 5304W), Washington, DC 20460.

SUPPLEMENTARY INFORMATION: This rule is available on the Internet. Please follow these instructions to access the rule electronically: From the World Wide Web (WWW), type http://www.epa.gov/epaoswer, then select option for Rules and Regulations.

The official record for this action is kept in a paper format. Accordingly, EPA has transferred all comments received into paper form and placed them into the official record, with all the comments received in writing. The official record is maintained at the address in the **ADDRESSES** section at the beginning of this document.

Outline of Today's Rule

I. Background

EPA lists wastes as hazardous wastes under section 3001 of RCRA, 42 U.S.C. 6921. Once a waste is listed as hazardous it becomes subject to federal requirements for persons who generate, transport, treat, store, or dispose of such waste. Facilities that must meet the hazardous waste management requirements, including the need to obtain permits to operate, are commonly referred to as ''Subtitle C'' facilities. Subtitle C is Congress' original statutory designation for that part of RCRA that directs EPA to issue regulations for hazardous wastes.

EPA standards and procedural regulations implementing Subtitle C are found generally at 40 CFR parts 260 through 272. Criteria and procedures for identifying and listing hazardous wastes are found at 40 CFR part 261.

General standards for generators of hazardous waste are found at 40 CFR part 262. General standards for transporters of hazardous waste are found at 40 CFR part 263. General standards for owners and operators of hazardous waste treatment, storage and disposal facilities—including standards for obtaining permits—are found at 40 CFR part 264.

Hazardous wastes are also subject to land disposal restrictions under 40 CFR part 268. EPA's authorizations for state hazardous waste programs are found at 40 CFR part 272. The requirements for obtaining these authorizations are found at 40 CFR part 271.

In addition, hazardous wastes having the characteristics identified under, or listed pursuant to, RCRA section 3001 (except when suspended by Congress) become hazardous substances under section 101(14)(C) of CERCLA, 42 U.S.C. 9601(14)(C). A reportable quantity (RQ) of one pound for reporting environmental releases is established for each substance, as provided by section 102(b) of CERCLA, 42 U.S.C. 9602(b). The one-pound statutory RQ applies until adjusted by regulations.

On February 9, 1995, the EPA published in the **Federal Register** (60 FR 7824) a rule listing as hazardous wastes under RCRA various wastes from four groups of carbamate compounds—carbamates, carbamoyl oximes, thiocarbamates and dithiocarbamates. These compounds, generally, are used as pesticides, herbicides and fungicides and in the rubber, wood and textile industries. This rule became effective on August 9, 1995.

The rule added 58 specific carbamate compounds to the list of hazardous constituents upon which RCRA hazardous waste listing determinations are based. This list of constituents appears at Appendix VIII of 40 CFR part 261.

These same 58 compounds were added to the list of commercial chemical products that are hazardous wastes only when they are discarded. This list is found at 40 CFR 261.33 and is divided into acutely hazardous wastes (''P-wastes'') and other toxic wastes (''U-wastes''). P-wastes are listed in subsection 261.33(e) and U-wastes are listed in subsection 261.33(f). Eighteen of the carbamates were P-wastes and 40 were U-wastes.

The rule, also, added six hazardous wastes generated from the industrial production of the carbamate chemicals to 40 CFR 261.32. These are hazardous wastes from specific sources, or ''K-wastes.'' The carbamate wastes were given numbers K156, K157, K158, K159, K160, and K161. K159 and K160 applied to certain wastes from thiocarbamate production; K161 applied to a waste stream from dithiocarbamate production; K156, K157 and K158

applied to various waste streams from the production of carbamates, proper.

As part of the listing rule, in accordance with Agency regulations, EPA also listed in Appendix VII of 40 CFR Part 261 the hazardous constituents upon which the production waste listings were based.

The February 1995 rule also designated the carbamate wastes as CERCLA hazardous substances and added them to the hazardous substance list at 40 CFR 302.4 with statutory one-pound RQs, as required under CERCLA sections 101(14)(C) and 102.

Subsequent to the February 1995 listing rule, EPA issued land disposal restriction (LDR) regulations for the carbamate wastes. These were issued on April 8, 1996 (61 FR 15663), and corrected June 28, 1996 (61 FR 33683). The prohibition on land disposal of carbamate wastes was effective July 8, 1996 and the prohibition on radioactive waste mixed with newly listed or identified wastes, including soil and debris, is effective April 8, 1998. In addition, EPA amended its requirements for approval of state hazardous waste programs by adding the carbamate listing and LDR regulations to Tables 1 and 2 of 40 CFR part 271.1. (See 61 FR 15659–15660, April 8, 1996.) These tables list the regulations that establish the requirements and prohibitions applicable to state hazardous waste programs.

On November 1, 1996, the United States Court of Appeals for the District of Columbia Circuit, in *Dithiocarbamate Task Force* v. *EPA*, ruled that EPA failed to follow proper rulemaking procedures in making some of the carbamate listing determinations and vacated them. Accordingly, EPA is removing from the Code of Federal Regulations those listings vacated by the court and all references to those listings. EPA notes that substantial portions of the decisions made in the carbamate listing rule remain in effect and are not changed by the court's ruling.

The court vacated 24 U wastes, one K-waste (K160), and three of the K-wastes (K156, K157 and K158) only to the extent they apply to the chemical, 3-iodo-2-propynyl n-butylcarbamate (IPBC). Twenty-three of the vacated U wastes consisted of all the dithiocarbamates and thiocarbamates. The other vacated U waste was IPBC, a carbamate.

II. Amended Regulations

Table 1 lists the 24 vacated U wastes that are removed from 40 CFR 261.33(f).

TABLE 1.—VACATED U WASTES

Hazardous waste No.	Common name	Chemical abstracts name	Chemical abstracts No.
U277	Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95–06–7
U365	Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester	2212–67–1
U366	Dazomet	2H–1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl-	533–74–4
U375	3-Iodo-2-propynyl n-butylcarbamate	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406–53–6
U376	Selenium tetrakis(dimethyl-dithiocarbamate).	Carbamodithioic acid, dimethyl-, tetraanhydro-sulfide with orthothio-selenious acid.	144–34–3
U377	Potassium n-methyl-dithiocarbamate	Carbamodithioic acid, methyl-, monopotassium salt	137–41–7
U378	Potassium n-hydroxymethyl -n-methyl-dithiocarbamate.	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026–28–9
U379	Sodium dibutyl-dithiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136–30–1
U381	Sodium diethyl-dithiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148–18–5
U382	Sodium dimethyl-dithiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128–04–1
U383	Potassium dimethyl-dithiocarbamate	Carbamodithioic acid, dimethyl-, potassium salt	128–03–0
U384	Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137–42–8
U385	Vernolate	Carbamothioic acid, dipropyl-,S-propyl ester	1929–77–7
U386	Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134–23–2
U390	EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759–94–4
U391	Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114–71–2
U392	Butylate	Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester	2008–41–5
U393	Copper dimethyl-dithiocarbamate	Copper, bis(dimethylcarbamo-dithioato-S,S'),	137–29–1
U396	Ferbam	Iron, tris(dimethylcarbamo-dithioato-S,S')-	14484–64–1
U400	Bis(penta-methylene) -thiuram tetrasulfide.	Piperidine, 1,1'-(tetrathio-dicarbonothioyl)-bis-	120–54–7
U401	Tetramethylthiuram monosulfide	Bis(dimethylthiocarbamoyl) sulfide	97–74–5
U402	Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl-	1634–02–2
U403	Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97–77–8
U407	Ethyl Ziram	Zinc, bis(diethylcarbamo-dithioato-S,S')-	14324–55–1

In 40 CFR 261.31, the following K-waste listing is deleted:

K160: Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarbamates and solids from the treatment of thiocarbamate wastes.

In addition, the hazardous waste listings for K156, K157, and K158 are amended. Originally, they read as follows:

K156: Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes.

K157: Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.

K158: Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes.

EPA is modifying each of these three listing descriptions to include the following limitation: (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)

EPA is not deleting any constituents in the Appendix VIII hazardous constituent list of 40 CFR part 261, since the Dithiocarbamate Task Force ruling did not affect those listings. The Agency is, however, deleting any mention of the associated vacated hazardous waste codes in Appendix VIII. While the regulations for waste management at 40 CFR parts 262 through 264 are not affected by the court's ruling, it is clear

that they are not applicable to any of the vacated hazardous waste listings (unless those wastes exhibit a hazardous waste characteristic described under 40 CFR 261.20 to 261.24). However, to the extent that the wastes described in the vacated listings were included in federal permits before the ruling, appropriate action may need to be taken by permittees and permitting authorities to amend the permits. Any need to revise state permits will depend on state law. Since state law may be more stringent than federal law (see RCRA section 3009) there may be circumstances in which carbamate listings would be required to remain in the permits.

The land disposal restriction (LDR) regulations for hazardous wastes are amended to remove the U and K wastes vacated by the court. Specifically the Agency is amending 40 CFR 268.39 to remove LDRs for K160, U277, U365, U366, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U390, U391, U392, U393, U396, U400, U401, U402, U403, and U407.

In addition, the description of the K156, K157 and K158 wastes in 40 CFR 268.40 are amended to reflect the fact that they do not apply to wastes from production of IPBC.

In a recent action to correct tables applicable to the LDR regulations (62 FR 7501, February 19, 1997), the Agency removed the vacated carbamate hazardous waste codes from the list of treatment standards contained in section 268.40 and removed Cycloate and IPBC from the Universal Treatment Standards (UTS) table in 40 CFR 268.48. The hazardous waste listings based on these two constituents were vacated by the Dithiocarbamate Task Force ruling and these constituents have not been cited as the basis for listing any other hazardous waste in Appendix VII of part 261. EPA notes these constituents are still listed in Appendix VIII of 40 CFR part 261 as hazardous constituents upon which EPA may base listings.

All other constituents on the Universal Treatment Standards table are being retained. This is because they remain the basis for listed hazardous wastes that have not been affected by the Dithiocarbamate Task Force ruling. Accordingly, the UTS standards for the following constituents which are part of the basis for K159 are retained: Butylate, EPTC, Molinate, Pebulate, and Vernolate. Also retained is Dithiocarbamates (total). The determination of total dithiocarbamates is part of the basis for listing of K161, which was not invalidated by the court ruling.

Today's final rule also removes the vacated U and K wastes from CERCLA designation as hazardous substances. Accordingly, all these wastes are removed from the list of CERCLA hazardous substances at 40 CFR 302.4.

III. State Authority

The tables in 40 CFR 271.1 are amended to reflect the issuance of this notice so that States will understand they are not required by the federal Resource Conservation and Recovery Act to adopt the hazardous waste listings vacated by the Dithiocarbamate Task Force ruling. Since today's rule does not establish any new regulation, no additional requirements or obligations are imposed on the States by its promulgation. RCRA section 3009 provides that States may not issue regulations less stringent than those authorized under Subtitle C of RCRA. However, section 3009 of RCRA also provides that States may impose more stringent requirements than those regulations promulgated by EPA under Subtitle C. Thus, regulations vacated by the Dithiocarbamate Task Force ruling may be permissible under state law.

IV. Good Cause Exemption From Notice-and-Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. 553(b). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment are unnecessary. 5 U.S.C. 553(b)(3)(B).

EPA has determined that providing prior notice and opportunity for comment on the amending of these carbamate regulations is unnecessary. These regulations are no longer legally in effect by order of the federal appeals court. Thus, amending them has no legal impact and only states the current legal status of the rules.

For the same reasons, EPA believes there is good cause for making the amending of these regulations immediately effective. See 5 U.S.C. 553(d).

V. Analyses Under E.O. 12866, Unfunded Mandates Reform Act of 1995, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996 and Paperwork Reduction Act

The amending of the carbamate regulations only reflects their current legal status and has no regulatory impact, therefore, this action is not a ''significant'' regulatory action by E.O. 12866. This action is not a significant regulatory action and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose annual costs of $100 million or more, will not significantly or uniquely affect small governments, and is not a significant federal intergovernmental mandate. The Agency thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act. Moreover, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to sections 603 or 604 of the Regulatory Flexibility Act.

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

Lastly, the removal of these regulations from the Code of Federal Regulations does not affect requirements under the Paperwork Reduction Act since they are no longer legally in effect.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous materials, Hazardous waste, Recycling, Reporting and recorkeeping requirements.

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 29, 1997.

Timothy Fields, Jr.,

Acting Assistant Administrator.

For the reasons set out in the preamble, amend chapter I of title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. Section 261.32 is amended in the table under ''Organic Chemicals'' by removing the entry for K160, and revising the entries for K156, K157, and K158 to read as follows:

§ 261.32 Hazardous waste from specific sources.

* * * * *

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
*	*	*
Organic chemicals:		
*	*	*
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.).	(T)
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.).	(T)
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.).	(T)
*	*	*

§ 261.33 [Amended]

3. Section 261.33(f) is amended in the table by removing in their entirety the following entries:

H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester, (U365)
Bis(dimethylthiocarbamoyl) sulfide, (U401)
Bis (pentamethylene)thiuram tetrasulfide, (U400)
Butylate, (U392)
Carbamic acid, butyl-,3-iodo-2-propynyl ester, (U375)
Carbamodithioic acid, dibutyl, sodium salt, (U379)
Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester, (U277)
Carbamodithioic acid, diethyl-, sodium salt, (U381)
Carbamodithioic acid, dimethyl-, potassium salt, (U383)
Carbamodithioic acid, dimethyl-, sodium salt, (U382)
Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid, (U376)
Carbamodithioic acid, (hydroxymethyl) methyl-,monopotassium salt, (U378)
Carbamodithioic acid, methyl-, monosodium salt, (U384)
Carbamodithioic acid, methyl,-monopotassium salt, (U377)
Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester, (U392)
Carbamothioic acid, butylethyl-,S-propyl ester, (U391)
Carbamothioic acid, cyclohexylethyl-, S-ethyl ester, (U386)
Carbamothioic acid, dipropyl-, S-ethyl ester, (U390)
Carbamothioic acid, dipropyl-, S-propyl ester, (U385)
Copper, bis(dimethylcarbamodithioato-S,S')-, (U393)
Copper dimethyldithiocarbamate,(U393)
Cycloate, (U386)
Dazomet, (U366)
Disulfiram, (U403)
EPTC, (U390)
Ethyl Ziram, (U407)
Ferbam, (U396)
3-Iodo-2-propynyl n-butylcarbamate, (U375)
Iron, tris(dimethylcarbamodithioato-S,S')-, (U396)
Metam Sodium, (U384)
Molinate, (U365)
Pebulate, (U391)
Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-, (U400)
Potassium dimethyldithiocarbamate, (U383)
Potassium n-hydroxymethyl-n-methyldi-thiocarbamate, (U378)
Potassium n-methyldithiocarbamate, (U377)
Selenium, tetrakis(dimethyldithiocarbamate), (U376)
Sodium dibutyldithiocarbamate, (U379)
Sodium diethyldithiocarbamate, (U381)
Sodium dimethyldithiocarbamate, (U382)
Sulfallate, (U277)
Tetrabutylthiuram disulfide, (U402)
Tetramethylthiuram monosulfide, (U401)
2H–1,3,5-Tthiadiazine-2-thione, tetrahydro-3,5-dimethyl-, (U366)
Thioperoxydicarbonic diamide, tetrabutyl, (U402)
Thioperoxydicarbonic diamide, tetraethyl, (U403)
Vernolate, (U385)
Zinc, bis(diethylcarbamodithioato-S,S')-, (U407)

Appendix VII to Part 261 [Amended]

4. Appendix VII to Part 261 is amended by removing the entire entry for EPA hazardous waste number K160.

5. Appendix VIII to Part 261 is amended by removing entries ''Potassium hyroxymethyl-n-methyl-dithiocarbamate'' and ''Tetrabutylthiuram monosulfide'', and by revising and adding in appropriate alphabetical order the following entries to read as follows:

APPENDIX VIII TO PART 261—HAZARDOUS CONSTITUENTS

Common name	Chemical abstracts name	Chemical abstracts No.	Hazardous waste No.
* *	* * * *		*
Bis(pentamethylene)-thiuram tetrasulfide.	Piperidine, 1,1′-(tetrathiodicarbonothioyl)-bis-	120–54–7	
* *	* * * *		*
Butylate	Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester	2008–41–5	
* *	* * * *		*
Copper dimethyldithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')-,	137–29–1	
* *	* * * *		*
Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134–23–2	
* *	* * * *		*
Dazomet	2H–1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl	533–74–4	
* *	* * * *		*
Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97–77–8	
* *	* * * *		*
EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759–94–4	
* *	* * * *		*
Ethyl Ziram	Zinc, bis(diethylcarbamodithioato-S,S')-	14324–55–1	
* *	* * * *		*
Ferbam	Iron, tris(dimethylcarbamodithioato-S,S')-,	14484–64–1	
* *	* * * *		*
3-Iodo-2-propynyl n-butylcarbamate	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406–53–6	
* *	* * * *		*
Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137–42–8	
* *	* * * *		*
Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester	2212–67–1	
* *	* * * *		*
Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114–71–2	
* *	* * * *		*
Potassium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl, potassium salt	128–03–0	
Potassium n-hydroxymethyl-n-methyl-dithiocarbamate.	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026–28–9	
Potassium n-methyldithiocarbamate	Carbamodithioic acid, methyl-monopotassium salt	137–41–7	
* *	* * * *		*
Selenium, tetrakis(dimethyl-dithiocarbamate).	Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid.	144–34–3	
* *	* * * *		*
Sodium dibutyldithiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136–30–1	
Sodium diethyldithiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148–18–5	
Sodium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128–04–1	
* *	* * * *		*
Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95–06–7	
* *	* * * *		*
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634–02–2	
* *	* * * *		*
Tetramethylthiuram monosulfide	Bis(dimethylthiocarbamoyl) sulfide	97–74–5	
* *	* * * *		*
Vernolate	Carbamothioic acid, dipropyl-,S-propyl ester	1929–77–7	
* *	* * * *		*

PART 268—LAND DISPOSAL RESTRICTIONS

6. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

7. Section 268.39 is amended by revising paragraphs (a) and (d) to read as follows:

§ 268.39 Waste specific prohibitions—spent aluminum potliners; reactive; and carbamate wastes.

(a) On July 8, 1996, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156–K159, and K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U278–U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409–U411 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

* * * * *

(d) On April 8, 1998, radioactive wastes mixed with K088, K156–K159, K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U278–U280, U364, U367, U372, U373, U387, U389, U394, U395, U404, and U409–U411 are prohibited from land disposal. In addition, soil and debris contaminated with these radioactive mixed wastes are prohibited from land disposal.

* * * * *

§ 268.40 [Amended]

8. In § 268.40, the table is amended in the entries for K156, K157, and K158 by adding the language ''(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)'' at the end of the existing text in the second column.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

9. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

10. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication in the **Federal Register**, and by adding the following entry to Table 2 in chronological order by date of publication in the **Federal Register** to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	*	*	*
[insert date of publication]	Vacated Carbamate wastes	[insert FEDERAL REGISTER page numbers.]	August 9, 1995.
*	*	*	*

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
*	*	*	*
July 8, 1996	Prohibition on land disposal of carbamate wastes (Vacated wastes).	3004(m)	[insert FR publication date, insert FR page numbers]
*	*	*	*
April 8, 1998	Prohibition on disposal of radioactive waste mixed with newly listed or identified wastes, including soil and debris (Vacated carbamate wastes).	3304(g)(4)(c) and 3004(m)	[insert FR publication date, insert FR page numbers]
*	*	*	*

* * * * *

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

11. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

12. Table 302.4 in § 302.4 is amended by removing the entries for ''1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester (Molinate)'', ''Bis(dimethylthiocarbamoyl) sulfide (Tetramethylthiuram monosulfide)'', ''Carbamic acid, butyl-, 3-iodo-2-propynyl ester (3-iodo-2-propynyl n-butylcarbamate)'', ''Carbamodithioic acid, dibutyl, sodium salt (Sodium dibutyldithiocarbamate)'', ''Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester (Sulfallate)'', ''Carbamodithioic acid, diethyl-, sodium salt (Sodium diethyldithiocarbamate)'', ''Carbamodithioic acid, dimethyl, potassium salt (Potassium dimethyldithiocarbamate)'', ''Carbamodithioic acid, dimethyl-, sodium salt (Sodium dimethyldithiocarbamate)'', ''Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid (Selenium, tetrakis (dimethyldithiocarbamate))'', ''Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt (Potassium n-hydroxymethyl-n-methyldithiocarbamate)'', ''Carbamodithioic acid, methyl,-monopotassium salt (Potassium n-methyldithiocarbamate)'', ''Carbamodithioic acid, methyl-, monosodium salt (Metam Sodium)'', ''Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester (Butylate)'', ''Carbamothioic acid, butylethyl-, S-propyl ester (Pebulate)'', ''Carbamothioic acid, cyclohexylethyl-, S-ethyl ester (Cycloate)'', ''Carbamothioic acid, dipropyl-, S-ethyl ester (EPTC)'', ''Carbamothioic acid,

dipropyl-, S-propyl ester (Vernolate)'', ''Copper, bis(dimethylcarbamodithioato-S,S')-(Cooper dimethyldithiocarbamate)'', ''Iron, tris(dimethylcarbamodithioato-S,S')-(Ferbam)'', ''Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-(Bis(pentamenthylene) thiuram tetrasulfide)'', ''2H–1,3,5-Thiadiazine-2-thione, tetrahydro-3,5-dimethyl-(Dazomet)'', ''Thioperoxydicarbonic diamide, tetrabutyl (Tetrabutylthiuram disulfide)'', ''Thioperoxydicarbonic diamide, tetraethyl (Disulfiram)'', ''Zinc, bis(diethylcarbamodithioato-S,S')-(Ethyl Ziram)'', and ''K160''.

13. Table 302.4 in § 302.4 also is amended by revising the following entries, (applicable footnotes have been republished without change), to read as follows:

§ 302.4 Designation of hazardous substances.

* * * * *

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[NOTE: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA waste number	Category	Pounds (Kg)
* * * * * * *							
K156 ..... Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	.....	.....	*1	4	K156	.....	##
K157 ..... Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	.....	.....	*1	4	K157	.....	##
K158 ..... Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)	.....	.....	*1	4	K158	.....	##
* * * * * * *							

† Indicates the statutory source as defined by 1, 2, 3, and 4 below.

* * * * * * *

4 Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA section 3001.

*1 Indicates that the 1-pound RQ is a CERCLA statutory RQ.

* * * * * * *

The Agency may adjust the statutory RQ for this hazardous substance in a future rulemaking; until then the statutory RQ applies.

* * * * * * *

Appendix A to § 302.4 [Amended]

14. Appendix A to § 302.4-Sequential CAS Registry Number List of CERCLA Hazardous Substances is amended by removing the entries for the following CAS Registry Numbers: 95067, 97745, 97778, 120547, 128030, 128041, 136301, 137291, 137417, 137428, 144343, 148185, 533744, 759944, 1114712, 1134232, 1634022, 1929777, 2008415, 2212671, 14324551, 14484641, 51026289, and 55406536.

[FR Doc. 97–15409 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Tuesday
June 17, 1997

Part V

The President

Proclamation 7010—Father's Day, 1997

Federal Register
Vol. 62, No. 116
Tuesday, June 17, 1997

Presidential Documents

Title 3—

The President

Proclamation 7010 of June 12, 1997

Father's Day, 1997

By the President of the United States of America

A Proclamation

Raising a child is a sacred mission, and the man who welcomes this mission and embraces the obligations of fatherhood is someone who truly deserves our recognition and gratitude. On Father's Day, we honor all the men across our country who have affirmed the importance of parenthood by willingly assuming its important responsibilities.

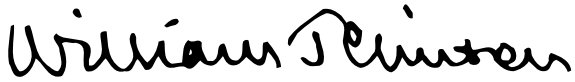
The tight grasp of a newborn baby's tiny hand curled around his or her father's finger only hints at the strength of the bond that will grow in all the seasons of life between father and child. Caring fathers are not content to merely safeguard their children's physical well-being, but also seek to foster their spiritual and moral growth, and pass on their most cherished values. Mentor, teacher, coach, friend, and hero, a father gives his son or daughter all that his mind, his hands, and his heart can provide. No work is too hard, no sacrifice is too great if doing so will strengthen, protect, nurture, and instill joy in his child.

Fathers teach their children to take pride in themselves and their work, to assume responsibility for their lives and character, and to understand the rewards of sharing with others. Most important, fathers—whether biological, adoptive, or foster—offer the strong, steady current of love that sustains their sons and daughters through the good times and bad times that all of us face.

Our Nation is blessed that so many Americans cherish the role of fatherhood in our families, for fathers add a crucial stability and strength to our lives. On Father's Day, let us honor and give thanks to these men who share with their children not only the precious gifts of life and love, but also their time, attention, and the kind of caring concern that lasts a lifetime.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972 (36 U.S.C. 142a), do hereby proclaim Sunday, June 15, 1997, as Father's Day. I invite the States, communities, and citizens of the United States to observe this day with appropriate ceremonies and activities that demonstrate our deep respect and abiding affection for our fathers.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of June, 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.



[FR Doc. 97–16025
Filed 6–16–97; 8:45 am]
Billing code 3195–01–P

Federal Register

Tuesday
June 17, 1997

Part VI

The President

Executive Order 13050—President's Advisory Board on Race

Federal Register
Vol. 62, No. 116
Tuesday, June 17, 1997

Presidential Documents

Title 3—

The President

Executive Order 13050 of June 13, 1997

President's Advisory Board on Race

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to establish a President's Advisory Board on Race, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Advisory Board on Race. The Advisory Board shall comprise 7 members from outside the Federal Government to be appointed by the President. Members shall each have substantial experience and expertise in the areas to be considered by the Advisory Board. Members shall be representative of the diverse perspectives in the areas to be considered by the Advisory Board.

(b) The President shall designate a Chairperson from among the members of the Advisory Board.

Sec. 2. *Functions.* (a) The Advisory Board shall advise the President on matters involving race and racial reconciliation, including ways in which the President can:

(1) Promote a constructive national dialogue to confront and work through challenging issues that surround race;

(2) Increase the Nation's understanding of our recent history of race relations and the course our Nation is charting on issues of race relations and racial diversity;

(3) Bridge racial divides by encouraging leaders in communities throughout the Nation to develop and implement innovative approaches to calming racial tensions;

(4) Identify, develop, and implement solutions to problems in areas in which race has a substantial impact, such as education, economic opportunity, housing, health care, and the administration of justice.

(b) The Advisory Board also shall advise on such other matters as from time to time the President may refer to the Board.

(c) In carrying out its functions, the Advisory Board shall coordinate with the staff of the President's Initiative on Race.

Sec. 3. *Administration.* (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Justice shall provide the financial and administrative support for the Advisory Board.

(b) The heads of executive agencies shall, to the extent permitted by law, provide to the Advisory Board such information as it may require for the purpose of carrying out its functions.

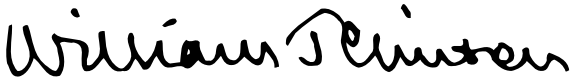
(c) The Chairperson may, from time to time, invite experts to submit information to the Advisory Board and may form subcommittees or working groups within the Advisory Board to review specific matters.

(d) Members of the Advisory Board shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701-5707).

Sec. 4. *General.* (a) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, that are applicable to the Advisory Board shall be performed by the Attorney General, or his or her designee,

in accordance with guidelines that have been issued by the Administrator of General Services.

(b) The Advisory Board shall terminate on September 30, 1998, unless extended by the President prior to such date.



THE WHITE HOUSE,
June 13, 1997.

[FR Doc. 97–16080
Filed 6–16–97; 12:17 pm]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 62, No. 116

Tuesday, June 17, 1997

CUSTOMER SERVICE AND INFORMATION

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JUNE

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JUNE 17, 1997

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; published 6-17-97

Indiana; published 4-18-97

Pennsylvania; published 4-18-97

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Federal claims collection; administrative offset; published 6-17-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Potatoes (Irish) grown in—

California et al.; comments due by 6-18-97; published 5-19-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Dry peas; comments due by 6-16-97; published 5-15-97

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric loans:

Electric system operations and maintenance; comments due by 6-16-97; published 4-16-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Shortraker and rougheye rockfish; comments due by 6-18-97; published 6-3-97

Magnuson Act provisions and Northeastern United States fisheries—

Experimental fishing permits; comments due by 6-20-97; published 6-5-97

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Agency information collection activities—

Proposed collection; comment request; comments due by 6-17-97; published 4-18-97

Empowerment contracting; comments due by 6-17-97; published 4-18-97

Subcontract consent; comments due by 6-20-97; published 4-21-97

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Fuels and fuel additives—

California gasoline refiners, importers, and oxygenate blenders; enforcement exemptions; comments due by 6-16-97; published 4-16-97

Gasoline produced by foreign refiners; baseline requirements; hearing; comments due by 6-20-97; published 5-12-97

Stratospheric ozone protection—

Significant new alternatives policy program; comments due by 6-20-97; published 5-21-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Deoxyribonucleic acid etc.; comments due by 6-16-97; published 5-16-97

Plant pesticides; comments due by 6-16-97; published 5-16-97

Viral coat protein; comments due by 6-16-97; published 5-16-97

Solid wastes:

Hazardous waste combustors, etc.; maximum achievable control technologies performance standards; comments due by 6-17-97; published 6-4-97

FEDERAL COMMUNICATIONS COMMISSION

North American Numbering Council recommendations; comment request; comments due by 6-20-97; published 5-27-97

Personal communications services:

Narrowband PCS—

Channels and response channels; eligibility and service area issues; comments due by 6-18-97; published 5-20-97

Radio stations; table of assignments:

Arizona; comments due by 6-16-97; published 4-30-97

California; comments due by 6-16-97; published 4-30-97

Louisiana; comments due by 6-16-97; published 4-30-97

Television broadcasting:

Advanced television systems (ATV); impact on existing television services; reconsideration petitions; comments due by 6-16-97; published 6-13-97

FEDERAL EMERGENCY MANAGEMENT AGENCY

Flood insurance program:

Flood mitigation assistance; comments due by 6-18-97; published 3-20-97

Write-your-own program—

Private sector property insurers assistance; comments due by 6-16-97; published 5-1-97

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Agency information collection activities—

Proposed collection; comment request; comments due by 6-17-97; published 4-18-97

Empowerment contracting; comments due by 6-17-97; published 4-18-97

Subcontract consent; comments due by 6-20-97; published 4-21-97

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Checkpoints; pre-enrolled access lane program; establishment; comments due by 6-17-97; published 4-18-97

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:

Classification and program review; team meetings; comments due by 6-20-97; published 4-21-97

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Agency information collection activities—

Proposed collection; comment request; comments due by 6-17-97; published 4-18-97

Empowerment contracting; comments due by 6-17-97; published 4-18-97

Subcontract consent; comments due by 6-20-97; published 4-21-97

RAILROAD RETIREMENT BOARD

Debt Collection Improvement Act of 1996:

Collection of debts by offset against Federal payments; comments due by 6-20-97; published 4-21-97

Railroad Unemployment Insurance Act:

Sickness benefits; acceptance of statement of sickness executed by substance-abuse professional in support of payment; comments due by 6-17-97; published 4-18-97

SOCIAL SECURITY ADMINISTRATION

Social security benefits and supplemental security income:

Federal old age, survivors and disability insurance—

Disability claims; testing elimination of final step in administrative review process; comments due by 6-16-97; published 5-16-97

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Maryland; comments due by 6-20-97; published 4-21-97

New Jersey; comments due by 6-20-97; published 4-21-97

Regattas and marine parades:

Assateague Channel, VA; marine events; comments due by 6-20-97; published 4-21-97

TRANSPORTATION DEPARTMENT

Economic regulations:

Domestic passenger manifest information; comments due by 6-20-97; published 5-30-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Lockheed; comments due by 6-20-97; published 5-9-97

Saab; comments due by 6-19-97; published 5-8-97

Class D airspace; comments due by 6-16-97; published 5-1-97

Class D and Class E airspace; comments due by 6-16-97; published 4-25-97

Class E airspace; comments due by 6-16-97; published 4-25-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Accelerator control systems; Federal regulatory review; withdrawn; technical workshop; comments due by 6-20-97; published 3-21-97

Metric conversion; weights and measures system; comments due by 6-20-97; published 4-21-97

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 1871/P.L. 105–18

1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (June 12, 1997; 111 Stat. 158)

Last List June 6, 1997