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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations; Fresh Plum Endorsement, and Common Crop Insurance Regulations; Plum Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of plums. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Fresh Plum Crop Insurance Endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Fresh Plum Endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: July 23, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions on information collection requirements previously approved by OMB under OMB control number 0563–0053 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, the rule is not subject to the requirements of section 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

The Manager, Federal Crop Insurance Corporation, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This final rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Tuesday, February 11, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 6134–6138 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.157, Plum Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring plums found at § 401.146 (Fresh Plum Crop Insurance Endorsement). FCIC also amends 7 CFR 401.146 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions. A total of 16 comments were received from an insurance service organization and reinsured companies. The comments received and FCIC's responses are as follows:

Comment: An insurance service organization and a reinsured company expressed concern with the definition of ''Good farming practices,'' which makes

reference to ''cultural practices generally in use in the county * * * recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.'' The commenters indicated there are areas or situations where good, accepted farming practices may not necessarily be recognized by the Extension Service, and ''county'' should be changed to ''area.''

Response: FCIC believes that the Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing plums. If a producer is following practices currently not recognized as acceptable by CSREES, there is no reason why such recognition cannot be sought by interested parties. The cultural practices recognized by CSREES pertain only to specific areas within a county. Such limitations would be considered by FCIC. Therefore, no change has been made to these provisions.

Comment: An insurance service organization recommended changing ''production guarantee'' to ''insured's average yield'' or ''average yield'' in the definitions of ''good farming practice'' and ''irrigated practice.''

Response: Depending on the number of years for which records are provided, the yield used to determine the production guarantee may be calculated using the insured's actual production history (APH) yields, assigned yields, or a combination thereof. FCIC believes that referencing the ''yield used to determine the production guarantee'' rather than ''insured's average yield'' or ''average yield'' in these definitions is more accurate and reduces the possibility that the yield determination will be misrepresented. Also, this language is consistent with other perennial crop policies. Therefore, no change has been made.

Comment: An insurance service organization and a reinsured company recommended deleting the words ''or machine'' in the definition of ''harvest'' since there is no machine harvest of fresh plums.

Response: FCIC agrees and has revised the definition accordingly.

Comment: An insurance service organization recommended changing the definition of ''interplanted'' to require that the acreage planted to another crop, within the insured's crop planting pattern, occupy more than five percent of the total acreage in the unit.

Response: Planting patterns may vary when perennial crops are interplanted. FCIC believes that introducing, into the definition, an exact percentage of interplanted acres that must be exceeded before the plums are considered interplanted is arbitrary because there is no evidence to support any particular amount. No basis was provided for this recommendation, and the definition of ''interplanted'' in other perennial crop policies does not specify a percentage of interplanted acres. Therefore, no change has been made.

Comment: A reinsured company recommended adding the words ''and quality'' after the word ''quantity'' in the definition of ''irrigated practice.''

Response: There are no clear criteria regarding the quality of water necessary to produce a crop. Further, such criteria would be difficult to develop and administer due to complex interactions of various factors. Therefore, no change has been made to the definition.

Comment: An insurance service organization recommended removal of the phrase in section 2(e)(3)(ii) which states ''In addition to, or instead of, establishing optional units on non-contiguous land,'' since section 2(e)(3) states that ''Each optional unit must meet one or more of the following criteria * * *.''

Response: FCIC agrees and has revised the section accordingly.

Comment: An insurance service organization expressed concern regarding removal of the provision restricting coverage on plums harvested directly by the public since there are no third-party receipts, thereby making production difficult to track.

Response: The producer is required to give notice at least 15 days prior to any production being marketed directly to consumers and the insurance provider is required to complete an appraisal within that 15 day period. The production may be marketed directly to consumers any time following the 15 day waiting period regardless of whether or not the insurance provider had fulfilled its responsibility to appraise the crop. FCIC believes that 15 days is appropriate to meet the needs of both the producer and the insurance provider. Therefore, no change has been made to the provisions.

Comment: An insurance service organization recommended deleting the phrase ''an average of'' in section 6(d) so the language would read ''That have produced at least 200 lugs per acre * * *.''

Response: A unit may consist of two or more blocks of plums with yield variations among the blocks due to tree age, soil fertility, etc. The phrase ''an average of'' clarifies that the minimum yield requirement for insurance to attach is based on a per acre average for the unit rather than being based on each acre. Removal of the phrase could cause confusion because the minimum yield requirement for insurance coverage in a number of other perennial crop policies is based on average yield per acre. Therefore, no change has been made.

Comment: A reinsured company stated that coverage should begin on February 1 of each crop year. The commenter indicated that the additional wording in section 8(a)(1) of the policy may provide a loop-hole for the producer whose application is received prior to January 22 and section 6(e) already specifies that the orchard, if inspected, must be acceptable by us. In addition, an insurance service organization recommended that a specific date (by which an application must be received for insurance to attach on January 1) should not be listed. Instead of a date, this section should state ''if your application is received less than ten days before the sales closing date.''

Response: Coverage does begin on February 1, unless the producer submits the application less than 10 days before that date. Perennial crops are unique in that insurance usually attaches on the day following the sales closing date. For most other crops, insurance attaches when the crop is planted. The 10 day period is intended to prevent producers from only purchasing insurance because they know an ''event'' will occur that will make a loss likely. The period of 10 days is believed appropriate to meet the needs of both the producer and the insurance provider. These provisions were modified to be consistent with other perennial crop provisions. FCIC does not believe that this wording adds confusion or provides a loop-hole for producers whose application is received prior to January 22. Listing the date by which an application must be received for insurance to attach on January 1 is more specific, avoids possible confusion, and is consistent with other perennial crop policies. Therefore, no change has been made.

Comment: An insurance service organization stated that ''pitburn and sunburn,'' which are causes of loss listed in section 9(a)(2), are natural culls in the Crop-Hail policy and should be natural culls in the MPCI policy.

Response: Although pitburn and sunburn may be considered natural culls in the Crop-Hail policy, they are caused by adverse weather (excessive heat), which is an insured cause of loss. Therefore, although these causes of loss do not require separate listing, they would still be covered. FCIC has revised section 9(a)(2) accordingly.

Comment: An insurance service organization stated that section 11(c)(1)(iv) ''Settlement of Claim'' should not allow the insured to defer settlement and wait for a later, generally lower, appraisal, especially on crops that have a short ''shelf life.''

Response: A later appraisal will only be necessary if the insurance provider agrees that such an appraisal would result in a more accurate determination and if the producer continues to care for the crop. If the producer does not continue to care for the crop, the original appraisal will be used. Therefore, no change will be made to these provisions.

Comment: An insurance service organization and reinsured companies recommended that the requirement for a written agreement to be renewed each year be removed if no substantive changes occur from one year to the next. The commenter indicated that limiting administrative agreements to one year increases administrative costs, complexity, and opportunity for misunderstanding and error.

Response: Written agreements are, by design, temporary and intended to address unusual circumstances. If the conditions for which a written agreement is needed exists each crop year, the policy or Special Provisions should be amended to reflect this condition. Therefore, no change will be made to the provision.

In addition to the changes described above, FCIC has made the following editorial change to the Plum Provisions:

1. Section 1—Added a definition of ''Adapted'' for clarification.

2. Section 2(a)—Deleted language addressing division of basic units into optional units by written agreement, since this is addressed in section 2(e)(3).

3. Section 6(b)(4)—Added California Tree Fruit Agreement to the list of entities that regulate tree varieties.

4. Section 9(a)(6)—Clarified that wildlife is an insured cause of loss unless control measures have not been taken.

5. Section 10(d)—Changed the requirement for notification of damage or loss to state that the producer must not destroy the damaged crop until after the insurance provider has given written consent to do so. Previous wording restricted the producer from selling or disposing of the damaged crop until written consent was given; however, due to the perishable nature of the crop, FCIC believes the expanded limitation on the producer's action is reasonable for effective program management.

6. Section 11(c)(2)(i)—Changed the quality standards when determining production to count of plums packed and sold as fresh fruit from the California Marketing Order grade requirement to the U.S. No. 1 standards as modified by the California Tree Fruit Agreement publication for plums for the applicable crop year. This terminology is more descriptive and corresponds with existing practices.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Fresh plums endorsement, Plums.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 401.146 introductory text is revised to read as follows:

§ 401.146 Fresh plum endorsement.

The provisions of the Fresh Plum Crop Insurance Endorsement for the 1990 through the 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

4. Section 457.157 is added to read as follows:

§ 457.157 Plum crop insurance provisions.

The Plum Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Plum Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, the Special Provisions and the Catastrophic Risk Protection Endorsement, if applicable; the Special Provisions will control these Crop Provisions and the Basic Provisions; these Crop Provisions will control the Basic Provisions; and the Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

1. Definitions

Adapted. Varieties of the insured crop that are recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Days. Calendar days.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. The picking of mature plums from the trees by hand.

Interplanted. Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Lug. Twenty-eight (28) pounds of the insured crop.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Production guarantee (per acre). The number of lugs of plums determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Scion. Twig or portion of a twig of one plant that is grafted onto a stock of another.

Varietal group. Different varieties of plums that are grouped according to the normal maturity dates as specified in the Special Provisions.

Written agreement. A written document that alters designated terms of this policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8) (basic unit), may be divided into optional units if, for each optional unit, you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional

units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(d) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(3) Each optional unit must meet one or more of the following criteria unless otherwise specified by the written agreement, as applicable:

(i) *Optional Units on Acreage Located on Non-Contiguous Land:* Optional units may be established if each optional unit is located on non-contiguous land.

(ii) *Optional Units on Acreage by Varietal Group:* Optional units may be established by varietal group when provided for in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only one price election for all the plums in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each plum varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by varietal group if applicable:

(1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage is changed:

(i) The age of the interplanted crop and varietal group if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of interplanting a perennial crop, removal of trees, damage, change in practice, and any other circumstance that may effect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is October 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are January 31.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the plums in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown on tree varieties that:

(1) Were commercially available when the trees were set out;

(2) Are adapted to the area;

(3) Are grown on rootstock that is adapted to the area; and

(4) Are regulated by the California Tree Fruit Agreement, California Advisory Board Standards, a related crop advisory board, or the State;

(c) That are irrigated;

(d) That have produced an average of at least 200 lugs per acre in at least one of the three most recent actual production history crop years, unless we inspect the acreage and give our approval to insure such acreage in writing;

(e) That are grown in an orchard that, if inspected, is considered acceptable by us; and

(f) That have reached at least the fifth (5th) growing season after set out. Plums produced on scions that have not reached the fifth growing season may be insured if the provisions in section 6(a), (b), (c), and (e) are met. Such trees must have produced at least 200 lugs per acre in at least one year after being grafted.

7. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8) that prohibit insurance attaching to a crop planted with another crop, plums interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on February 1 of each crop year. Notwithstanding the previous sentence, for the year of application, if your application is received after January 22 but prior to February 1, insurance will attach on the 10th day after your properly completed application is received in our local office unless we inspect the acreage during the 10-day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is September 30.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of plums on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Wildlife, unless control measures have not been taken;

(4) Earthquake;

(5) Volcanic eruption;

(6) An insufficient number of chilling hours to effectively break dormancy; or

(7) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available;

(2) Rejection of the crop by the packing house due to being undersized, immature, overripe, or mechanically damaged; or

(3) Inability to market the plums for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties In The Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the following will apply:

(a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest or immediately if damage is discovered during harvest, so that we may inspect the damaged production.

(d) You must not destroy the damaged crop until after we have given you written consent to do so.

(e) If you fail to notify us in accordance with this section, we may consider all such production to be undamaged and include it as production to count.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate, acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production from such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each varietal group, if applicable, by its respective production guarantee;

(2) Multiplying the results in section 11(b)(1) by the respective price election for each varietal group, if applicable;

(3) Totaling the results in section 11(b)(2);

(4) Multiplying the total production to be counted of each varietal group, if applicable, (see section 11(c)) by the respective price election;

(5) Totaling the results in section 11(b)(4);

(6) Subtracting the results in section 11(b)(5) from the results in section 11 (b)(3); and

(7) Multiplying the result in section 11(b)(6) by your share.

(c) The total production to count (in lugs) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing directly if you fail to meet the requirement contained in section 10;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us.

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage that you intend to abandon or 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 do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage:

(i) That is packed and sold as fresh fruit and meets the U.S. No. 1 standards as modified by the California Tree Fruit Agreement publication for plums for the applicable crop year;

(ii) That is packed and sold as fresh fruit but does not meet the grade requirements specified in section 11(c)(2)(i) due to insurable causes. Such production will be adjusted by:

(A) Dividing the value per lug of this production by the highest price election available for the applicable varietal group; and

(B) Multiplying the resulting factor, if less than 1.0, by the number of lugs of such plums.

(iii) That is damaged and is, or could be, marketed for any use other than fresh packed plums. Such production will be adjusted by:

(A) Multiplying the number of tons of such production by the value per ton of the damaged plums or $50.00, whichever is greater; and

(B) Dividing that result by the highest price election available for the applicable varietal group.

12. Written Agreement

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 12(e);

(b) The application for a written agreement must contain all terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (if the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for written agreement submitted after the sales closing date may be approved if, after physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, DC, on June 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–16271 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations; Grape Endorsement and Common Crop Insurance Regulations; Grape Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of grapes. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current grape endorsement under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current grape endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: John Meyer, Insurance Management

Specialist, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, 61 FR 49982, the public was afforded 60 days to submit written comments on information collection requirements previously approved by OMB under OMB control number 0563–0053 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This rule has been reviewed in accordance with Executive Order No. 12988. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Tuesday, September 24, 1996, FCIC published a proposed rule in the **Federal Register** at 61 FR 49982–49987 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.138, Grape Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring grapes found at 7 CFR 401.130. FCIC also amends 7 CFR 401.130 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments. A total of 26 comments were received from reinsured companies, an insurance service organization, a grower group, and FCIC Regional Service Offices (RSO). The comments received, and FCIC's responses, follow:

Comment: A grower group suggested that the definition of ''irrigated practice'' should read ''irrigation practice'' for grammatical correctness and inclusion of the term commonly used to refer to the practice of introducing water by artificial means to agricultural lands.

Response: FCIC agrees with the comment and has amended the defined term accordingly.

Comment: An insurance service organization recommended that in the definition of ''production guarantee (per acre)'' rephrasing ''The number of grape (tons) * * *.'' to read ''The number of tons of grapes'' * * *.

Response: FCIC has clarified this provision by deleting the crop reference. The provision now states, ''The number of tons * * *''.

Comment: A reinsured company recommended adding the words ''and quality'' after the word ''quantity'' in the definition of ''irrigated practice.''

Response: FCIC agrees that water quality is an important issue. However, since no standards or procedures have been developed to measure water quality for insurance purposes, FCIC has elected not to include quality in the definition. No changes have been made.

Comment: A reinsured company questioned whether the definition of ''non-contiguous land'' should state ''that it is land ownership that does not touch at any point.''

Response: Land ownership is not a factor to determine non-contiguous land. Rather, non-contiguous is only determined based on whether the boundaries of the land touch at any point. FCIC believes the provision is clearly stated. Therefore, no change will be made.

Comment: An FCIC RSO recommended adding ''Risk Management Agency'' to the list of definitions.

Response: These regulations are published under the authority of the Federal Crop Insurance Act, which created FCIC and gave it the authority to offer this crop insurance program. As a result, the term FCIC rather than Risk Management Agency is used appropriately throughout these regulations. Therefore, no change will be made.

Comment: A reinsured company and an insurance service organization stated the provisions in section 2(e), ''All optional units established for a crop year must be identified on the acreage report for that crop year'' is ambiguous and could lead to misunderstanding concerning when optional units may be established. One of the comments also suggested adding language to section 2(f)(1) to clarify that the units must be based on production reports that were

reported timely since unit breakdown cannot occur without timely reported production.

Response: Only those optional units determined under the selected method for the crop year for which the acreage report is completed must be listed. Optional unit designations from past years, or that could have been established for the current year but were not, should not be listed on the current crop years' acreage report. FCIC has clarified this provision accordingly. Section 2(f)(1) has also been clarified to indicate that records of production for the optional units must be provided by the production reporting date.

Comment: An insurance service organization suggested deleting ''one or more of'' from section 2(g) since item (1) applies to California only, and item (2) applies to all other states and it would not be possible for both to be applicable on one policy.

Response: FCIC agrees and has amended the provisions accordingly.

Comment: An insurance service organization suggested that in section 2(g)(2) (ii), (iii), and (iv) it was not necessary to begin each of the paragraphs with ''In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number,'' and suggested beginning each paragraph with ''Optional units may be based on (ii) irrigated * * *, (iii) non-contiguous * * *, or (iv) varietal group * * *'' Section 2(g)(2) states ''that each optional unit must meet one or more of the following criteria'' .

Response: To remain consistent with most crop provisions, and to clearly indicate that any combination of applicable unit division methods may be utilized, section 2(g)(2) (ii), (iii), and (iv) have not been changed.

Comment: An FCIC RSO recommended that subsection 3(a) (re-designated as subsection 3(b)) be amended for Idaho, Oregon and Washington, to read: ''The price elections you choose for each varietal group may have a different percentage relationship as compared to the maximum price offered by us for each varietal group.'' It was further recommended that producers be allowed to select coverage levels by varietal group. This would give producers the flexibility to insure different varietal groups at different price and coverage levels.

Response: FCIC agrees that allowing variation in price election percentages will provide additional flexibility for producers in these states and has amended the provisions to allow this except in cases in which the producer has elected the Catastrophic Risk Protection (CAT) level of insurance. Some FCIC programs currently allow the coverage level percentage to vary by variety or type. However, for these programs it has been determined that adequate actuarial information is available to allow varieties or types to be insured separately, and separate administrative fees are charged for each variety or type that is insured. Further research must be completed before it is known whether or not adequate information is available to allow separate insurance by varietal groups in Oregon, Washington, and Idaho. Therefore, the provisions have not been changed to allow different coverage level percentages by varietal group.

Comment: An insurance service organization suggested subsection 3(a) (re-designated as subsection 3(c)) begin with the phrase, ''You may select only one price percentage * * *.'' It would not then be necessary to include complex provisions regarding different varieties with different maximum prices.

Response: The methods used to select price elections vary between insurance providers. While some require selection of a percentage, others require selection of a specific dollar amount. The suggested change will not work in all circumstances. Therefore, no change has been made to the provisions.

Comment: An insurance service organization commented that allowing different coverage levels as well as price percentages by grape variety in California (section 3(a)) is a change from the current policy, which requires the same coverage level and price percentage of the maximum price for all grapes insured under the policy. The comment recommended this be identified as a policy change.

Response: FCIC agrees with the comment. Provisions were added to allow different coverage levels and price percentages by variety in California. This should have been identified as a policy change.

Comment: A grower group took exception to allowing written agreements only in California (section 3(b)), (redesignated as section 3(d)) to establish a price election for a variety that does not have a separate price election on the Special Provisions. The comment stated that other states should also be allowed this opportunity.

Response: Price elections are established by variety in California and by varietal group in all other states. Varietal groups may be composed of several different varieties based on final use of the varieties in the group or their expected value. The varietal groups should encompass all varieties grown in an area; so there is no need to use a written agreement. Therefore, no changes have been made.

Comment: A reinsured company expressed concern about the language in section 3(c)(1) (redesignated as 3(e)(1)) that states the insured must report, ''any damage, removal of bearing vines, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres.'' Procedural requirements state that when a producer reports these items, a field inspection must occur and be forwarded to the RSO. The commenter expressed concern because the guarantee or insurability can not be determined at point of sale, and inspection costs and the number of cases the RSO must handle could increase dramatically.

Response: Insurance providers must be made aware of circumstances that may reduce yields below historical levels. Removing these provisions would allow the yield guarantee to exceed the potential yield in some cases. This would result in a program that is not actuarially sound. Further, these requirements have been only clarified and are not new provisions. Therefore, FCIC does not expect an increased workload.

Comment: An insurance service organization questioned whether the language in section 7(a) ''crop insured will be all grapes in which you have a share'' is affected by the new language in section 9(b) (1) and (2) which deals with insurable shares acquired or relinquished on or before the acreage reporting date, and whether there should be a reference in section 7(a) to the exception in section 9(b).

Response: There is no exception to the share requirement in section 9(b). Section 9(b) simply specifies how a share can be acquired or relinquished. If the share is relinquished by the insured, the insured will not receive any benefits under the policy, nor have to pay any premium. Therefore, no change is required.

Comment: A reinsured company, an insurance service organization, and an FCIC RSO recommended changing the ''or'' used at the end of section 7(d) to ''and'' since both section 7(d) and section 7(e) are pre-requisite for grapes to be insurable.

Response: FCIC agrees with the comment and has amended the provisions accordingly.

Comment: A reinsured company suggested that section 7 (d) and (e) be revised to state, ''mature grapes ''grafted over'' to another variety after being set

out'' will be insurable one year earlier than the number of growing seasons designated in the Special Provisions, or, as soon as they have produced at least 2 tons per acre after being grafted over, which ever occurs first.

Response: FCIC agrees that mature grapes ''grafted over'' to produce a variety other than originally grown tend to produce faster than normal rootstock that is set out; however, occasionally grafts do not ''take'' and the vines may never produce two tons. The Special Provisions will be revised to specify the number of growing seasons necessary for mature grapes grafted to another variety although the provisions in section 7(e) must still be met. Therefore, no change will be made.

Comment: An FCIC RSO and a reinsured company recommended a section 7(f) be added to the policy to read as follows: ''produced by vines where there is at least a 90 percent stand of bearing vines based on the current planting pattern.'' This language is in the current grape policy.

Response: The provisions of section 3(c)(1) are intended to provide the opportunity to adjust the insurance yield when there is less than a full stand of vines. The 90 percent requirement is unduly restrictive. Therefore, no changes have been made.

Comment: An insurance service organization asked whether the ''or'' in the last sentence of section 9(a)(1) should be deleted, and if not, what other information is required ''for the crop'' other than what is needed ''to determine the condition of the vineyard''?

Response: A variety of information concerning the crop may be needed, including past production records, acreage records, etc. In addition, information regarding the current condition of the vineyard is necessary. This may include records of vine removal, grafting, changes in cultural practices, etc. This provision must include all these various types of information. Therefore, no changes have been made.

Comment: An FCIC RSO recommended the end of the insurance period for Idaho, Oregon, and Washington section (9)(a)(2)(ii) be changed from November 10 to November 1 to maintain program integrity and actuarial soundness.

Response: FCIC agrees that all production in these states should be harvested by November 1 and has amended the provisions accordingly.

Comment: A reinsured company recommended adding a statement to section 9(b)(1) stating what happens if acreage is acquired after the acreage reporting date.

Response: Acreage acquired after the acreage reporting date will not be insured. Section 9(b)(1) has been amended accordingly.

Comment: A reinsured company requested the provision in section 10(b)(2) ''Phylloxera, regardless of cause'' be deleted since phylloxera is an insect infestation for which there is no effective control mechanism and no effective way to separate the amount of damage caused by phylloxera from the amount of damage caused from an insurable cause of loss. According to another source, phylloxera is a fungus, and loss of production resulting from it cannot be separated from losses from other causes, at least for the first year. Also there was a question as to whether the provision as written allows for a loss due to phylloxera to be paid the first year, but not in subsequent years when the cause can be determined. If not, it was felt that this provision would be difficult (if not impossible) to enforce.

Response: It is widely accepted that Type B phylloxera will ultimately destroy nearly all vineyards that were planted on non-resistant root stock. The wine industry has done extensive research and worked with producers to develop plans to destroy and replace non-resistant vineyards and some vineyards have been destroyed immediately after finding infestations. Providing coverage for phylloxera related losses may inhibit the efforts being made to stop the spread of this pest and may be considered to promote poor pest management practices. The provision does not allow payment for phylloxera related losses in any year. This provision will not be difficult to enforce since phylloxera must still be identified in the crop year in order for it to be considered an uninsurable cause of loss. Therefore, no changes have been made.

Comment: A reinsured company suggested adding the following language to section 11(b), ''notice must be given immediately if damage occurs less than 15 days prior to, or during, harvest.'' However, they did not feel it advisable for an insured to have to discontinue harvest or delivery of production until after the insurance provider inspected the damaged production or provided written consent. It was thought that as long as proper notice is received, damage could be determined at the winery, cannery, etc.

Response: FCIC agrees that an insured should not have to discontinue harvest or delivery of production while waiting for the insurance provider's inspection of the damaged production. Policy provisions requiring the insured to not sell or dispose of the damaged crop until after the insurance provider gives written consent, have been deleted. However, the insured may not destroy the damaged crop until the insurance provider gives written consent. This will allow the producer to sell any damaged production if there is a market for it. Failure of the insured to notify the insurance provider could result in all damaged production being considered as undamaged and production to count.

Comment: A reinsured company questioned whether in section 12(b)(2) and (4) ''respective price election'' referred to the price election selected by the insured or the high price for the variety or varietal group, and suggested that clarification may be advisable.

Response: The respective price election used in sections 12(b)(2) and (4) refers to the price election selected by the insured for the specific variety or varietal group insured prior to the sales closing date. The provisions have been clarified accordingly.

Comment: A reinsured company questioned the reference in section 12(e)(1) to ''usual marketing outlets for the area.'' These marketing outlets are used to determine the price of undamaged production. They stated that the ''area'' in California is the Crush District where the grapes are grown, and that price information can be difficult to obtain from wineries and other buyers. It was suggested the market price be determined by a single source such as the FCIC Regional Service Office or the producer's contract with the winery or other buyers.

Response: FCIC agrees it does takes time to contact buyers and establish an average market price. However, a single source such as an RSO does not have the resources to establish this price since it may vary considerably by year and according to growing conditions. In a heavy loss year, price determinations must be made without delay during the week in which the damaged grapes are valued. Transferring this function to the RSO could result in unacceptable delays. Therefore, no changes have been made.

Comment: An insurance service organization suggested combining the provisions contained in section 13(e) with the provisions in section 13(a).

Response: The requirement that requests for written agreement be executed by the sales closing date is intended to be the rule and the application submitted after the sales closing date will only be an exception to this rule in limited circumstances. Therefore, no change will be made.

Comment: An insurance service organization and a reinsured company suggested the provision in section 13(d)

stating ''Each written agreement will only be valid for one year'' be removed. Terms of the agreement should be stated in the agreement to fit the particular situation for the policy, or if no substantive changes occur from one year to the next, allow the written agreement to be continuous.

Response: Written agreements are intended to change policy terms or permit insurance in unusual situations where such changes will not increase risk. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to keep non-uniform exceptions to the minimum and to insure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

In addition to the changes described above, FCIC has made the following changes to the Grape Crop Provisions:

1. Sections 5 and 9—In California, the Cancellation and Termination Date was moved from February 28 to January 31, and the coverage inception date was moved from March 1 to February 1. These dates correspond to the current Grape Endorsement. Further research indicated that some vines ''bud out'' in late February in some areas and it was preferred that coverage be in effect at the earlier date.

2. Section 10—Added provisions to provide coverage against loss due to disease and insect infestation unless proper control measures are not utilized. This change was made to conform to the coverage provided for most other crops.

3. Section 11(b)—Clarify that damaged crop which is not marketed in normal commercial channels must not be destroyed until after the insurance provider gives written consent. Failure to meet this requirement will result in all such production to be considered undamaged and included as production to count.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the raisin crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The contract change date required for new policies is August 31 preceding the cancellation date for all states except California, and October 31 preceding the cancellation date for California. It is, therefore, imperative that these provisions be made final before that date so that the reinsured companies and insureds may have sufficient time to implement the new provisions. Therefore, public interest requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Grape endorsement.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457, as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. The introductory text of § 401.130 is revised to read as follows:

§ 401.130 Grape endorsement.

The provisions of the Grape Endorsement for the 1991 through 1997 (1990 through 1997 in California) crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

4. Section 457.138 is added to read as follows:

§ 457.138 Grape crop insurance provisions.

The Grape Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured Policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Grape Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions, the Special Provisions will control these Crop Provisions and the Basic Provisions, and these Crop Provisions will control the Basic Provisions.

1. Definitions

Days. Calendar days.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Graft. To unite a shoot or bud (scion) with a rootstock or an existing vine in accordance with recommended practices to form a living union.

Harvest. Picking the clusters of grapes from the vines either by hand or machine.

Interplanted. Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Irrigation practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal, will be considered as contiguous.

Production guarantee (per acre). The number of tons determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Set out. Physically planting the desired variety of grape plant in the ground in a desired planting pattern.

Ton. Two thousand (2,000) pounds avoirdupois.

USDA. United States Department of Agriculture.

Varietal group. Grapes with similar characteristics that are grouped for insurance purposes as specified in the Special Provisions.

Written agreement. A written document that alters designated terms of this policy in accordance with section 13.

2. Unit Division

(a) In California only, in addition to the requirements of section 1 (Definitions) of the Basic Provisions (§ 457.8) (basic unit), a basic unit will also be established for each variety that you insure.

(b) Unless limited by the Special Provisions, these basic units may be divided into optional units if, for each optional unit, you meet all the conditions of this section.

(c) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety, other than as described in this section.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(e) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(f) The following requirements must be met to qualify for separate optional units:

(1) You must have provided records by the production reporting date, that can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee; and

(2) For each crop year, records of marketed production or measurement of stored production from each optional unit must be maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us.

(g) Each optional unit must also meet the following criteria, as applicable:

(1) In California only, unless otherwise allowed by a written agreement, optional units may only be established if each optional unit is located on non-contiguous land.

(2) In all states except California, each optional unit must meet one or more of the following criteria:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage and non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. 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 the guarantee is based and you may not continue into non-irrigated acreage in the same rows or planting pattern.

(iii) *Optional Units on Acreage Located on Non-contiguous Land:* In addition to, or instead of, establishing optional units by section, section equivalent, FSA Farm Serial Number, or irrigated/non-irrigated land, optional units may be established if each optional unit is located on non-contiguous land.

(iv) *Optional Units on Acreage by Varietal Group:* In addition to, or instead of, establishing optional units by section, section equivalent, FSA Farm Serial Number, irrigated/non-irrigated land or on non-contiguous land, optional units may be established by varietal group when separate varietal groups are specified in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) In California, you may select only one price election and coverage level for each grape variety in the county specified in the Special Provisions.

(b) In Idaho, Oregon, and Washington, you may select only one coverage level and only one price election for all the grapes in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each varietal group designated in the Special Provisions. The price elections you choose for each varietal group are not required to have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you may choose 80 percent of the maximum price election for all other varietal groups. However, if you elect the Catastrophic Risk Protection level of insurance for any varietal group, that level of coverage will be applicable to all insured grapes in the county.

(c) In all other states, you may select only one coverage level and only one price election for all the grapes in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

(d) In California only, if the Special Provisions do not provide a price election for a specific variety you wish to insure, you may apply for a written agreement to establish a price election. Your application for the written agreement must include:

(1) The number of tons sold for at least the two most recent crop years; and

(2) The price received for all production of the variety in the years for which production records are provided.

(e) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by variety or varietal group, if applicable :

(1) Any damage, removal of bearing vines, change in practices or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing vines on insurable and uninsurable acreage;

(3) The age of the vines and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and anytime the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and the type or variety or varietal group, if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee, based on our estimate of the effect of the following: Interplanted perennial crop; removal of vines; damage; change in practices and any other circumstance that may affect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 31 preceding the cancellation date for all states except California, and October 31 preceding the cancellation date for California.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are January 31 in California and November 20 in all other states.

6. Report of Acreage

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report your acreage by each grape variety you insure in California, or by varietal group in all other states.

7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be any insurable variety that you elect to insure in California or all insurable varieties in all other states in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown for wine, juice, raisins, or canning;

(c) That are grown in a vineyard that, if inspected, is considered acceptable by us;

(d) That, after being set out or grafted, have reached the number of growing seasons designated by the Special Provisions; and

(e) That have produced an average of two tons of grapes per acre during at least one of the three crop years immediately preceding the insured crop year, unless we inspect and allow insurance on such acreage.

8. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8) that prohibit insurance attaching to a crop planted with another crop, grapes interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

9. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on February 1 in California and November 21 in all other states of each crop year. Notwithstanding the previous sentence, for the year of application, if your application is received after January 22 but prior to February 1 in California, or after November 11 but prior to November 21 in all other states, insurance will attach on the 10th day after your properly completed application is received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the vineyard.

(2) The calendar date for the end of the insurance period for each crop year is the date during the calendar year in which the grapes are normally harvested, as follows:

(i) October 10 in Mississippi and Texas;

(ii) November 1 in Idaho, Oregon, and Washington;

(iii) November 10 in California; and

(iv) November 20 in all other states.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins, but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period. Acreage acquired after the acreage reporting date will not be insured.

(2) If you relinquish your insurable share on any insurable acreage of grapes on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the vineyard;

(3) Insects, except as excluded in 10(b)(1), but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volanic eruption; or

(8) Failure of irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Phylloxera, regardless of cause; or

(2) Inability to market the grapes for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

11. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the following will apply:

(a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.

(b) If the crop has been damaged during the growing season and you previously gave notice in accordance with section 14 of the Basic Provisions (§ 457.8), you must also provide notice at least 15 days prior to the beginning of harvest if you intend to claim an indemnity as a result of the damage previously reported. You must not destroy the damaged crop that is marketed in normal commercial channels, until after we have given you written consent to do so. If you fail to meet the requirements of this section, all such production will be considered undamaged and included as production to count.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election you selected for each variety or varietal group;

(3) Totaling the results in section 12(b)(2);

(4) Multiplying the total production to count of each variety or varietal group, if applicable, (see section 12 (c) through (e)) by the respective price election you selected;

(5) Totaling the results in section 12(b)(4);

(6) Subtracting the result in section 12(b)(5) from the result in section 12(b)(3); and

(7) Multiplying the result in section 12(b)(6) by your share.

(c) The total production to count (in tons) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned or destroyed by you without our consent;

(B) That is damaged solely by uninsured causes; or

(C) For which you fail to provide production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies in accordance with subsection 12 (e)); and

(iv) Potential production on insured acreage that you intend to abandon or 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 do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage. Grape production that is harvested and dried for raisins will be converted to a fresh weight basis by multiplying the number of tons of raisin production by 4.5.

(d) If any grapes are harvested before normal maturity or for a special use (such as Champagne or Botrytis-affected grapes), the production of such grapes will be increased by the factor obtained by dividing the price per ton received for such grapes by the price per ton for fully matured grapes of the type for which the claim is being made.

(e) Mature marketable grape production may be adjusted for quality deficiencies as follows:

(1) Production will be eligible for quality adjustment if, due to insurable causes, it has a value of less than 75 percent of the average market price of undamaged grapes of the same or similar variety. The value per ton of the qualifying damaged production and the average market price of undamaged grapes will be determined on the earlier of the date the damaged production is sold or the date of final inspection for the unit. The average market price of undamaged production will be calculated by averaging the prices being paid by usual marketing outlets for the area during the week in which the damaged grapes were valued.

(2) Grape production that is eligible for quality adjustment, as specified in subsection 12(e)(1) will be reduced by:

(i) Dividing the value per ton of the damaged grapes by the maximum price election available for such grapes to determine the quality adjustment factor; and

(ii) Multiplying this result (not to exceed 1.000) by the number of tons of the eligible damaged grapes.

13. Written Agreement

Terms of this policy which are specifically designated for the use of written agreement may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, DC, on June 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–16274 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR 318 and 381

[Docket No. 96–010DF]

RIN 0583–AC11

Use of Sodium Acetate and Sodium Diacetate as Flavoring Agents in Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to permit the use of sodium acetate at the level of 0.12 percent of the product formulation and sodium diacetate at the level of 0.1 percent of the product formulation as flavoring agents in meat and poultry products. Sodium acetate and sodium diacetate are listed in the Food and Drug Administration's (FDA) regulations as substances generally recognized as safe for several uses in accordance with good manufacturing practice. This direct final rule is in response to a petition.

DATES: This rule will be effective on August 22, 1997 unless the Agency receives written adverse comments within the scope of the rulemaking or written notice of intent to submit adverse comments within the scope of the rulemaking on or before July 23, 1997.

ADDRESSES: Please send an original and two copies of written adverse comments or notice of intent to submit written adverse comments to the FSIS Docket Clerk, Docket #96–010DF, Room 102 Cotton Annex, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Charles R. Edwards, Director, Facilities, Equipment, Labeling, and Compound Review Division, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 48–8900.

SUPPLEMENTARY INFORMATION:

Background

FSIS was petitioned by Armour Swift-Eckrich to allow the use of sodium acetate and sodium diacetate as flavoring agents in meat and poultry products to improve the overall flavor and consumer acceptance. Sodium acetate is the sodium salt of vinegar and sodium diacetate is a blend of vinegar and salt of vinegar. Both ingredients are used as flavoring agents and adjuvants, and as pH control agents. The petitioner requested that FSIS amend the regulations to permit sodium acetate at the level of 0.12 percent of the product formulation and sodium diacetate at the level of 0.1 percent of the product formulation as flavoring agents in meat and poultry products. Data and information submitted by the petitioner showed that after products are prepared in sauces, spices, and seasoning blends that are made using these ingredients, the overall flavor is improved and the products are more acceptable to the consumer. Levels of sodium acetate and sodium diacetate higher than those indicated were not shown to be effective. Therefore, the levels in the direct final rule represent the lowest necessary to achieve the intended effect.

After reviewing the petitioner's data and information, FSIS determined that the charts of approved substances in the meat and poultry regulations should be amended to allow the use of sodium acetate at the level of 0.12 percent and sodium diacetate at the level of 0.1 percent of formulation weight as flavoring agents in meat and poultry products. The technical data demonstrate the efficacy of sodium acetate and sodium diacetate for these uses.

FDA lists sodium acetate (21 CFR 184.1721) and sodium diacetate (21 CFR 184.1754) as generally recognized as safe for several uses when used in accordance with good manufacturing practice at maximum levels of 0.12 percent for sodium acetate and 0.1 percent for sodium diacetate. Therefore, FSIS is amending the charts of approved substances in 9 CFR 318.7(c)(4) and 381.147(f)(4) to allow the use of sodium acetate at the level of 0.12 percent of the formulation by weight and sodium diacetate at a level of 0.1 percent of the formulation by weight as flavoring agents in meat and poultry products.

FSIS expects no adverse public reaction resulting from the changes in regulatory language, because the compounds have received FDA approval for various other uses, as here, in small amounts for flavoring only. Therefore, unless the Agency receives written adverse comments within the scope of this rulemaking or a written notice of intent to submit adverse comments within the scope of the rulemaking within 30 days, the action will become final 60 days after publication in the **Federal Register**. If written adverse comments within the scope of the rulemaking are received, the final rulemaking notice will be withdrawn and a proposed rulemaking notice will establish a comment period.

Executive Order 12988

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

Executive Order 12866 and Regulatory Flexibility Act

This direct final rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this direct final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The direct final rule will permit the use of sodium acetate at a level of 0.12 percent of the product formulation and sodium diacetate at a level of 0.1 percent of the product formulation as flavoring agents in meat and poultry products. This direct final rule will impose no new requirements on small entities.

Paperwork Requirements

Abstract: FSIS has reviewed the paperwork and recordkeeping requirements in this direct final rule in accordance with the Paperwork Reduction Act. Manufacturers opting to use sodium acetate and/or sodium diacetate as flavoring agents in meat or poultry products are required to revise their product label and submit such labeling to FSIS for approval.

Estimate of Burden: FSIS estimates that it takes 60 minutes to design and modify a label in accordance with these regulations. For label submissions, FSIS estimates a 15 minute response time to prepare the label application form, submit it, along with the label, to FSIS or to a label expediter who will deliver the form and label to FSIS.

Respondents: Meat and poultry establishments.

Estimated Number of Respondents: 50 meat and poultry establishments.

Estimated Number of Responses per Respondent: FSIS estimates that each establishment would modify about 10 product labels.

Estimated Total Annual Burden on Respondents: 625 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, Room 109, Cotton Annex, Washington DC 20250–3700.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the method and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond; including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lee Puricelli, Paperwork Specialist, see the address above, and Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB),Washington, DC 20253.

Comments are requested by August 22, 1997. To be most effective, comments should be sent to OMB within 30 days of the publication date of this final rule.

List of Subjects

9 CFR Part 318

Food additives, Meat inspection.

9 CFR Part 381

Food additives, Poultry and poultry products.

For the reasons discussed in this preamble, FSIS is amending 9 CFR parts 318 and 381 of the Federal meat and poultry products inspection regulations as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 450,1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 318.7(c)(4) is amended by adding at the end of the chart of substances, under the Class of Substance ''Flavoring Agents, Protectors and Developers,'' new entries for ''sodium acetate'' and ''sodium diacetate'' to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amounts
*	*	*	*	*
	Sodium acetate	To flavor product	Various	Not to exceed 0.12 percent of formulate in accordance
	Sodium diacetate	.....do	.....do	Not to exceed 0.1 percent of formulate in accordance with 21 CFR 184.1754.
*	*	*	*	*

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 221 U.S.C. 451–470; 7 CFR 2.18, 1.53.

4. Section 381.147(f)(4) is amended by adding at the end of the chart of substances, under the Class of Substance ''Flavoring agents; Protectors and Developers,'' the substances ''sodium acetate'' and ''sodium diacetate'' to read as follows:

§ 381.147 Restriction on the use of substances of in poultry products.

* * * * *

(f) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amounts
*	*	*	*	*
	Sodium Acetate	To flavor product	Various	Not to exceed 0.12 percent of formulate in accordance with 21 CFR 184.1721.
	Sodium Diacetate	To flavor product	Various	Not to exceed 0.1 percent of formulate in accordance with 21 CFR 184.1754.
*	*	*	*	*

Done at Washington, DC, on: June 11, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–16392 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–DM–P

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052–AB10

Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Affairs; General Provisions; Definitions; Disclosure to Shareholders; Nondiscrimination in Lending; Capital Adequacy and Customer Eligibility; Correction

AGENCY: Farm Credit Administration.

ACTION: Correcting amendment to final rule.

SUMMARY: The Farm Credit Administration (FCA) published a final rule (62 FR 4429, January 30, 1997) that amended the regulations which govern the capital adequacy provisions and the customer eligibility provisions for Farm Credit System institutions. This document corrects a typographical error in the final rule.

EFFECTIVE DATE: March 11, 1997.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, 703) 883–4498, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: In preparing the final rule for publication in the **Federal Register**, a typographical error was inadvertently made in the § 613.3100(b)(1)(iv).

List of Subjects in 12 CFR Part 613

Agriculture, Banks, Banking, Credit, Rural areas.

Accordingly, 12 CFR part 613 is corrected by making the following correcting amendment:

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

1. The authority citation for part 613 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 2.2, 2.4, 2.12, 3.1, 3.7, 3.8, 3.22, 4.18A, 4.25, 4.26, 4.27 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2073, 2075, 2093, 2122, 2128, 2129, 2143, 2206a, 2211, 2212, 2213, 2243, 2252).

Subpart B—Financing for Banks Operating Under Title III of the Farm Credit Act

§ 613.3100 [corrected].

2. On page 4443, second column, paragraph (b)(1)(iv) is corrected by removing the reference ''paragraph (b)(1)(i)'' and adding in its place, the reference ''paragraph (b)(1)''.

Dated: June 18, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–16374 Filed 6–20–97; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF–388a]

RIN 1512–AB08

Gamay Beaujolais Wine Designation (92F–042P); Correction

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects the preamble and regulatory text of a final rule published in the **Federal Register** of April 7, 1997, regarding Gamay Beaujolais wine designation.

DATES: Effective on June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, Telephone (202) 927–8230.

SUPPLEMENTARY INFORMATION: The Bureau of Alcohol, Tobacco and Firearms published a document in the **Federal Register** of April 7, 1997, (62 FR 16479). The preamble of that document contained an extraneous word in the discussion of one comment and, as published, gave incorrect formats for suggested label wording. Finally, in the text of the regulations, the phrase ''[10 years from date of publication]'' was left in § 4.28(e)(2) when the date should have read ''April 9, 2007''. This document corrects all three errors.

In rule FR Doc. 97–8808, published on April 7, 1997, make the following corrections. On page 16483, at the top of the first column, the first full sentence should read ''Their comment in response to Notice No. 793 argued that recognition of 'Gamay Beaujolais' as a labeling term would erode the protection of the distinctive designation 'Beaujolais' and would essentially create a new semigeneric wine designation.''

On page 16485, in the third column, the four examples of type designations should be centered and should read:

BILLING CODE 4810–31–P

GAMAY BEAUJOLAIS
1992 CALIFORNIA
PINOT NOIR/VALDIGUIÉ

GAMAY BEAUJOLAIS
NAPA VALLEY VALDIGUIÉ

1994 GAMAY BEAUJOLAIS
SONOMA COUNTY PINOT NOIR

GAMAY BEAUJOLAIS
CALIFORNIA
VALDIGUIÉ & PINOT NOIR

BILLING CODE 4810–31–C

On page 16490, in the first column, in § 4.28(e)(2), the phrase ''and prior to [10 years from date of publication]'' should read ''and prior to April 9, 2007''.

Dated: June 13, 1997.

Bradley A. Buckles,

Acting Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 97–16188 Filed 6–20–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[SPATS No. CO–034–FOR]

Colorado Regulatory Program

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

ACTION: Final rule; correction.

SUMMARY: In this document, the Office of Surface Mining Reclamation and Enforcement (OSM) is correcting a final rule that appeared in the **Federal Register** of May 30, 1997 (62 FR 29290). The document amended the Colorado regulatory program (hereinafter referred to as the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM inadvertently omitted the Director's finding and decision concerning Colorado's decisions regarding permit transfers.

DATES: Effective May 30, 1997.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 844–1424.

SUPPLEMENTARY INFORMATION:

I. Background

In the preamble of the May 30, 1997, **Federal Register** notice (62 FR 29290, administrative record No. CO–683–05), OSM inadvertently omitted the discussion and approval of Rule 2.08.6(6) as it had been proposed in Colorado's original February 25, 1997, submittal. The purpose of this document is to notify the public that Colorado's February 25, 1997, proposed revisions to Rule 2.08.6(6) are approved by OSM.

II. Director's Finding

Rule 2.08.6(6), Decisions on Applications for Permit Transfers

Colorado proposed to revise Rule 2.08.6(6) to clarify that Colorado issues a ''proposed'' decision to approve or deny a permit transfer. The existing rule provides that persons with an interest in the decision may, within thirty days after the notification, request a formal hearing on the proposed decision. Colorado also proposed to revise Rule 2.08.6(6) by adding the clarification that

> [i]f no formal hearing is requested, the Division shall issue and implement the proposed decision as final within five days after the close of the 30-day period provided for the filing of a request for a formal hearing. However, no permit shall be transferred until the applicant has filed a performance bond with the Division and the Division has approved it.

The Federal regulation at 30 CFR 774.17(c) provides that any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the regulatory authority within a time specified by the regulatory authority. The Federal regulation at 30 CFR 774.17(e) requires the regulatory authority to provide notification of its findings.

Colorado's proposed revisions of Rule 2.08.6(6) clarify (1) that any decision would not be final until after the close of the thirty day comment period and (2) when and under what circumstances the decision would become final. The Director finds that proposed Rule 2.08.6(6) is consistent with and no less effective than the Federal regulations at 30 CFR 774.17 (c) and (e) and approves it.

III. Director's Decision

The Director, based on the above finding, approves Colorado's proposed Rule 2.08.6(6), concerning decisions on permit transfers, as submitted on February 25, 1997.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 10, 1997.

James F. Fulton,

Acting Director, Western Regional Coordinating Center.

Accordingly, 30 CFR Part 906 is amended as set forth below.

PART 906—COLORADO

1. The authority citation for Part 906 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 906.15 is corrected in the table by revising the entry on the ''Date of Final Publication'' of May 30, 1997, to read as follows:

§ 906.15 Approval of Colorado regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * *
February 25, 1997	May 30, 1997	2 CCR 407–2, Rules 1.01(9); 1.04 (4), (12), (21), (41), (149); 1.13; 2.05.3 (3)(b)(i)(D), (3)(c)(ii); 2.06.2(4); 2.06.6(2)(a)(i); 2.08.5(2)(b)(ii); 2.08.6(6); 3.02.4(2)(d)(i); 3.05.5(1); 4.02.2(2); 4.03.1(1)(e); 4.05.6 (6)(a), (11)(h); 4.07.3(3) (f), (g); 4.30 .1(3), .2(3); 5.02.41 (1), (2); 5.03.3(5).

[FR Doc. 97–16332 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–05–M

PANAMA CANAL COMMISSION

35 CFR Part 61

RIN 3207–AA41

Health, Sanitation, and Communicable Disease Surveillance; Licensing of Activities

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: The Panama Canal Commission is amending its regulations in title 35 of the Code of Federal Regulations in order to delete reference to activities assumed by the Republic of Panama in accordance with the Panama Canal Treaty of 1977 and to reflect the sanitation and communicable disease surveillance activities performed by the

Commission. The procedural rights of the users of the Panama Canal are unaffected by this amendment.

EFFECTIVE DATE: Effective June 23, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Mills, Secretary, Panama Canal Commission, Office of the Secretary, Panama Canal Commission, International Square, 1825 I Street NW., Suite 1050, Washington, DC 20006–5402, (Telephone: (202) 634–6441); or John L. Haines, Jr., General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011–2300; Telephone 011–507–272–7511; Facsimile: 011–507–272–3748.

SUPPLEMENTARY INFORMATION: Licensing of various activities was a governmental function conducted by the Canal Zone Government. The Panama Canal Treaty of 1977 and the implementing legislation, Public Law 96–70, approved September 27, 1979, eliminated those functions. The regulations concerning those pre-treaty activities are removed by this amendment. The following parts including their identified sections are removed: Subpart B—Barbers, Beauticians, and Manicurists; Subpart C—Examination of Food Handlers; Inspection of Food-Handling Establishments; Subpart D—Food and Beverages. Subpart E—Maritime Communicable Disease Surveillance is being amended to reflect the correct titles of the positions involved in these activities.

The Commission has been exempted from Executive Order 12866 and, accordingly, the provisions of that directive do not apply to this rule. Even if the Order were applicable, this rule would not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

Further, the agency has determined implementation of the rule will have no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Finally, the Secretary of the Panama Canal Commission certifies these changes in regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

List of Subjects in 35 CFR Part 61

Biologics, Communicable diseases, Harbors, Public health, Reporting and recordkeeping requirements, Vessels.

Accordingly, 35 CFR part 61 is amended as follows:

PART 61—HEALTH, SANITATION, AND COMMUNICABLE DISEASE SURVEILLANCE

1. The authority citation for part 61 continues to read as follows:

Authority: 22 U.S.C. 3811.

Subparts B, C, D, §§ 61.31–61.95 [Removed and Reserved]

2. In 35 CFR part 61 remove and reserve subparts B, C, and D, and §§ 61.31–61.95 [removed and reserved] and amend subpart E as follows:

Subpart E—[Amended]

Subpart E—Maritime Communicable Disease Surveillance

3. In subpart E remove the words ''medical officer'' and ''medical officer in charge'' and add, in their place, the words ''Chief, Occupational Health Division'' each place they appear.

§ 61.121 [Amended]

4. In § 61.121 add the abbreviation ''(WHO)'' after the ''World Health Organization''.

5. In § 61.122 remove the definitions of Medical officer and Medical officer in charge and add the following definitions in alphabetical order:

§ 61.122 Definitions.

* * * * *

Boarding official (admeasurer) means an official or employee of the Panama Canal Commission specially trained and assigned to communicable disease surveillance duty by authority of the Chief, Occupational Health Division.

* * * * *

Chief, Occupational Health Division means the officer of the Panama Canal Commission responsible for the application of these regulations.

* * * * *

6. Section 61.152 is amended by revising the first sentence to read as follows:

§ 61.152 Vessels; sanitary inspection and corrective measures.

The master or his/her designated officer shall make a daily sanitary inspection of all compartments or the vessel normally accessible to passenger or crew. * * *

§ 61.154 [Amended]

7. In § 61.154(a) remove the words ''suspected smallpox''.

8. Section 61.155 is amended by revising paragraph (a) (1) and paragraph (d) to read as follows:

§ 61.155 Vessels; yellow fever.

(a) * * *

(1) An infected or suspected vessel as defined in § 61.226; or

(2) * * *

(b) * * *

(c) * * *

(d) The Quarantine Office of the Government of Panama, upon request, will be provided complete information from the ship's required entry documents for specified vessel(s) which have either transited the Panama Canal or docked at a port of Panama.

* * * * *

§ 61.193 [Amended]

9. Section 61.193(a) is amended by adding the word ''(admeasurer)'' after the words ''boarding officer'' in the fourth sentence and by removing the words ''medical officer or'' in paragraph (b).

§ 61.195 [Amended]

10. Section 61.195(b) is amended by revising the words ''his judgment'' to read ''his/her judgment''.

§ 61.20 [Amended]

11. Section 61.201 is amended by revising the words ''medical officer'' to read ''boarding officer (admeasurer)'', and by adding after the words ''this subpart'' and before the words ''or destruction,'' the words ''shall not render liable to detention, disinfection,''.

12. Section 61.222 is amended by revising the words ''medical officer'' to read ''boarding officer (admeasurer)'' in paragraphs (d) and (e) and by adding a sentence at the end of paragraph (e) to read as follows:

§ 61.222 Cholera; vessels and things.

* * * * *

(e) * * * The ship will be instructed not to dispose of any potentially contaminated water of feces into Canal waters.

§§ 61.223, 61.224, 61.225, 61.227, 61.242, 61.243, 61.263, 61.242, 61.243, 61.263, and 61.264 [Amended]

13. In §§ 61.223(c), 61.224(c), 61.225, 61.227, 61.242(b), 61.243, 61.263(b), and 61.264 remove the words ''medical officer'' and add, in their place, the words ''boarding officer (admeasurer)'' each place they appear.

14. Section 61.263(a) is revised to read as follows:

§ 61.263 Provisional pratique.

(a) Provisional pratique signifies the vessel may proceed, but additional measures regarding the sanitary condition of the vessel, as specified, must be taken in connection with the entering or proceeding through the Canal. Free pratique shall be issued after

the additional measurers have been completed.

* * * * *

Dated: June 12, 1997.

John A. Mills,

Secretary, Panama Canal Commission.

[FR Doc. 97–15932 Filed 6–20–97; 8:45 am]

BILLING CODE 3640–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC46

St. Croix National Scenic Riverway, Boating Operations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is adopting this final rule to amend the special regulations for the NPS administered portion of the St. Croix National Scenic Riverway (Riverway). This rule will provide for the regulation of access to waters within the Riverway of vessels and individuals in order to protect against the infestation of zebra mussel. The purpose of this rule is to protect park aquatic natural resources and supporting human built infrastructure.

EFFECTIVE DATE: This rule becomes effective on July 23, 1997.

FOR FURTHER INFORMATION CONTACT: Brian Adams, Chief Ranger, St. Croix National Scenic Riverway, P.O. Box 708, Saint Croix Falls, WI 54024. Telephone 715–483–3284.

SUPPLEMENTARY INFORMATION:

Background

The NPS is granted broad statutory authority under 16 U.S.C. Section 1 *et. seq.* (National Park Service Organic Act) to ''* * * regulate the use of the Federal areas known as national parks, monuments, and reservations * * * by such means and measures as conform to the fundamental purpose of the said parks * * * which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations'' (16 U.S.C. Sections 1a–2(h)). In addition, the Organic Act (16 U.S.C. 3.) allows the NPS to develop ''rules and regulations * * * necessary or proper for the use and management of the parks, monuments and reservations under the jurisdiction of the National Park Service''.

The *National Park Service Management Policies* (1988) provide overall direction in implementing the intent of this congressional mandate and other applicable Federal legislation. The policy of the NPS regarding protection and management of natural resources is ''The National Park Service will manage the natural resources of the national park system to maintain, rehabilitate, and perpetuate their inherent integrity'' (Chapter 4:1). Where conflict arises between human use and resource protection, where the NPS has a ''reasonable basis to believe a resource is or would become impaired, the Park Service may, * * * otherwise place limitations on public use'' (Chapter 1:3).

The integrity and quality of many national aquatic ecosystems, and dependent economic values and infrastructure, are threatened by the introduction of a variety of injurious non-indigenous aquatic species, both flora and fauna. These exotic aquatic animals and plants cause irreparable harm to the core values and resources for which the national park system was created and can impose costly economic impacts on businesses and government entities through loss of production time and detection, mitigation, remediation and control activities. It is estimated that six of the over 150 known exotic aquatic species found within United States waters have alone caused over $1.5 billion in damages since 1906 (U.S. Congress, Office of Technology Assessment).

One such example is the exotic zebra mussel (Dreissena polymorpha). The zebra mussel is a small, fresh water, filter feeding mollusk that attaches itself to any hard surface, human-made or natural. These highly prolific mussels were first discovered in Lake St. Clair in 1988 and have rapidly become one of the most ecologically and economically damaging aquatic nuisance species in North America. It is believed that the species was accidently introduced into Great Lakes waters in 1985–1986 by the routine practice of transferring ballast water in commercial vessels. They have quickly spread throughout the Great Lakes and into the major eastern and Midwestern river systems including the Mississippi River, Ohio River, Arkansas River, Red River, Tennessee River and Hudson River drainages.

The ecological and economic impacts of zebra mussels have been extensive. These include effects to other organism, water quality, water clarity, and disruption of native aquatic communities and impacts to navigational devices, businesses and industries, municipal water systems, utility power plants, and recreational and commercial vessel owners.

The primary vector in the spread of the zebra mussel, like many aquatic exotic species, is by in-water or trailered vessels transport from infested to uninfested waters. During the summer of 1995, zebra mussels were found on trailered vessels as far west as California. There is evidence that contaminated wet suits are also a vector for accidental introduction. There is no evidence that transport by natural means such as birds or aquatic wildlife has led to the establishment of viable zebra mussel populations.

Exotic organisms were recognized as a problem in 1977 when, on May 24, 1977, Executive Order (EO) 11987 was signed and released. EO 11987 directed Federal agencies to restrict the importation and introduction of exotic species into the natural ecosystems on lands and waters under their jurisdiction. On November 29, 1990, Congress passed the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (1996) (16 U.S.C. 4701). This act, among other things, directed Federal agencies to prevent the introduction and dispersal of nonindigenous species into waters of the United States. On November 9, 1996, the President signed the ''National Invasive Species Act'' that had been passed by Congress. This act calls for a more widespread effort in looking for ways to prevent and control the increasing number of invasions by nonindigenous species.

This final rule will allow St. Croix National Scenic Riverway to regulate vessel and individual access to park area waters, to prevent or minimize the risk of the unintentional introduction of zebra mussel. Minimizing such risks is particularly important since once introduced and established, zebra mussels are extremely costly and nearly impossible to eliminate.

This rule will prohibit the transportation, introduction or attempted introduction of aquatic nuisance species into park area waters. The rule includes criteria for the decontamination of vessels and equipment that will allow them access to park area waters. The rule will also allow the NPS to implement a permit system outlined in the general provisions (36 CFR 1.6) to assure vessels entering Riverway waters are free of aquatic nuisance species.

This rule will bring the NPS into conformity with programs currently in place in the States of Minnesota and Wisconsin and will allow the NPS to provide an extra measure of protection

to the Federally administered section of the St. Croix National Scenic Riverway. Currently there are four marinas along the St. Croix National Scenic Riverway in both Minnesota and Wisconsin that provide inspection and vessel cleaning services. These facilities are listed in the Superintendent's Compendium and will be identified in the annual St. Croix Interagency Zebra Mussel Task Force Plan. The availability of these inspection and vessel cleaning services has also been published in local and regional newspapers and is commonly known throughout the regional boating community.

This rule was originally published in the **Federal Register** on June 24, 1996 (61 FR 32383) as a proposed Servicewide rule at 36 CFR Part 3, Boating and Water Use Activities. However, the NPS has determined that Servicewide regulations are not appropriate at this time and have elected instead to limit the applicability of this final rule to St. Croix National Scenic Riverway, located in Minnesota and Wisconsin, only. Since this final rule is very similar to the proposed rule, but is less broad in scope, the NPS has determined that issuance of this rule as final is appropriate.

Analysis of Comments

NPS published proposed rules in the **Federal Register** on June 24, 1996 (61 FR 32383). NPS received two timely comments on the proposed rules, one each by the States of Minnesota and Wisconsin. It needs to be said that the States of Wisconsin and Minnesota, along with the NPS, are involved with active aquatic nuisance species control and prevention programs on the St. Croix River. Much mention is made by both States regarding the St. Croix National Scenic Riverway, which is threatened by a variety of nuisance aquatic plant and animal species including, but not limited to, the zebra mussel, purple loosestrife and Eurasian watermilfoil.

NPS has considered each of these comments. NPS's responses to the comments are as follows:

Jurisdiction of the NPS To Regulate Vessel on State Waters

The comments by the State of Wisconsin focused on the jurisdiction of the NPS to regulate or impede ''the forever free'' concept for navigable waters as outlined in the Wisconsin State Constitution, Article IX, section 1. The heart of the comments by the State of Wisconsin states ''Accordingly, it is the view of the State of Wisconsin that even though the Federal government also has jurisdiction over navigation on federally navigable waters, any federal restrictions on the right of navigation must take into account the concurrent state rights including the general right of free navigation.'' The State claims its authority through ''ownership of all submerged lands under navigable waters vested in the State'' when Wisconsin attained Statehood in 1848.

NPS regulatory authority over waters subject to the jurisdiction of the United States, including navigable water and areas within their ordinary reach, however, is not based on ownership but rather on the Commerce Clause of the U.S. Constitution. In regards to the NPS, Congress in 1976 amended the 1970 Act for Administration (known as the General Authorities Act) and authorized and directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *'' 16 U.S.C. 1a–2(h).

This rule carries out the responsibility of the NPS, as directed by Congress, to develop and enforce rules over waters subject to the jurisdiction of the United States in keeping with the core mission of the NPS, which is to ''conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations'' (16 U.S.C. 1).

This rule is not designed to prevent people from using Riverway waters, but conditions the use of these waters to protect against the danger of infestation from aquatic nuisance species.

Clarity of the Rules

The State of Minnesota generally commented on the lack of clarity or general vagueness of the rule and made specific recommendations to improve the language of the rule. These comments will be addressed in the ''Section-by-Section Analysis'' to follow.

Compliance With Other Laws

The State of Minnesota questioned the last statement in paragraph two of the proposed rule, *Compliance with Other Laws* section. It is true that this statement is conjecture, as the state asserts, and was stated as such. The NPS does not know exactly how much of a positive secondary effect this rule may have on local business and small entities providing vessel cleaning and decontaminating services to the public. That is up to the private sector to determine. The NPS merely stated that it may occur.

The State of Minnesota also questioned the last two paragraphs of this same section. These two paragraphs deal with requirements found in the National Environmental Policy Act (NEPA) and merely state the determination that they are categorically excluded from the procedural requirements of NEPA. As the State of Minnesota points out, some people will be locally affected by this rule, but the effect of the rule does not significantly effect the quality of the human environment, health and safety, and satisfies the criteria set forth, and therefore neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) will be prepared.

Section-by-Section Analysis

Sections 3.6(m) of the proposed rule is promulgated with several revisions. The revisions include moving most of the proposed rule to 36 CFR 7.9. Section 3.6 (m)(2) and (m)(4) have been removed from the final rule.

The State of Minnesota states that this paragraph is vague, and implies that a boat operating in infested waters is considered infested regardless of the risk of infestation. The State is correct. The NPS considers any vessel operating in infested waters to be contaminated, regardless of risk, and should be inspected and cleaned prior to placement in uninfested waters. The State expressed concern on the liability of the State and its agents in regard to knowingly allowing a vessel to be launched at a State facility. This rule does not imply that the State must take any special action beyond its normal ability to act to prevent a contaminated vessel from entering park area waters and does not imply that the State is liable if an unknowing launch or operation does occur at a State operated facility. NPS itself does not have the fiscal or human resources to monitor all its launch facilities at all times.

The State also recommended that NPS use a different term to describe an ''undesirable exotic species''. The State is correct that there are a variety of terms in both State and Federal law used to identify ''undesirable exotic species''. Because of this, the NPS has decided to narrow the scope of this final rule. For the purposes of this rule, aquatic nuisance species is used to include zebra mussel, purple loosestrife and Eurasian watermilfoil.

Finally, the State expressed concern that the term ''NPS waters'' was not adequately defined in the rule. The narrower scope of this rule will make the regulation applicable only on St.

Croix National Scenic Riverway waters. ''Waters'', as used in this rule, are described in 36 CFR 1.2, Applicability and Scope. The State also expressed concern over the term ''vessel'' as found in subparagraph (m)(5). This definition is the same as found in 36 CFR 1.4, Definitions, with the exception of seaplanes, which are considered a vessel for this rule. The State is correct in its assumption that a ''belly boat'' or ''inflatable raft'' is a vessel, and that it should be inspected and cleaned, as necessary, before being placed in uninfested waters after use in infested waters.

Section 3.6(m) is renumbered as 36 CFR 7.9(c) and promulgated as proposed, except for changing the words ''park waters'' to ''park area waters'' and changing ''injurious nonindigenous aquatic nuisance species'' to ''aquatic nuisance species''.

The definitions at § 3.6(m)(3) and (m)(5) have been amended and renumbered 36 CFR 7.9 (f)(1) and (f)(2), respectively.

Section 3.6(n) is removed.

Section 3.6 (o) is renumbered as 36 CFR 7.9(d) and promulgated as proposed, with the addition of the words ''is prohibited''.

Section 3.23(c) is renumbered as 36 CFR 7.9(e) and promulgated as proposed, with the addition of the words ''is prohibited''.

Drafting Information

The primary authors of this rule are Brian R. Adams, Chief Ranger, St. Croix National Scenic Riverway; James A. Loach, Superintendent, Great Lakes System Support Office, Midwest Field Area; and Dennis Burnett, Washington Office of Ranger Activities, National Park Service.

Paperwork Reduction Act

This final rule does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule is not a significant rule requiring review by the Office of Management and Budget under Executive Order 12866. The Department of the Interior has determined that this rule will not have a significant economic effect on a small number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

NPS has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

a. Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

b. Introduce non-compatible uses that may compromise the nature and characteristic of the area, or cause physical damage to it;

c. Conflict with adjacent ownerships or land uses; or

d. Cause a nuisance to adjacent land owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. code 40–721(1981).

2. Section 7.9 is amended by adding paragraphs (c), (d), (e) and (f) to read as follows:

§ 7.9 St. Croix National Scenic Rivers.

* * * * *

(c) Vessels.

(1) Entering by vessel, launching a vessel, operating a vessel, or knowingly allowing another person to enter, launch or operate a vessel, or attempting to do any of these activities in park area waters when that vessel or the trailer or the carrier of that vessel has been in water infested or contaminated with aquatic nuisance species, except as provided in paragraph (c)(2) of this section is prohibited.

(2) Vessels, trailers or other carriers of vessels wishing to enter park area waters from aquatic nuisance species contaminated or infested waters may enter after being inspected and cleaned using the technique or process appropriate to the nuisance species.

(d) Placing or dumping, or attempting to place or dump, bait containers, live wells, or other water-holding devises that are or were filled with waters holding or contaminated by aquatic nuisance species is prohibited.

(e) Using a wet suit or associated water use and diving equipment previously used in waters infested with aquatic nuisance species prior to being inspected and cleaned using a process appropriate to the nuisance species is prohibited.

(f) For the purpose of this section:

(1) The term aquatic nuisance species means the zebra mussel, purple loosestrife and Eurasian watermilfoil;

(2) The term vessel means every type or description of craft on the water used or capable of being used as a means of transportation, including seaplanes, when on the water, and buoyant devises permitting or capable of free flotation.

Dated: June 9, 1997.

William Leary,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–16193 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–70–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–46

[FPMR Amendment H–195]

RIN 3090–AG52

Exchange/Sale of Aircraft Parts and Components

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This regulation deletes Federal Supply Classification (FSC) Groups 16 and 17, and FSC Class 1560 from Group 15, from the list of property not eligible for handling under the exchange/sale authority of section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended. This change is issued to facilitate procurement transactions and to reflect current Federal property management needs. In addition, it adds a cross-reference to part 101–37 on additional requirements for the exchange/sale of aircraft parts and components.

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Director, Personal

Property Management Policy Division (MTP), 202–501–3828.

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

Regulatory Flexibility Act

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

Paperwork Reduction Act

GSA has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 101–46

Government property management, Surplus Government property.

For the reasons set forth in the preamble, 41 CFR Part 101–46 is amended as follows:

PART 101–46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

1. The authority citation for Part 101–46 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 101–46.000 is revised to read as follows:

§ 101–46.000 Scope of part.

This part prescribes policies and methods governing the use by executive agencies of the exchange/sale authority of section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)). It is applicable to all U.S. Government-owned personal property worldwide. In addition to the requirements of this Part 101–46, the exchange/sale of aircraft parts and hazardous materials shall be accomplished in accordance with the procedures in Part 101–37 and Part 101–42, respectively.

3. Section 101–46.001 is revised to read as follows:

§ 101–46.001 Requests for deviations.

Deviations from the regulations in this part shall only be granted by the Administrator of General Services (or designee). Requests for deviations shall be made in writing to the General Services Administration, Office of Governmentwide Policy, Office of Transportation and Personal Property (MT), Washington, DC 20405, with a complete justification. A copy of the authorizing statement for each deviation, including the nature of the deviation, the reasons for such special action, and the Administrator or designee's approval, will be available for public inspection in accordance with Subpart 105–60.3 of this title.

4. Section 101–46.202 is amended by revising paragraph (a) to read as follows:

§ 101–46.202 Restrictions and limitations.

(a) Items which are found in any of the Federal supply classification groups listed below are not eligible for handling under the provisions of this part.

Federal Supply Classification Group Number and Identification

10 Weapons.
11 Nuclear ordnance.
12 Fire control equipment.
14 Guided missiles.
15 Aircraft and airframe structural components, except FSC Class 1560 Airframe Structural Components.
20 Ship and marine equipment.
22 Railway equipment.
31 Bearings.
32 Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band.
34 Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band.
40 Rope, cable, chain, and fittings.
41 Refrigeration, air conditioning, and air circulating equipment.
42 Firefighting, rescue, and safety equipment.
44 Furnace, steam plant, and drying equipment; and nuclear reactors.
45 Plumbing, heating, and sanitation equipment.
46 Water purification and sewage treatment equipment.
47 Pipe, tubing, hose, and fittings.
48 Valves.
51 Hand tools.
53 Hardware and abrasives.
54 Prefabricated structures and scaffolding.
55 Lumber, millwork, plywood, and veneer.
56 Construction and building materials.
68 Chemicals and chemical products, except medicinal chemicals.
71 Furniture.
75 Office supplies and devices, except cards, tabulating.
83 Textiles, leather, furs, apparel and shoe findings, tents and flags.
84 Clothing, individual equipment, and insignia.

Dated: May 30, 1997.

David J. Barram,

Administrator of General Services.

[FR Doc. 97–16318 Filed 6–20–97; 8:45 am]

BILLING CODE 6820–24–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 67]

RIN 3090–AG51

Federal Travel Regulation; Maximum per diem Rates

AGENCY; Office of Government wide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to change the maximum per diem rate prescribed in FTR Amendment 52 (61 FR 59185, November 21, 1996) for Cleveland (Cuyahoga County), Ohio.

The General Services Administration (GSA), after an analysis of additional data, has determined that the current lodging allowance for Cleveland, Ohio does not adequately reflect the costs of lodging facilities near Federal Government facilities in the downtown Cleveland area. To provide adequate per diem reimbursement for Federal employee travel to Cleveland, Ohio, the maximum lodging allowance is being changed to $86 and the meals and incidental expenses (M&IE) rate remains at $38, resulting in a maximum per diem rate of $124.

EFFECTIVE DATE: This final rule is effective June 23, 1997, and applies for travel performed on or after June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Joddy Garner, General Services Administration, Travel and Transportation Management Policy Division (MTT), Washington, DC 20405, telephone 202–501–1538.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. This rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 301–7

For the reasons set out in the preamble, 41 CFR part 301–7 is amended to read as follows:

CHAPTER 301—TRAVEL ALLOWANCES

1. The authority citation for part 301–7 continues to read as follows:

Authority: 5 U.S.C. 5701–5709.

Appendix A—Prescribed Maximum per diem Rates for Conus

1. Appendix A to chapter 301–7 is amended by removing the corresponding lodging and M&IE rates for Cleveland, Ohio, and inserting in their places the following entry:

Appendix A to Chapter 301—Prescribed Maximum per diem Rates for Conus

* * * * *

Cleveland	Cuyahoga	86	38	124

* * * * *

Dated: May 7, 1997.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 97–16317 Filed 6–20–97; 8:45 am]

BILLING CODE 6820–34–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[FO Dockets 91–171/91–301; FCC 97–196]

Emergency Broadcast/Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule; Extension of compliance deadline.

SUMMARY: This *Order* extends the deadline for cable TV systems to comply with the Federal Communications Commission's (FCC) Emergency Alert System (EAS) rules. In 1994, the FCC adopted rules replacing the Emergency Broadcast System (EBS) with EAS, and requiring cable TV systems to participate in EAS by July 1, 1997. However, the FCC is reviewing issues relating to cable TV's participation in EAS. Therefore, the compliance date for cable TV systems to install and operate EAS equipment is extended until a new compliance date is established by the FCC.

DATES: The Commission will publish a document at a later date establishing a compliance date.

FOR FURTHER INFORMATION CONTACT: Frank Lucia, Director, Emergency Communications, Compliance and Information Bureau, (202) 418–1220.

SUPPLEMENTARY INFORMATION:

1. In its *Report and Order and Further Notice of Proposed Rule Making (First R&O),* 59 FR 67090 (December 28, 1994),[1] the Commission adopted rules replacing the Emergency Broadcast System (EBS) with the Emergency Alert System (EAS). The EAS incorporates new equipment and procedures that provide an efficient digital signalling protocol and automation of many of the prior manual EBS functions. The *First R&O* also established rules to implement § 624(g) of the Communications Act,[2] which provides in pertinent part that ''each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system. * * *''[3] The *First R&O,* accordingly, required all cable systems, irrespective of size, to participate in the EAS by July 1, 1997.[4]

2. As a result of the Commission's concern about the possible adverse financial impact this action could have on small cable systems, we sought comment in the *Further Notice of Proposed Rule Making* on whether the Communications Act permits the Commission to exempt small cable systems from participating in EAS or to establish a special waiver policy for small cable systems. Additionally, in response to the *First R&O,* we received comments from the hearing-impaired community contending that the requirements adopted were inadequate to provide satisfactory emergency service to hearing impaired individuals.[5] In a *Memorandum Opinion and Order,* 60 FR 55996 (November 6, 1995), that addressed petitions for reconsideration of the *First R&O,* we deferred consideration of the issues raised by the hearing-impaired community until the *Second Report and Order.*[6]

3. The Commission has not yet reached a decision regarding the participation by small cable systems or the requests by the hearing-impaired community. Should the Commission ultimately decide to amend the participation in the EAS by small cable systems or to address concerns of the hard of hearing, some cable systems could be irreparably harmed by application of § 11.11 of the Commission's Rules, 47 CFR 11.11, prior to our action in the *Second Report and Order.* Therefore, on our own motion and in the public interest, we are extending the compliance date, previously July 1, 1997, for all cable systems to install and operate EAS equipment so that compliance with § 11.11 of the Commission's Rules will not be required until a date to be specified by the Commission in a subsequent *Report and Order* in this proceeding.

4. Accordingly, it is hereby ordered, pursuant to § 1.103(a) of the Commission's Rules, 47 CFR 1.103(a), that the compliance date of § 11.11 of the Commission's Rules, which requires all cable systems to install and operate EAS equipment, is Extended until a new compliance date is established by the Commission.[7]

Federal Communications Commission.

William F. Caton,

Acting Secretary.

List of Subjects in 47 CFR Part 11

Radio, Television.

Accordingly, 47 CFR Part 11 is amended as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for Part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

2. The following note is added at the end of § 11.11:

§ 11.11 The Emergency Alert System (EAS).

* * * * *

Note: Compliance by Cable Systems with the July 1, 1997 date specified in this section is extended until a date to be specified by the Commission and published in the **Federal Register**.

[FR Doc. 97–16177 Filed 6–20–97; 8:45 am]

BILLING CODE 6712–01–P

[1] *Report and Order and Further Notice of Proposed Rule Making,* Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, FO Docket 91–171/91–301, 10 FCC Rcd 1786 (1994).

[2] Section 624(g) was added to the Communications Act in the Cable Act of 1992. *See* Cable Television Consumer Protection and Competition Act of 1992, Public Law 102–385, § 16(b), 106 Stat. 1460, 1490 (1992) (hereafter Cable Act of 1992). The Cable Act of 1992 required cable systems to participate in the EAS by adding §§ (g) to § 624 of the Communications Act of 1934, 47 U.S.C. § 544(g).

[3] Section 624(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 544(g). This provision remained unchanged by subsequent amendments to the Communications Act. *See generally* Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 (1996) (revising the cable regulatory requirements but leaving requirements of § 624(g) unchanged).

[4] *First R&O* at ¶ 58.

[5] *See* Comments of Self Help for Hard of Hearing People California, February 9, 1995; Comments of Self Help for Hard of Hearing People, Inc., February 21, 1995; and Comments of the National Association of the Deaf, Television for All, Telecommunications for the Deaf, Inc., and the National Center for Law and Deafness, February 20, 1995.

[6] *Memorandum Opinion and Order,* 10 FCC Rcd 11494, pg. 1, n. 3 (1995).

[7] To implement the change in the compliance date, 47 CFR Part 11 is amended as set forth below.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. 96–130; Notice 03]

RIN 2127–AG56

Insurer Reporting Requirements; List of Insurers Required To File Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule updates the list in appendices A, B, and C of part 544 of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences, pursuant to 49 U.S.C. 33112. Each insurer listed must file a report for the 1994 calendar year not later than October 25, 1997. Further, as long as an insurer remains listed, it must submit reports on each subsequent October 25.

DATES: The final rule on this subject is effective June 23, 1997.

Reporting Date: Insurers listed in the appendices are required to submit reports on their calendar year 1994 experience on or before October 25, 1997. Previously listed insurers whose names are removed by this notice need not submit reports for that year. Insurers newly listed in this final rule must submit their reports for calendar year 1994 on or before October 25, 1997. Under part 544, as long as an insurer is listed, it must file reports each October 25. Thus, any insurer listed in the appendices as of the date of the most recent final rule must file a report on the following October 25, and on each succeeding October 25, absent a further amendment removing the insurer's name from the appendices.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 49 U.S.C. 33112, *Insurer reports and information,* NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's implementing regulation, 49 CFR part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) Those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; and (3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency has exempted smaller passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that NHTSA shall exempt small insurers of passenger motor vehicles if it finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a State-by-State basis. The term ''small insurer'' is defined in section 33112(f)(1) (A) and (B) as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under State law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a ''small insurer,'' but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular State, the insurer must report about its operations in that State.

As provided in 49 CFR part 544, NHTSA exercises its exemption authority by listing in Appendix A each insurer which must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally is administratively simpler since the former group is much smaller than the latter. In appendix B, NHTSA lists those insurers that are required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. In the establishing part 544 (52 FR 59, January 2, 1987) final rule, the agency stated that appendices A and B will be updated annually. It has been NHTSA's practice to update the appendices based on data voluntarily provided by insurance companies to A.M. Best, and made available for the agency each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA is authorized to grant exemptions to self-insurers, i.e., any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(e)(1) and (2). NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

Conversely, NHTSA may not exempt a self insurer solely based on meeting the definition of insurer as defined in section 33112(b)(1).

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles because it believed that reports from only the largest companies would sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that reports by the many smaller rental and leasing companies do not significantly contribute to carrying out NHTSA's statutory obligations, and that exempting such companies will relieve an unnecessary burden on most companies that potentially must report. As a result of the June 1990 final rule, the agency added a new appendix C, which consists of an annually updated list of the self-insurers that are subject to part 544.

Following the same approach as in the case of appendix A, NHTSA has included in appendix C each of the relatively few self-insurers which are subject to reporting instead of the relatively numerous self-insurers which are exempted. NHTSA updates

appendix C based primarily on information from the publications *Automotive Fleet Magazine and Business Travel News.*

Notice of Proposed Rulemaking

(1) Insurers of Passenger Motor Vehicles

On February 24, 1997, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in appendices A, B, and C required to file reports (62 FR 8206). Based on the 1994 calendar year market share data provided by A.M. Best, NHTSA proposed to amend the listing in appendix A of insurers which must report because each had written at least one percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a notice published on August 13, 1996 (See 61 FR 41985). One company, Allamerica Property and Casualty Company erroneously included in the August 1996 listing was proposed to be removed from appendix A.

Each of the 18 insurers listed in appendix A of this notice is required to file a report not later than October 25, 1997, setting forth the information required by part 544 for each State in which it did business in the 1994 calendar year. As long as those 18 insurers remain listed, they are required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists those insurers that would be required to report for particular States for the calendar year 1994, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 1994 calendar year A.M. Best data for market shares, it was proposed that one company, Amica Mutual Insurance Company, reporting on its activities in the State of Rhode Island be removed from appendix B, and one company, Integon Corporate Group, reporting on its activities in the State of North Carolina, not previously listed in appendix B, was proposed to be added.

The 12 insurers listed in appendix B of this notice would be required to report on their activities in every State in which they had a 10 percent or greater market share. These reports must be filed no later than October 25, 1997, and set forth the information required by part 544. As long as those 12 insurers remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

(2) Rental and Leasing Companies

Based on information in *Automotive Fleet Magazine and Business Travel News* for 1994, the most recent year that data are available, NHTSA proposed that the two rental and leasing companies, ARI (Automotive Rentals, Inc.) and A T & T Automotive Services, Inc., be included in appendix C. Accordingly, each of the 15 companies (including franchisees and licensees) listed in this notice in appendix C would be required to file reports for the calendar year 1994 no later than October 25, 1997, and set forth the information required by part 544. As long as those 15 companies remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

NHTSA notes that on July 5, 1994, the Cost Savings Act, (including Title VI-Theft Prevention) was revised and codified ''without substantive change.'' The passenger motor vehicle theft insurers'' reporting provisions formerly at 15 U.S.C. 2032 are now at 49 U.S.C. 33112. This final rule amends part 544 to reflect the changed statutory authority.

Public Comments and Final Determination

In response to the NPRM, the agency received no comments. Accordingly, this final rule adopts the proposed changes to appendices A, B, and C.

Regulatory Impacts

(1) Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this final rule and has determined the action not to be ''significant'' within the meaning of the Department of Transportation's regulatory policy and procedures. This rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are expressly required to file reports.

NHTSA does not believe that this rule, reflecting more current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544. (52 FR 59, January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the 1987 final regulatory evaluation, the agency estimates that the cost of compliance will be about $50,000 for any insurer that is added to appendix A, about $20,000 for any insurer added to appendix B, and about $5,770 for any insurer added to appendix C. In this final rule, for appendix A, the agency would remove one insurer; for appendix B, the agency would remove one insurer and add one insurer; and for appendix C, the agency would add two additional companies. The agency therefore estimates that the net effect of this final rule will be a cost savings to insurers, as a group, of approximately $38,460.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation have been placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling (202) 366–4949.

(2) Paperwork Reduction Act

The information collection requirements in this final rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) This collection of information has been assigned OMB Control Number 2127–0547 (''Insurer Reporting Requirements'') and has been approved for use through October 31, 1996. The agency has begun the process of seeking reinstatement of OMB's approval of the collection of information. It expects that process to be complete well before October 25, 1997, when the next reports are due. The agency will publish a **Federal Register** notice with the control number when it receives notice from OMB that it has approved the requirement.

(3) Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) I certify that this final rule would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies proposed to be included on appendices A, B, or C would be construed to be a small entity within the definition of the RFA. ''Small insurer'' is defined in part under 49 U.S.C. 33112 as any insurer whose premiums for all forms of motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State,

account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurer not meeting those criteria is not a small entity. In addition, in this rulemaking, the agency proposes to exempt all ''self insured rental and leasing companies'' that have fleets of fewer than 50,000 vehicles. Any self insured rental and leasing company too large to meet that criterion is not a small entity.

(4) Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(5) Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

(6) Civil Justice Reform

This final rule does not have any retroactive effect, and it does not preempt any State law, 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 544

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is proposed to be amended as follows:

PART 544 —[AMENDED]

1. The authority citation for part 544 would be revised to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

2. Section 544.2 would be revised to read as follows:

§ 544.2 Purpose.

The purpose of these reporting requirements in this part is to aid in implementing and evaluating the provisions of 49 U.S.C. Chapter 331 Theft Prevention to prevent or discourage the theft of motor vehicles, to prevent or discourage the sale or distribution in interstate commerce of used parts removed from stolen motor vehicles, and to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

3. Paragraph (a) of § 544.4 *Definitions* would be revised to read as follows:

§ 544.4 Definitions.

(a) *Statutory terms.* All terms defined in 49 U.S.C. 33101 and 33112 are used in accordance with their statutory meanings unless otherwise defined in paragraph (b) of this section.

* * * * *

4. Paragraph (a) of § 544.5 would be revised to read as follows:

§ 544.5 General requirements for reports

(a) Each insurer to which this part applies shall submit a report annually not later than October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year three years previous to the year in which the report is filed (e.g., the report due by October 25, 1997 shall contain the required information for the 1994 calendar year).

* * * * *

5. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Aetna Life & Casualty Group
Allstate Insurance Group
American Family Group
American International Group
California State Auto Association
CNA Insurance Companies
Farmers Insurance Group
Geico Corporation Group
ITT Hartford Insurance Group
Liberty Mutual Group
Metropolitan Group
Nationwide Group
Progressive Group
Prudential of America Group
Safeco Insurance Companies
State Farm Group
Travelers Insurance Group
USAA Group

6. Appendix B to part 544 would be revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Arbella Mutual Insurance (Massachusetts)
Auto Club of Michigan (Michigan)
Commerce Group, Inc. (Massachusetts)
Commercial Union Insurance Companies (Maine)
Concord Group Insurance Companies (Vermont)
Erie Insurance Group (Pennsylvania)
Integon Corporate Group (North Carolina) [1]
Kentucky Farm Bureau Group (Kentucky)
Tennessee Farmers Companies (Tennessee)
Nodak Mutual Insurance Company (North Dakota)
Southern Farm Bureau Casualty Group (Arkansas, Mississippi)

7. Appendix C to part 544 would be revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Alamo Rent-A-Car, Inc.
ARI (Automotive Rentals, Inc.) [1]
A T & T Automotive Services, Inc.[1]
Avis, Inc.
Budget Rent-A-Car Corporation
Citicorp Bankers Leasing Corporation
Dollar Rent-A-Car Systems, Inc.
Donlen Corporation
Hertz Rent-A-Car Division (subsidiary of Hertz Corporation)
Lease Plan International
National Car Rental System, Inc.
Penske Truck Leasing Company
Indicates a newly listed company which must file a report beginning with the report due on October 25, 1997.
Ryder System, Inc. (Both rental and leasing operations)
U-Haul International, Inc. (Subsidiary of AMERCO)
USL Capital Fleet Services

Issued on: June 12, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–16334 Filed 6–20–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 583

[Docket No. 92–64; Notice 11]

RIN 2127–AG46

Motor Vehicle Content Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: Under NHTSA's content labeling program, passenger motor vehicles (passenger cars and other light vehicles) are required to be labeled with information about their domestic and foreign parts content. In this document, the agency extends for two years a

[1] Indicates a newly listed company which must file a report beginning with the report due on October 25, 1997.

limited, temporary provision in its content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information. This flexibility will be available for up to 10 percent, by value, of a carline's total parts content from outside suppliers, and only for carlines offered for sale prior to January 1, 1999. It will also only be available where manufacturers or allied suppliers have made a good faith effort to obtain the information. The agency views this provision as providing extra flexibility during the early years of the content labeling program, as the vehicle manufacturers and suppliers continue to gain familiarity with the program and develop appropriate procedures to ensure supplier responsiveness to requests for content information.

DATES: *Effective date:* The amendments made by this rule are effective July 23, 1997.

Petitions: Petitions for reconsideration must be received by August 7, 1997.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Mr. Orron Kee, Office of Planning and Consumer Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–0846).

For legal issues: Mr. J. Edward Glancy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2992).

SUPPLEMENTARY INFORMATION:

Background

On July 21, 1994, NHTSA published in the **Federal Register** (59 FR 37294) a new regulation, 49 CFR part 583, Automobile Parts Content Labeling, to implement the American Automobile Labeling Act (Labeling Act). That Act, which is codified at 49 U.S.C. 32304, requires passenger motor vehicles to be labeled with information about their domestic and foreign parts content. Interested persons are encouraged to read the July 1994 notice for a detailed explanation of this program.

NHTSA received several petitions for reconsideration of the July 1994 final rule, and has subsequently published four notices addressing issues raised in those or subsequent petitions.[1]

One issue has been the subject of successive petitions from the American Automobile Manufacturers Association (AAMA). That organization has repeatedly objected to a provision in part 583 which specifies that the U.S./Canadian content of components is defaulted to zero if suppliers fail to respond to a manufacturer's or allied supplier's request for content information. AAMA would like the agency to permit vehicle manufacturers and allied suppliers to make ''best-efforts'' content determinations when their outside suppliers fail to do so.

The agency published two notices on this issue last year. On April 19, 1996, NHTSA published in the **Federal Register** (61 FR 17253) a notice denying an AAMA petition on this subject. The agency explained that it believes that the ability to obtain the necessary content information from suppliers is within the control of the vehicle manufacturers.

On September 3, 1996, however, in light of new information provided by AAMA and General Motors (GM), NHTSA published in the **Federal Register** (61 FR 46385) a very narrow, temporary final rule providing vehicle manufacturers additional flexibility in this area. The temporary final rule provided that, in limited situations where outside suppliers had not responded to requests for content information, allied suppliers and manufacturers could make those content determinations from information available to them. This flexibility was only available if the allied supplier or manufacturer had a good faith basis for making the calculation. Moreover, this flexibility was only available for up to 10 percent, by value, of a carline's total parts content from outside suppliers. Finally, the flexibility was only available where the manufacturer or allied supplier had made a good faith effort to obtain the information from the outside supplier.

The amendment applied only to carlines offered for sale before January 1, 1997. However, the agency requested comments on whether the applicability of the amendment, or a similar one, should be extended past that date. (The September 1996 temporary final rule was issued without a prior notice of proposed rulemaking.)

In the September 1996 notice, NHTSA explained that it was issuing the temporary amendment in light of several factors. The agency stated:

> On the one hand, NHTSA believes that Chrysler's experience (discussed in a letter cited in the September 1996 notice) demonstrates that the ability to obtain the necessary content information from suppliers is within the control of the vehicle manufacturers. However, the agency also agrees that there are differences between Chrysler and GM, related to number of suppliers and degree of vertical integration, which make efforts by GM to obtain content information from its suppliers considerably more complex.
>
> The agency has previously recognized that a certain amount of confusion is likely during the time period when a new program, such as content labeling, is implemented. The content labeling program is still a relatively new program. Indeed, model year 1997 is the first year for which the full content calculation procedures of part 583 are required, i.e., the temporary alternative procedures are not available.
>
> The agency believes that GM has demonstrated that it has been making significant efforts in recent months to obtain content information from non-responsive suppliers. Moreover, GM has shown that, despite those efforts, it is having difficulty obtaining information for the last portion of a carline's content.
>
> Finally, NHTSA believes that, all other things being equal, a good faith content determination by a vehicle manufacturer or allied supplier of equipment it receives is likely to be more accurate than simply applying a ''default-to-zero'' provision. Thus, adoption of today's amendment should result in more accurate information for consumers.
>
> The agency recognizes, of course, that the most accurate determinations are those provided by the outside suppliers themselves, since they obviously have much more complete information about the content of the equipment they manufacture than the purchaser. Therefore, the agency must consider whether its actions would have the effect of reducing the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information.
>
> NHTSA has concluded that adoption of today's temporary amendment will not reduce incentives for outside suppliers or vehicle manufacturers for model year 1997. Given that the vehicle manufacturers are already in the final stages of making content calculations for these vehicles, today's amendment should not have any effect on whether outside suppliers provide, or do not provide, the required information for model year 1997. However, the agency will consider this issue further in deciding whether to extend the applicability of today's temporary amendment. NHTSA also emphasizes that today's amendment does not excuse outside suppliers for failure to comply with part 583. 61 FR 46387.

Comments

NHTSA received comments from AAMA, GM, and the Association of International Automobile

[1] 60 FR 14228, March 16, 1995; 60 FR 47878, September 15, 1995; 61 FR 17253, April 19, 1996; 61 FR 46385, September 3, 1996.

Manufacturers, Inc. (AIAM). All of the commenters asked the agency to issue a permanent amendment providing greater flexibility in making content determinations when outside suppliers do not respond to requests for information.

AAMA asked again that vehicle manufacturers be permitted to make ''best efforts'' content determinations when suppliers fail to respond to requests for content information, as is permitted for outside suppliers. That organization stated that over the past three years, vehicle manufacturers have made attempts to standardize the forms used for reporting content information, and developed programs to familiarize the supplier community with the law and its requirements. However, because supplier compliance has not been uniform, vehicle manufacturers have been forced to make multiple requests of some suppliers to gain accurate content information.

AAMA noted that Congress expressly contemplated rules that would not be financially burdensome to vehicle manufacturers. That organization argued that each manufacturer has used more resources than ever contemplated to effect compliance with the law.

AAMA also stated that vehicle manufacturers believe that defaulting content to zero U.S./Canadian content when a certificate is not forthcoming is not required by the law. That organization stated that there is no penalty against the supplier even though noncompliance under the present rule could result in understatement of U.S./Canadian content and false information being provided to the consumer. AAMA argued that the best solution is for the rule to provide the same flexibility for vehicle manufacturers and allied suppliers to provide this content information as outside suppliers have in dealing with the same issue.

GM noted that its allied supplier operations generally supply products not only for GM-produced vehicles but also for vehicles produced by others for the U.S. market. That company stated that as an outside supplier, it is allowed to make best efforts estimates of content to establish domestic content to the benefit of its non-allied vehicle manufacturer customers. However, as an allied supplier, GM is not allowed to use best efforts determinations on essentially the same products. GM argued that this is particularly inequitable, and urged that the agency allow the same flexibility for vehicle manufacturers and allied suppliers as for outside suppliers.

AIAM stated that, despite its many objections to the Labeling Act, it supports a permanent amendment to NHTSA's calculation procedures to provide vehicle manufacturers with added flexibility in making content determinations when outside suppliers have not provided content information. That organization stated that such flexibility would reflect an understanding of the difficulties manufacturers have in obtaining necessary information from outside suppliers. AIAM stated that without a permanent amendment, future labels will understate the value of the ''domestic'' content because manufacturers using ''recalcitrant'' outside suppliers will have to default that supplier's content to 0% ''domestic.''

According to AIAM, allowing manufacturers and allied suppliers to make content determinations in these situations would provide flexibility that recognizes the realities of the industry. That organization stated that contrary to NHTSA's statement, some outside suppliers cannot be forced into compliance with the labeling requirements merely through contract provisions. AIAM stated that some of these suppliers may be supplying components that have been designed to the manufacturer's specifications, and punishing outside suppliers who refuse to comply with the labeling requirements is not realistic when it jeopardizes the manufacturer's own ability to meet its production schedules.

AIAM also stated that allowing greater flexibility would relieve slightly the regulatory burden associated with the Labeling Act. That organization stated that pursuing and obtaining the documentation from the suppliers who refuse to comply often requires extraordinary efforts which increase administrative costs and often fail to obtain the missing data.

Agency Decision

After considering the comments, NHTSA has decided to extend for two years the applicability of the limited, temporary provision established in the September 1996 final rule, to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information. The agency is extending the provision to apply to carlines offered for sale prior to January 1, 1999, but is not making any other changes. The agency views this provision as providing extra flexibility during the early years of the content labeling program, as the vehicle manufacturers and suppliers continue to gain familiarity with the program and develop appropriate procedures to ensure supplier responsiveness to requests for content information.

NHTSA notes that all of the commenters on the September 1996 notice essentially re-raised issues which the agency has addressed at length in responding to previous petitions on this subject. Since the commenters did not provide any arguments significantly different from ones previously offered by the vehicle manufacturers, the agency is not changing its views with respect to those basic issues.

NHTSA is providing a two-year extension of the limited, temporary provision established in the September 1996 final rule because it believes that the problems encountered by GM and other vehicle manufacturers for model year 1997 will not disappear immediately. At the same time, the agency continues to believe that the vehicle manufacturers can take steps to ensure that, in the future, they will obtain the necessary content information from essentially all of their suppliers, without costly efforts. The agency believes that a two-year extension will enable manufacturers to take, or complete taking, such steps.

NHTSA has considered the extent to which this action may reduce the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information. The agency believes that any such effects will be very small, given the limited scope and duration of the amendment. NHTSA also emphasizes, as it did with respect to the September 1996 final rule, that today's amendment does not excuse outside suppliers for failure to comply with part 583. The agency also notes that, while AAMA indicated that there are no penalties against suppliers for noncompliance, suppliers are in fact subject to civil penalties for failure to comply with part 583.

NHTSA will not attempt to repeat all of its prior analyses related to the issues raised by the commenters in this notice, since it has addressed the same issues on several prior occasions. The agency specifically incorporates by reference its responses to these issues set forth in the September 15, 1995, April 19, 1996, and September 3, 1996 notices cited above.

NHTSA notes that, in the September 1996 notice, it specifically addressed the ''equity'' of providing different procedures for outside and allied suppliers. The agency explained:

> [T]he agency does not believe there is anything inequitable about providing different procedures for outside and allied suppliers. The Labeling Act establishes vastly

different procedures for outside and allied suppliers. For example, in making domestic content calculations, outside suppliers need determine only whether an item of equipment has at least 70 percent U.S./Canadian content, while allied suppliers must make precise calculations based on certificates from outside suppliers. The differences in part 583's procedures for outside and allied suppliers reflect the specific statutory differences for these two groups and/or the agency's efforts to limit the regulatory burdens associated with the content labeling program. For example, a significant reason why the agency permits outside suppliers to make good faith estimates of the U.S./Canadian content of the materials they purchase is that, unlike the situation for allied suppliers, suppliers to outside suppliers are not required, by statute or regulation, to provide certificates of content. 61 FR 46388.

While GM re-raised the issue of the equity of different procedures for outside and allied suppliers, it did not address the explanation provided by the agency. NHTSA also notes that the ''default-to-zero'' provision of concern to GM only adversely affects vehicle manufacturers and allied suppliers to the extent that outside suppliers do not provide content information. For reasons discussed below and in other **Federal Register** notices, the ability to obtain this information is within the control of the vehicle manufacturers.

In the September 1996 notice, the agency addressed at some length the issue of whether the provision providing greater flexibility, or a similar provision, should be extended for a longer period of time. NHTSA stated that it believes the guiding principle for making this decision should be the statutory direction specifying that regulations promulgated under the Labeling Act are to provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign and U.S./Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. 49 U.S.C. 32304(e).

The agency explained:

There is no question that the ''best'' determinations of the content of equipment provided by outside suppliers are those provided by the suppliers themselves, since they obviously have much more complete information about the content of the equipment they manufacture than the purchaser. There is also no question that the Labeling Act contemplates the vehicle manufacturers basing their content calculations on certificates provided by the outside suppliers, and that outside suppliers are statutorily required to provide this information. See 49 U.S.C. 32304(e). Thus, the only question is the extent, if any, to which the agency should provide alternatives to address situations where outside suppliers fail to provide the required information despite being asked to do so by the vehicle manufacturers.

As indicated above, an important consideration is whether such alternatives would have the effect of reducing the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information. It is clear that the ''default-to-zero'' provision does provide significant incentives in this regard. Therefore, the agency will not simply drop that provision.

To the extent that the non-responsive supplier problem experienced by GM is likely to continue, it could be argued that, at some point, the costs of obtaining the last portion of outside supplier content value for a particular carline become unreasonable. This argument could be used to support extending the temporary amendment. The length of such extension would depend on how long the problem was likely to continue.

On the other hand, NHTSA is not convinced that the vehicle manufacturers cannot ultimately obtain the necessary content information from essentially 100 percent of their suppliers, without costly efforts. 61 FR 46388.

NHTSA then cited the following discussion from its March 16, 1996 notice denying an earlier petition from AAMA on this subject:

NHTSA notes that AAMA's petition did not discuss whether its member companies experienced difficulty in obtaining content information from suppliers in the presence or absence of specific contractual provisions intended to ensure the provision of content information by suppliers. As stated in the September 1995 notice, outside suppliers are dependent on the vehicle manufacturers for their business. Therefore, the agency believed, and continues to believe, that the ability to obtain the necessary content information is within the control of the vehicle manufacturers.

The purpose of including any specific provision in a business contract is to make observance of the terms of that provision a required element of the business relationship. Just as such things as meeting material specifications, strength requirements and specified time of delivery are a necessary part of a supplier's doing business with a vehicle manufacturer and are ensured by provisions included in contractual agreements, the providing of content information can also be made a necessary part of that business relationship and be reflected in the purchase contract.

Moreover, just as liquidated damages clauses can be inserted in a contract for failure to comply with any other part of the contract, so can such a provision be included for failure to provide timely content reports. If a supplier knows that it will be paid less money if it fails to provide content information, it will have a strong incentive to provide the information.

The agency also notes that the supplier industry is highly competitive. If one supplier is unwilling to agree to provide content information (an agreement to do no more than comply with existing Federal law), other suppliers would step in to take advantage of the opportunity for new business.

For the above reasons, including those presented in the September 1995 notice, NHTSA continues to believe that the vehicle manufacturers will be able to obtain the required content information from their suppliers. 61 FR 17254–55.

In the September 1996 notice, the agency noted that AAMA and GM had argued in their new petitions that even if a non-responsive supplier is penalized under the contract, the penalty paid to the manufacturer is not compensatory because the ''damages'' cannot offset the effects of understating the U.S./Canadian content value for the manufacturer's vehicles. NHTSA stated that it believes, in contrast, that the contractual provisions would help ensure that outside suppliers provide content information without the need to actually impose ''damages.'' The agency stated that it believes outside suppliers would not sign contracts that they planned to violate and that, given that it is not very costly to provide content information, it would be irrational for outside suppliers to decide to pay damages instead of simply providing the information (information that they are, in any event, required by Federal law to provide).

The agency also pointed out that, in addition to providing an extra incentive for outside suppliers, such contractual provisions would provide an educational function. AAMA had stated in its petition that ''suppliers that deliberately do not respond cite the uncompensated cost to establish the information on content in their parts, the increased employees to calculate the data, and the burdens they already face in generating multiple content reports such as for NAFTA, AALA, CAFE and others each with its own rules.'' The agency noted that these sorts of explanations by suppliers suggest that they were unaware of the need to provide content information when they signed their contracts. The agency added:

The inclusion of a specific contract provision concerning the need to provide content information would make suppliers aware of this obligation. While the costs of providing content information may not be compensated directly, such costs are simply a necessary part of doing business. Assuming that suppliers are aware of these costs, they will presumably consider them in negotiating their contracts, just as they consider other costs of doing business. 61 FR 46389.

While both AAMA and AIAM asserted in their comments on the September 1996 notice that the problem of outside supplier nonresponsiveness cannot be solved by contractual provisions, they did not address the analysis presented by the agency. Further, they did not respond in any detail to the question in the September 1996 notice about what types of good faith actions should be specified in the regulation. The agency notes that while AAMA stated that the vehicle manufacturers have included specific provisions concerning content labeling in their contracts, that organization did not provide specific examples of such provisions or explain how they worked in practice. For example, AAMA did not indicate what penalties, if any, were incorporated in the contractual provisions or the degree to which the vehicle manufacturers had actually attempted to enforce such provisions. With respect to AIAM's argument that it is not ''realistic'' for a vehicle manufacturer to enforce contractual provisions related to labeling, the agency does not see how such enforcement would be any different than enforcing other contractual provisions that are part of the business relationship between the vehicle manufacturer and supplier.

Since the commenters have not provided any new arguments or information indicating that the agency's previous determinations concerning this subject are incorrect, the agency is not making any changes other than providing a two-year extension of the limited, temporary provision established in the September 1996 final rule. The agency is not including a definition of ''good faith effort'' in today's final rule, primarily because the vehicle manufacturers and allied suppliers would likely not be able to, among other actions, add such provisions to their contracts in time to take advantage of the relief being provided. The agency notes, as it did in the September 1996 notice, that, in the absence of a definition, it intends the term ''good faith effort'' to mean at least some effort beyond the request for information and certificates that is required by part 583, e.g., some kind of follow-up effort.

At this time, NHTSA does not contemplate the need to provide further relief when this temporary provision expires. Should vehicle manufacturers and allied suppliers conclude in the future that there is a need to extend this provision again, they should be aware that any future relief would likely be available only upon demonstration that specific good faith actions have been taken. To this end, the agency anticipates that it would specifically define what constitutes a ''good faith effort'' by a vehicle manufacturer or allied supplier to obtain content information. Such a definition of ''good faith effort'' might include elements along the following lines: (1) An express contractual provision between the vehicle manufacturer or allied supplier and the outside supplier which cites 49 CFR part 583, requires the outside supplier to provide content information in the time and manner required by that regulation, and includes some contractual penalty for failure to comply; (2) follow-up efforts (after the initial request for content information) by the vehicle manufacturer or allied supplier to obtain content information; and (3) in instances in which follow-up efforts are unsuccessful, action by the vehicle manufacturer or allied supplier to enforce the contractual penalty for failure to provide content information.

NHTSA notes that the temporary final rule now being extended expired as of the end of 1996, that is, it was only available for carlines first offered for sale to ultimate purchasers prior to January 1, 1997. In extending the final rule at this time, the agency does not wish to create a gap with respect to the procedures that applied to any carlines offered for sale between January 1, 1997 and now. The agency notes that this is not likely to be a very significant issue, since few carlines are first offered for sale to ultimate purchasers in the early months of a calendar year.

However, given the circumstances of today's final rule, the agency will permit manufacturers to re-label any such vehicles.[2] In such an instance, however, NHTSA urges manufacturers to take steps to prevent confusion when consumers compare the labels of vehicles within the same carline manufactured at different times. For example, manufacturers could take steps to re-label all of the vehicles within a carline that have not yet been sold to a consumer. Alternatively, the revised label could include a note indicating that the carline percentages have been revised during the model year. NHTSA notes that it took this same position in the September 1996 notice with respect to model year 1997 carlines which had been introduced prior to issuance of that final rule.

[2] While content percentages are ordinarily calculated only once for a carline for a particular model year, NHTSA has previously concluded that, under special circumstances, manufacturers may revise the carline percentages. See interpretation letter to Diamond Star Motors dated February 10, 1995.

Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866. NHTSA has considered the economic implications of this regulation and determined that it is not significant within the meaning of the DOT Regulatory Policies and Procedure. Today's amendment will not affect manufacturer or supplier costs. It simply provides additional flexibility to vehicle manufacturers and their allied suppliers in making content calculations.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the final rule will not have a significant economic impact on a substantial number of small entities. Today's amendments simply provide additional flexibility to vehicle manufacturers and their allied suppliers in making content calculations. Therefore, a regulatory flexibility analysis is not required for this action.

C. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule did not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No state laws are affected.

D. Executive Order 12778 (Civil Justice Reform)

This final rule does not have any retroactive effect. States are preempted from promulgating laws and regulations contrary to the provisions of this rule. The rule does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that this rule will not significantly affect the human environment.

List of Subjects in 49 CFR Part 583

Motor vehicles, Imports, Labeling, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 583 is amended as follows:

PART 583—AUTOMOBILE PARTS CONTENT LABELING

1. The authority for part 583 continues to read as follows:

Authority: 49 U.S.C. 32304, 49 CFR 1.50, 501.2(f).

2. Section 583.6 is amended by revising paragraph (c)(6) to read as follows:

§ 583.6 Procedure for determining U.S./Canadian parts content.

* * * * *

(c) * * *

(6) For carlines which are first offered for sale to ultimate purchasers before January 1, 1999, if a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the U.S./Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following provisions:

(i) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, i.e., whether 70 percent or more of the value of equipment is added in the United States and/or Canada;

(ii) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider;

(iii) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination;

(iv) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers;

(v) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier;

(vi) This provision does not affect the obligation of outside suppliers to provide the requested information.

Issued on: June 17, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–16333 Filed 6–18–97; 3:13 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970612136–7136–01; I.D. 060297B]

RIN 0648–AJ61

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1997 Harvest Guideline

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

ACTION: Harvest guideline for crustaceans for 1997.

SUMMARY: NMFS announces a 1997 harvest guideline of 322,912 lobsters for the Northwestern Hawaiian Islands (NWHI) crustacean fishery. This is a reduction of 4,088 lobsters from the harvest guideline of 327,000 lobsters published on May 23, 1997. This change in the harvest guideline was identified as a future action in the May 23, 1997, publication and is necessary to account for mortality from anticipated discards in the fishery, which increases fishing mortality beyond the harvest guideline.

DATES: Effective July 1, 1997.

ADDRESSES: Copies of background material for determining the harvest guideline may be obtained from Dr. William Hogarth, Acting Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Katekaru, NMFS, (808) 973–2985 or Mr. Svein Fougner, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: A harvest guideline for the NWHI crustacean fishery of 327,000 spiny and slipper lobster combined was announced in the **Federal Register** on May 23, 1997 (62 FR 28376) for the fishing season beginning July 1, 1997. The basis for setting the harvest guideline was Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). A summary of the procedure was discussed at that time and will not be repeated here.

Also discussed in the announcement was the high-grading (retention of only the more valuable components of the catch) that had occurred during the 1996 fishing season. Mortality of discarded lobster is believed to be high in the NWHI; therefore, high-grading results in fishing mortality in excess of the harvest guideline and thus compromises a major objective of Amendment 9.

There were differences between the estimate of high-grading by NMFS and that reported by the permit holders in 1996; therefore, the Western Pacific Fishery Management Council (Council) convened a panel of technical experts to conduct a thorough review of the 1996 fishery. The panel concluded that, while the approach used by NMFS to estimate high-grading was technically sound, the underlying assumptions and data NMFS used in making the estimate likely resulted in an overestimate of discarding in 1996. The review panel agreed, however, that discarding needs to be accounted for in the management program.

The Council met in April and, after considering comments from the experts panel, its Advisory Panel, Plan Team, and Scientific and Statistical Committee, determined that changes were needed in the harvest guideline system to ensure achievement of the objectives of Amendment 9. Necessary changes include a pre-season or in-season estimate of the amount of high-grading and associated mortality so that the fishery can be closed when total harvest (retained catch plus discards) reaches the harvest guideline level. The Council decided that, for the 1997 fishing season, the rate of discards as recorded by the permit holders during the 1996 fishing season (1.25 percent) should be used as an estimate of discards for the 1997 fishery, while recognizing that a better method needs to be developed to estimate annual discards. Therefore, the harvest guideline of 327,000 spiny and slipper lobsters must be reduced by 1.25 percent, that is, 4,088 lobsters. Accordingly, the harvest guideline for the 1997 fishing season, which begins on July 1, is 322,912 spiny and slipper lobster combined.

This change is implemented under the framework procedures of Amendment 9, in this case the ''Procedure for established measures'' at 50 CFR part 660.53(c). A letter will be sent by the Regional Administrator to all permit holders to advise them of the action.

The Southwest Region, NMFS, will monitor landings against the harvest guideline and issue timely reports of summary catch and effort information. However, participants are advised to contact the Southwest Region (see **ADDRESSES**) periodically to stay abreast of any change in the harvest guideline and progress of the fishery toward attaining the harvest guideline. Under

the procedures in 50 CFR 660.50(b)(3), NMFS will announce the date upon which the harvest guideline will be reached and close the fishery.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator, NMFS, finds that because this action merely revises a previously announced harvest guideline to account for discard data under the FMP's objective formula for calculating the harvest guideline, no useful purpose would be served by providing prior notice and opportunity for public comment. As such, under authority at 5 U.S.C. 553(b)(B), such procedures can be waived as unnecessary. Similarly, there is good cause under 5 U.S.C. 553 (d)(3) to establish an effective date less than 30 days after date of publication.

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

Dated: June 17, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–16370 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 120
Monday, June 23, 1997

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations, Canning and Processing Tomato Endorsement; and Common Crop Insurance Regulations, Processing Tomato Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of processing tomatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Canning and Processing Tomato Endorsement and the late planting agreement option with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Canning and Processing Tomato Endorsement to the 1997 and prior crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business July 23, 1997, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Richard Brayton, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations are being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0053. The processing tomatoes are described in the background.

The title of this information collection is ''Multiple Peril Crop Insurance.''

The burden associated with the processing tomatoes is estimated at 19 minutes per response from approximately 1,112 respondents each year for a total number of 364 hours.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The insured must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required.

FCIC is requesting comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than larger entities. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the

provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This proposed rule has been reviewed under Executive Order 12988. The provision of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.160, Processing Tomato Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring canning and processing tomatoes found at 7 CFR 401.114 (Canning and Processing Tomato Endorsement). FCIC also proposes to amend 401.114 to limit its effect to the 1997 and prior crop years.

This rule makes minor editorial and format changes to improve the Canning and Processing Tomato Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring processing tomatoes as follows:

1. Remove the word ''canning'' from the title of the policy.

2. Section 1—Add definitions for the terms ''acre,'' ''bypassed acreage,'' ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''planted acreage,'' ''practical to replant,'' ''processor,'' ''processor contract,'' ''production guarantee (per acre),'' ''replanting,'' ''timely planted,'' ''ton,'' and ''written agreement'' for clarification.

3. Section 2(a)—For California only, eliminate unit division for acreage that is owned by one entity and operated by another entity on a share basis. This change, in conjunction with other optional unit structure changes proposed herein, (see item 4 below) will provide an insurance product that is more flexible for insureds and is easier to administer. Current provisions that require unit division by share arrangement are difficult to administer in California because shareholder arrangements vary a great deal from year to year.

4. Section 2(f)(4)(iii)—In California only, allow optional units to be established if acreage planted to tomatoes is separated by a field that is not planted to tomatoes or by a permanent boundary such as a permanent waterway, fence, public road or woodland. Such optional units must consist of the minimum number of acres specified in the Special Provisions. Optional units will only be allowed where the processor contract is acreage based as opposed to production based. This change provides a unit structure that is less complex to administer, and is compatible with the land location and landowner changes that occur on an annual basis in California.

5. Section 3(a)—Specify that an insured may select only one price election for all the processing tomatoes planted in the county that are insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each tomato type specified in the Special Provisions. The price election the producer chooses for each type must have the same percentage relationship to the maximum price available. This will help to protect against adverse selection and simplifies administration of the program.

6. Section 3(b)—Specify the liability under this policy will not exceed the number of tons under a processor contract in effect on or before the earlier of August 20 or the date of damage to the insured crop in all counties with an acreage reporting date of 7/15, or on or before the acreage reporting date or the date of damage in all other counties. (Exclude damage that occurs in stage one or damage that results in a replant payment.)

7. Section 3 (c) and (d)—Specify: (c) The price elections used to determine the amount of indemnity are progressive by stages and increase, at specified intervals, to the price used for final stage losses; and (d) Any acreage of tomatoes damaged to the extent that the majority of producers in the area would not normally further care for the tomatoes, will be deemed to have been destroyed even though you may continue to care for it. The price election used to determine the amount of indemnity will be that applicable to the stage in which the tomatoes were destroyed.

8. Sections 4—Change the contract change date from November 30 to August 31 preceding the cancellation date for California, and from December 31 to November 30 preceding the cancellation date for all other states. This will maintain an adequate time period between the contract change date and the revised cancellation date.

9. Section 5—Change the cancellation and termination dates from February 15 to January 15 in California, and from April 15 to March 15 for all other states. This change is necessary to standardize the cancellation and termination dates with the sales closing dates. Sales closing dates were changed to comply with requirements of the Federal Crop Insurance Reform Act of 1994.

10. Section 6—Require the producer to provide a copy of the processor contract to the insurance provider on or before August 20 in all counties with an acreage reporting date of 7/15, or on or before the acreage reporting date in all other counties. In some instances contracts are not completed prior to August 20 in counties with a 7/15 acreage reporting date.

11. Section 8(a)(3)—Specify that the crop insured will be tomatoes that are grown under and in accordance with the requirements of a processor contract executed on or before August 20 for all counties with an acreage reporting date of 7/15, or on or before the acreage reporting date in all other counties, and are not excluded from the processor contract for or during the crop year.

12. Section 8(b)—Specify that if the processor contract under which the insured retains control of the acreage on which the tomatoes are grown and that provides for delivery of the tomatoes under certain conditions and at a stipulated price, the insured will be

considered to have a share in the insured crop if the insured retains the risk of loss.

13. Section 8(c)—Specify the requirements under which the tomato producer who is also a processor may establish an insurable interest in the insured crop.

14. Section 9(a)—Require that any acreage damaged prior to the final planting date to the extent that the majority of growers in the area would normally not further care for the crop must be replanted unless the insurer agrees that replanting is not practical.

15. Section 9(b)—Specify that rotation requirements shown in the Special Provisions must be met for acreage to be insured.

16. Section 10—Add provisions stating that the insurance period will end when the amount of tomatoes delivered equals the amount of production under contract.

17. Section 11(a)(1)—Clarify that adverse weather conditions include: (1) Excessive moisture that prevents harvesting equipment from entering the field or prevents timely operation of harvesting equipment; and (2) abnormally hot or cold temperatures that cause acreage to be bypassed.

18. Section 11(a)(3) and (4)—Clarify that insect and disease damage as a cause of loss does not include damage due to insufficient or improper application of insect and disease control measures.

19. Section 11(b)—Clarify that the insurance provider will not cover loss of production: (1) On bypassed acreage if the acreage is bypassed due to the breakdown or non-operation of equipment or facilities; (2) on bypassed acreage if acreage to be bypassed is selected based on the availability of a crop insurance payment; (3) due to processing tomatoes not being timely harvested, unless the delay in harvesting is directly due to an insured cause of loss; (4) due to failure to follow the requirements contained in the processor contract; (5) due to damage that occurs to unharvested production after the producer delivers the production required by the processor contract; and (6) due to failure to market the tomatoes unless such failure is due to actual physical damage due to a specified cause of loss.

20. Section 12—Add provisions to provide a replanting payment. The current tomato policy does not allow a replanting payment. A replanting payment will be allowed only if the crop sustained a loss in excess of 50 percent of the plant stand. This change is consistent with replanting payment provisions contained in the Fresh Market Tomato (Guaranteed Production Plan) Crop Provisions and Fresh Market Tomato (dollar plan) Crop Provisions. The replant provisions were requested by tomato growers and insurance providers.

21. Section 13(a)(2)—Clarify that the producer must give notice on or before the date the tomatoes should be harvested if any acreage on a unit will not to be harvested.

22. Section 14(c)(1)(i)(E)—Clarify that the total production to count will include appraised production on bypassed acreage, unless adequate evidence is provided to show the acreage was bypassed for insurable reasons.

23. Section 14(d)—Specifies that once harvest has begun on any acreage covered by a processor contract that specifies the number of tons to be delivered, the total indemnities payable will be limited to an amount based on the number of tons of production necessary to fulfill the quantity of production remaining to be delivered under the processor contract consistent with the number of acres planted.

24. Section 15—Provide insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

Good cause is shown to allow 30 days for comments after this rule is published in the **Federal Register**. This rule improves processing tomato crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The earliest contract change date required for new policies is August 31. It is therefore imperative that these provisions be made final before that date so that the reinsured companies and insureds may have sufficient time to implement the new provisions. Therefore, public interest requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in CFR Parts 401 and 457

Canning and processing tomato endorsement, Crop insurance, Processing tomato.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. The introductory text of § 401.114 is revised to read as follows:

§ 401.114 Canning and processing tomato endorsement.

The provisions of the Canning and Processing Tomato Crop Insurance Endorsement for the 1988 through the 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

4. 7 CFR part 457 is amended by adding a new § 457.160 to read as follows:

§ 457.160 Processing tomato crop insurance provisions.

The Processing Tomato Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation
Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Processing Tomato Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions

Acre—43,560 square feet of land on which row widths do not exceed 6 feet, of if row width exceeds 6 feet, the land on which at least 7260 linear feet rows are planted.

Bypassed acreage—Land on which production is ready for harvest but is not harvested.

Days—Calendar days.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Final planting date—The date contained in the Special Provisions for the insured crop by which must initially be planted in order to be insured for the full production guarantee.

First fruit set—The reproductive stage of the plant when 30 percent of the plants have

produced a fruit that has reached a minimum of one inch in diameter.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those required by the tomato processor contract with the processing company, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—The severance of tomatoes from the vines.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Planted acreage—Land in which seed or plants have been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Tomatoes must initially be placed in rows far enough apart to permit cultivation to be considered planted. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Plant stand—The number of plants per acre that is considered to be the normal plants per acre for the applicable tomato variety and growing area.

Practical to replant—In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, 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, unless production from the replanted acreage can be delivered under the terms of the processor contract.

Processor—Any business enterprise regularly engaged in processing tomatoes for human consumption, that possesses all licenses and permits for processing tomatoes required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process contracted processing tomatoes within a reasonable amount of time after harvest.

Processor contract—A written agreement between the producer and a processor, containing at a minimum:

(a) The producer's commitment to plant and grow processing tomatoes, and to deliver the tomato production to the processor;

(b) The processor's commitment to purchase all the production stated in the contract; and

(c) A price per ton that will be paid for the production.

Production guarantee (per acre)—The number of tons determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Replanting—Performing the cultural practices necessary to replace the tomato seed or plants and then replacing the tomato seed or plants in the insured acreage with the expectation of growing a successful crop.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Ton—Two thousand (2,000) pounds avoirdupois.

USDA—United States Department of Agriculture.

Written agreement—A written document that alters designated terms of this policy in accordance with section 15.

2. Unit Division

(a) For California only, in lieu of the unit definition contained in section 1 (Definitions) of the Basic Provisions (§ 457.8), basic units will consist of all insurable acreage in the county in which you have a share.

(b) Unless limited by the Special Provisions, a basic unit as defined in section 2(a) for California only, or in section 1 (Definitions) of the Basic Provisions (§ 457.8) for all states except California, may be divided into optional units if, for each optional unit, you meet all the conditions of this section. Optional units will be available only if the processor contract stipulates the number of acres that are under contract and not a specific amount of production.

(c) Basic units may not be divided into optional units on any basis other than as described in this section.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(e) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(f) The following requirements must be met for each optional unit:

(1) You must have provided records by the production reporting date, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) For each crop year, records of marketed production or measurement of stored production from each optional unit must be maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable, unless otherwise specified by written agreement:

(i) *Optional units by Section, Section Equivalent, or FSA Farm Serial Number*: Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices*: In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage and non-irrigated acreage (in those counties where ''non-irrigated'' practice is allowed in the actuarial table) if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. Non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all other requirements of this section are met.

(iii) *Optional Units on Separate Acreage Planted to Tomatoes*: In California only, in addition to or instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be established if acreage planted to tomatoes is separated by a field that is not planted to tomatoes or by a permanent boundary, such as, a permanent waterway, fence, public road or woodland. Such optional unit must consist of the minimum number of acres stated in the Special Provisions. Acreage planted to tomatoes that is less than the minimum number of acres required will attach to the closest unit within the section, section equivalent or FSA Farm Serial Number.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only one price election for all the processing tomatoes in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each processing tomato type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) Liability under this policy will not exceed the number of tons under a processor contract in effect on or before the earlier of: (1) August 20 or the date of damage to the insured crop in all counties with an acreage reporting date of 7/15; or (2) The acreage reporting date or the date of damage in all other counties. (Exclude damage that occurs in stage one or damage that results in a replant payment.)

(c) The price election used to determine the amount of an indemnity are progressive by stages and increase, at specified intervals, to the price used for final stage losses. Stages will be determined on an acre basis. The stages and production guarantees are:

(1) First stage is from planting until first fruit set. If any acreage of the insured crop is destroyed in this stage, the price used to determine whether or not an indemnity is owed for such acreage will be 50 percent of your price election;

(2) Second stage is from the first fruit set until harvest. If any acreage of the insured crop is destroyed in this stage, the price used to determine whether or not an indemnity is owed for such acreage will be 80 percent of your price election; and

(3) Third stage (final stage) is harvested acreage. The price election used in this stage to determine whether or not an indemnity is due will be 100 hundred percent of your price election.

(d) Any acreage of tomatoes damaged to the extent that the majority of producers in the area would not normally further care for the tomatoes, will be deemed to have been destroyed even though you may continue to care for it. The price election used to determine the amount of an indemnity will be that applicable to the stage in which the tomatoes were destroyed.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 31 preceding the cancellation date for California and November 30 preceding the cancellation date for all other states.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are January 15 in California and March 15 in all other states.

6. Report of Acreage

In addition to the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must provide a copy of all processor contracts to us on or before August 20 in all counties with an acreage reporting date of 7/15, or on or before the acreage reporting date in all other counties.

7. Annual Premium

In lieu of the premium amount determinations contained in section 7 (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is determined by multiplying the production guarantee per acre by the price election for unharvested acreage, by the premium rate, by the insured acreage, by the applicable share at the time of planting, and ultimately by any applicable premium adjustment factors contained in the Actuarial Table.

8. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the tomatoes in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are planted for harvest as processing tomatoes;

(3) That are grown under and in accordance with the requirements of a processor contract executed on or before August 20 in all counties and states with an acreage reporting date of 7/15, or on or before the acreage reporting date in all other counties, and are not excluded from the processor contract for or during the crop year; and

(4) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Grown where tomatoes have been grown in either of the two previous years, except in California;

(ii) Interplanted with another crop; or

(iii) Planted into an established grass or legume.

(b) You will be considered to have a share in the insured crop if, under the processor contract, you retain possession of the acreage on which the tomatoes are grown, you are at risk of loss for failure to deliver, and the processor contract provides for delivery of tomatoes under specified conditions and at a stipulated price per unit of delivery.

(c) A tomato producer who is also a processor may establish an insurable interest if the following requirements are met:

(1) The processor must meet the requirements as defined in these crop provisions;

(2) The Board of Directors or officers of the processor must have executed a resolution that sets forth essentially the same terms as a processor contract. Such resolution will be considered a contract under the terms of the processing tomato crop insurance policy; and

(3) Our inspection of the processing facilities determines that they satisfy the definition of a processor contained in section 1 of these crop provisions.

9. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

(a) Any acreage of the insured crop that is damaged before the final planting date, to the extent that the majority of growers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant;

(b) We will not insure any acreage that does not meet the rotation requirements contained in section 8 of these crop provisions or in the Special Provisions.

10. Insurance Period

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), regarding the end of the insurance period, insurance ceases at the earlier of the date:

(a) The production delivered to the processor equals the amount of production under contract, if the processor contract stipulates a specific amount of production to be delivered;

(b) The number of tons delivered to the processor equals the number of insured contracted acres multiplied by the approved yield, if the processor contract stipulates a specific number of acres from which all production is to be delivered;

(c) The tomatoes were totally destroyed;

(d) The tomatoes should have been harvested;

(e) The tomatoes were abandoned;

(f) Harvest was completed;

(g) Final adjustment of a loss was completed; or

(h) The following calendar date for the end of the insurance period:

(1) October 20 in California; and

(2) October 10 in all other states.

11. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8):

(a) Insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions, including but not limited to:

(i) Excessive moisture that prevents the harvesting equipment from entering the field or that prevents the timely operation of harvesting equipment; and

(ii) Abnormally hot or cold temperatures that cause insured acreage to be bypassed because an unexpected number of acres over a large producing area are ready for harvest at the same time, and the total production is beyond the normal capacity of the processor to timely harvest or process;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife, unless appropriate control measures have not been taken;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period; or

(9) Physical damage to the production to the extent that the processor is unable to utilize it, if caused by an insured cause of loss that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production:

(1) On bypassed acreage, if the acreage is bypassed due to the breakdown or non-operation of equipment or facilities;

(2) On bypassed acreage, if acreage to be bypassed is selected based on the availability of a crop insurance payment;

(3) Due to the processing tomatoes not being timely harvested, unless such delay in harvesting is solely and directly due to an insured cause of loss;

(4) Due to your failure to follow the requirements contained in the processor contract;

(5) Due to damage that occurs to unharvested production after you deliver the production required by the processor contract; or

(6) Due to failure to market the tomatoes unless such failure is due to actual physical damage from a cause specified in section 11(a).

12. Replanting Payment

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop sustained a loss exceeding 50 percent of the plant stand and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 3 tons, multiplied by your price election, multiplied by your share.

13. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), you must give us notice:

(a) Not later than 48 hours after:

(1) Total destruction of the tomatoes in the unit; or

(2) Discontinuance of harvest on a unit on which production remains;

(b) Within 3 days of the date harvest should have started on any acreage that will not be harvested and document why the acreage was bypassed. Failure to provide such information may result in our determination that the acreage was bypassed due to an uninsured cause of loss. If the crop will not be harvested, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit and must not be destroyed until the earlier of our inspection or 15 days after notice is given to us; and

(c) At least 15 days prior to the beginning of harvest if you intend to claim an indemnity on any unit, or immediately if damage is discovered during harvest. If you fail to notify us we may consider all such production to be undamaged and include it as production to count.

14. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee, by type if applicable;

(2) Multiplying each result in section 14(b)(1) by the respective price election by type, if applicable;

(3) Totaling the results in section 14(b)(2);

(4) Multiplying the total production to be counted, by type if applicable, (see subsection 14(c)) by the respective price election;

(5) Totaling the results in section 14(b)(4);

(6) Subtracting the result in section 14(b)(5) from the result in section 14(b)(3); and

(7) Multiplying the result in section 14(b)(6) by your share.

(c) The total production to count, specified in tons, from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) For which you fail to provide production records that are acceptable to us; or

(E) That is bypassed unless the acreage was bypassed due to a cause of loss stated in section 11(a).

(ii) Production lost due to uninsured causes;

(iii) Potential production on insured acreage that you intend to put to another use or abandoned, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us, (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or 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); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested production (in tons) delivered to the processor which meets the quality requirements of the processor contract (expressed as usable or payable weight).

(3) All harvested tomato production delivered to processor which does not meet the quality requirements of the processor contract due to not being timely delivered.

(d) Once harvest has begun on any acreage covered by a processor contract that specifies the number of tons to be delivered, the total indemnity payable will be limited to an amount based on the number of tons of production necessary to fulfill the quantity of production remaining to be delivered under the processor contract consistent with the number of acres planted.

15. Written Agreements

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, DC, on June 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–16273 Filed 6–20–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 970404078–7078–01]

RIN 0648–AE41

Proposed Thunder Bay National Marine Sanctuary

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National

Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing to designate an approximately 808 square mile area of waters encompassing and surrounding Thunder Bay, Lake Huron, Michigan, and the submerged lands thereunder as a National Marine Sanctuary. This document publishes the proposed Designation Document for the proposed Sanctuary and summarizes the draft management plan. The draft management plan details the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance activities, for the proposed Sanctuary. By this notice, NOAA also proposes regulations to implement the proposed designation and regulate activities consistent with the provisions of the proposed Designation Document. The regulations include boundary coordinates for the proposed Sanctuary. Finally, this notice announces the public availability of the Draft Environmental Impact Statement/Management Plan (DEIS/MP) prepared for the proposed designation.

DATES: comments must be received by September 22, 1997.

ADDRESSES: Comments must be submitted to Stephanie R. Thornton, Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, SSMC4, 1305 East-West Highway, 11th Floor, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Ellen Brody at (313) 741–2270 or Ed Lindelof at (301) 713–3137, ext. 131.

SUPPLEMENTARY INFORMATION:

I Background

The National Marine Sanctuaries Act (NMSA), as amended, 16 U.S.C. 1431 *et seq.* (also known as title III of the Marine Protection, Research, and Sanctuaries Act), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national Marine Sanctuaries to protect their conservation, recreational, ecological, historical, research, educational or esthetic qualities.

In January 1982, NOAA published a program Development plan (PDP) for the National Marine Sanctuary Program, describing the Program's mission and goals; site identification and selection criteria; and the nomination and designation process. Based on the PDP and Program regulations, NOAA published a proposed Site Evaluation List (SEL) of highly-qualified marine sites identified and recommended to NOAA by regional resource evaluation teams (RRETs), based on the Program's mission and goals. Comments on the proposed SEL and additional site recommendations were solicited from the public during the autumn of 1982. The Great Lakes RRET met initially in May 1982 and selected Thunder Bay as one of five potential SEL sites, based in part on strong local and regional support evidenced during the public comment period.

All SEL sites meet Program criteria for further consideration as possible national marine sanctuaries; however, placement on the SEL does not necessarily mean that a site will become a National Marine Sanctuary. The Secretary of Commerce will, from time to time, select sites from the SEL as Active Candidates. Selection of a site as an Active Candidate formally initiates the process of a site's further consideration for Sanctuary designation. Preparation of draft and final environmental impact statements, in accordance with the National Environmental Policy Act (NEPA), and management plans is required in the consideration of any proposed Sanctuary site.

Before an area may be designated as a National Marine Sanctuary, § 303 of the NMSA (16 U.S.C. 1433) requires the Secretary to find:

(1) The area is of special national significance due to its resource or human-use values;

(2) Existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(3) Designation of the area as a national marine sanctuary will facilitate the objectives in the subparagraph (2); and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Section 304 (16 U.S.C. 1434) requires the Secretary to publish in the **Federal Register** a notice of the proposal, proposed regulations, and summary of the draft management plan.

The authority of the Secretary to designate National Marine Sanctuaries has been delegated to the Under Secretary of Commerce for Oceans and Atmosphere by DOC Organization Order 10–15, section 3.01(z) (Jan. 11, 1988). The authority to administer the other provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by Circular 83–38, Directive 05–50 (Sept. 21, 1983, as amended).

The Thunder Bay region contains over 160 shipwrecks that span more than a century of Great Lakes maritime history. Although many of these wrecks have been identified, many more are thought to be in the Thunder Bay area and have yet to be located. Collectively, Thunder Bay's shipwrecks present a ''microcosm'' of the Great Lakes commercial shipping industry. Based on studies undertaken to date, there is strong evidence of Thunder Bay's national historical significance, as the sunken vessels reflect transitions in ship architecture and construction methods, from wooden sailboats to early iron hulled steamers. Additional significance is attached to the collection (or number) of shipwrecks in the Thunder Bay region, if not to individual vessel characteristics. A large array of shipwrecks exist in the Thunder Bay region, including virtually all types of vessels used on the open Great Lakes. These vessels were engaged in nearly every type of trade, thereby linking Thunder Bay inextricably to Great Lakes commerce.

The historical themes encompassed by existing investigation of shipwrecks in Thunder Bay (Martin 1996) include:

—Prehistoric transportation;
—Early trade and exploration by Europeans;
—Early settlement and military affairs (1679–1860);
—Westward expansion (1763–1898);
—Business and agricultural products;
—Lumber, coal, stone, and ore;
—Foreign trade and the St. Lawrence Seaway;
—Transportation technology (commercial sail);
—Transportation technology (commercial steam); and
—Transportation technology (motor-powered and unpowered—vessels).

From even the most general of observations, Thunder Bay's collection of shipwrecks may be considered nationally significant historically, as the wrecks present a broad history of Great Lakes culture and commercial history. A recent study also has investigated the potential of Thunder Bay for possible National Historic Landmark status (Martin 1996).

On July 15, 1991, NOAA published a **Federal Register** notice announcing the active candidacy of Thunder Bay as a

potential National Marine Sanctuary (56 *FR* 32178). Following this notice, NOAA conducted two public scoping meetings (September 29 and 30, 1991) in Lansing and Alpena, Michigan, to gather information and comments from individuals, organizations, and government agencies on the range and significance of issues related to the Sanctuary proposal (56 *FR* 51686). Over the next two to three years, there followed a series of meetings of informal working groups to bring together local, state, federal, and tribal agencies, organizations, and business to discuss the scope of a National Marine Sanctuary at Thunder Bay.

In 1994, a Thunder Bay Core Group was formed, whose members represent local, state, federal and tribal agencies. The Core Group assisted in the development and review of management alternatives, in cooperation with a variety of community interests. By mid-1995, the Core Group had narrowed the management focus of a potential Thunder Bay National Marine Sanctuary to underwater cultural resources (e.g., shipwrecks). This recommended focus was presented and agreed upon at a community meeting in June 1995. Since that time, development of the Draft Environmental Impact Statement/Draft Management Plan has proceeded in accordance with the recommendations of the Core Group.

Comments are solicited from all interested persons. Holders of, owners of, or future applicants for leases, permits, licenses, approvals, other authorizations, or rights are specifically invited to comment on how they may be affected by the proposed designation of the Sanctuary. In particular, comments are also invited on the adequacy of the existing regulatory regime to protect Sanctuary resources and qualities.

After the comments received during the comment period have been considered, NOAA, in consultation with the State of Michigan, will determine whether to proceed with designation of the Sanctuary. If it is decided to proceed, a final environmental impact statement and management plan will be prepared, and a notice of designation together with final regulations implementing the designation may be published in the **Federal Register**. The designation (and any of its terms) and regulations would take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published, unless the Governor of the State of Michigan certifies within the forty-five-day period to the Secretary of Commerce that the designation or any of its terms is unacceptable. In such case the designation or unacceptable term cannot take effect in the area of the Sanctuary lying within State of Michigan waters.

II. Summary of Draft Environmental Impact Statement/Management Plan

The DEIS/MP for the proposed Thunder Bay National Marine Sanctuary sets forth the Sanctuary's location and provides details on the cultural and historical resources and uses of the Sanctuary. The DEIS/MP describes the Sanctuary goals and objectives, research and education programs, and details the specific activities to be taken in each program. The DEIS/MP includes a detailed discussion, by program area, of agency roles and responsibilities.

Goals and Objectives

The highest priority management goal would be to protect the underwater cultural resources of the proposed Sanctuary. The specific objectives of protection efforts are to: (1) coordinate policies and procedures among the agencies sharing responsibility for protection and management of resources; (2) encourage participation by interested agencies and organizations in the development of procedures to address specific management concerns (e.g., monitoring and emergency-response programs); (3) develop an effective and coordinated program for the enforcement of Sanctuary regulations; (4) promote public awareness of, and voluntary compliance with, Sanctuary regulations and objectives, through an educational/interpretive program stressing resource sensitivity and wise use; (5) ensure that the appropriate management agency incorporates research results and scientific data into effective resource protection strategies; and (6) reduce threats to Sanctuary resources.

The primary function of the Sanctuary's resource protection program would be to ensure, through cooperative stewardship, the protection of Thunder Bay's underwater cultural resources, for their long-term integrity and use. cooperative stewardship, as described by the Michigan Underwater Preserve Council and other organizations, involves the active participation in resource protection activities by agencies, organizations and businesses. The Sanctuary would support the State's goal for increased protection of resources of historic value. Stewardship is important to achieving this primary goal, as is Sanctuary coordination with existing State and regional resource protection plans. Such plans include Michigan's Underwater Preserve Program. The Thunder Bay Underwater Preserve was created by the State, in part, to protect abandoned property of historical value. Sanctuary resource protection activities could include:

- Coordinating management agencies (e.g., NOAA, the State of Michigan's Department of Environmental Quality, Department of State, and Department of Natural Resources);
- Science-based decisionmaking, including baseline inventory and assessment activities;
- Developing and maintaining a mooring buoy system; and
- Providing additional support for enforcement.

Research Program

Effective management of the proposed Sanctuary would require the initiation of a Sanctuary research program. The purpose of Sanctuary research activities is to improve understanding of the Thunder Bay environment, and its cultural and historical resources, and to resolve specific management problems. Research results would be used in interpretive programs for visitors and others interested in the Sanctuary, as well as for protection and management of the Sanctuary's cultural and historical resources.

Specific objectives for the research program would be to: (1) Establish a framework and procedures for administering research to ensure that research projects are responsive to management concerns and that results contribute to improved management of the Sanctuary; (2) incorporate research results into the interpretive/education program in a format useful for the general public; (3) focus and coordinate data collection efforts on the identification, condition and location of submerged shipwrecks within the Sanctuary; (4) encourage studies that integrate research on submerged shipwrecks and Great Lake processes; (5) initiate a monitoring program to assess environmental changes as they occur due to natural and human processes; (6) identify the range of effects on Sanctuary resources that would result from predicted changes in human activity or natural phenomena; and (7) encourage information exchange among all the organizations and agencies undertaking management-related research in the Sanctuary to promote more informed management.

The Sanctuary Research Program would complement the Michigan Underwater Preserve Program by supporting the inventory, assessment, and monitoring of Sanctuary underwater cultural resources. The Sanctuary Research Program also would

be complementary to the Michigan Department of State goal of documenting more fully Michigan's historic resources. An additional benefit of the Sanctuary Research Program would be the potential assistance in implementation of coastal management plans, through identification and evaluation of these resources.

Priorities for Sanctuary research activities and strategies would be incorporated into a Sanctuary Research Plan, to be developed if Sanctuary designation occurs. Possible Sanctuary research priorities could include:

- Conducting preliminary historical research (i.e., completion of research on all sunken vessels identified in the Thunder Bay vicinity). These data would be important to further analysis of the collection of wrecks and their eventual interpretation for both popular and scholarly audiences;
- Inventory and locating historical materials, involving research of collections at local and regional archives, as well as those of private owners;
- Conducting a full scale contextual theme study to develop a database of Great Lakes shipwrecks, to enable further evaluation of Thunder Bay region shipwrecks and possible formal nomination to the U.S. Department of the Interior for National Landmark status; and
- Producing a historical guide to maritime resources of the Thunder Bay region, to be available for a variety of user groups.

These research activities would aid in interpreting Thunder Bay's history within regional, national, and international contexts, and would involve local communities in discovering their maritime heritage. Additional possible research and monitoring priorities include archaeological inventory and assessment of Thunder Bay's shipwrecks, and investigation into impacts of zebra mussels on shipwrecks and recreational diving.

Education Program

The Sanctuary Educational Program's primary function would be to promote understanding, appreciation, and involvement in the protection and stewardship of Thunder Bay's underwater cultural resources. The goal for education programs would be to improve public awareness and understanding of the significance of the Sanctuary and the need to protect its resources. The management objectives designed to meet this goal would be to: (1) Provide the public with information on the Sanctuary and its goals and objectives, with an emphasis on the need to use Sanctuary resources wisely to ensure their long-term viability; (2) broaden support for Sanctuary management by offering programs suited to visitors with a range of diverse interests; (3) provide for public involvement by encouraging feedback on the effectiveness of education programs; (4) collaborate with Sanctuary management staff in extension and outreach programs; and participate in other volunteer programs; and (5) collaborate with other organizations to provide educational services complementary to the Sanctuary program. Possible activities would include a wide range of programs, facilities, and services offered through schools; interpretation; and outreach activities. Program activities would support the priorities of the Michigan Underwater Preserve Program, particularly those of the Thunder Bay Underwater Preserve. Sanctuary education activities would complement existing efforts relating to underwater cultural resources and the Thunder Bay area's maritime heritage.

Individual educational activity priorities would be identified in an Education Plan, to be developed if the Sanctuary is designated. Possible education activities include:

- Working cooperatively with Great Lakes educators (i.e., schools, colleges and universities, MSU Extension, museums) and other agencies, organizations and businesses interested in Great Lakes education to identify education themes based on the maritime cultural landscape focus of the Sanctuary (e.g., industrial development, western expansion, relationships between cultural resources and the natural environment);
- Utilizing existing information on Great Lakes education programs to identify those which support Sanctuary education themes. The Sanctuary could then work cooperatively to complement, and assist in maintaining and enhancing these programs. Examples of existing programs include the Elder Hostel program, and the signage, displays and materials along the riverwalk trail;
- Identifying and supporting a network of volunteers to help enhance and maintain activities that are consistent with Sanctuary education themes. The network could utilize community expertise and interests in matching volunteers with needed activities. Training, support, and incentives could be provided to volunteers as needs and interests arise;
- Establishing remote video hook-ups of researchers inventorying and documenting the shipwrecks. Utilization of this technology would provide visual access to shipwrecks for non-drivers; and
- Developing a ''Thunder Bay Shipwreck Trail.'' The Sanctuary could select and interpret a selection of shipwrecks to develop a ''shipwreck trail'' that would highlight Thunder Bay's maritime heritage. Themes would be developed and matched with appropriate wreck sites to educate visiting divers and non-divers about such subjects as historical ship construction, Great Lakes shipping, the effect of environmental processes on shipwrecks, and the effects of salvage on historic shipwrecks.

Sanctuary Administration

The Sanctuary Administration Program would focus on the roles and responsibilities of the agencies, organizations, and businesses that would be involved in operation of the Sanctuary. Successful operation of the proposed Sanctuary would be possible only through cooperative efforts of appropriate local, state, federal, and tribal agencies, organizations and businesses. This section also discusses potential Sanctuary staff and facilities, including staff roles, office establishment in Alpena, with possible satellite offices (if needed in the future), and development of a Great Lakes education center, which would enhance education opportunities for both local residents and visitors to the region.

The Sanctuary's goal for visitor management would be to facilitate, to the extent compatible with the primary objective of resource protection, public and private uses of the Sanctuary not prohibited pursuant to other authorities.

Specific management objectives would be to: (1) Provide relevant information about Sanctuary regulations, use policies and standards; (2) collaborate with public and private organizations in promoting compatible uses of the Sanctuary; (3) encourage the public who use the Sanctuary to respect sensitive Sanctuary resources; and (4) monitor and assess the current levels of use to identify and control potential degradation of Sanctuary resources and minimize potential user conflicts.

The possible establishment of a Sanctuary Advisory Council (SAC) is discussed as a mechanism to provide advice and recommendations to the Sanctuary Manager about issues related to Sanctuary programs and implementation. The SAC would encourage community participation in the management of the proposed Sanctuary. Members of a Thunder Bay SAC may not exceed fifteen in number,

and would be determined by NOAA, in consultation with the State of Michigan.

Finally, a five-year projection of Sanctuary activities, necessary financial obligations, and economic impacts of the Sanctuary is provided.

III. Proposed Designation Document

Section 304(a)(4) of the NMSA requires that the terms of designation include the geographic area included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or aesthetic value; and the types of activities subject to regulation by the Secretary to protect these characteristics. Section 304(a)(4) also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. Thus, the terms of designation serve as a constitution for the Sanctuary. The proposed Designation Document follows:

Proposed Designation Document for the Proposed Thunder Bay National Marine Sanctuary

Under the authority of the National Marine Sanctuaries Act, as amended, 16 U.S.C. §§ 1431 *et seq.*, Thunder Bay and its surrounding waters offshore of Michigan, and the submerged lands under Thunder Bay and its surrounding waters, as described in Article II, are hereby designated as a National Marine Sanctuary for the purposes of providing long-term protection and management of the conservation, recreational, research, educational, and historical resources and qualities of the area.

Article I: Effect of Designation

The NMSA authorizes the issuance of such regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, historical, research, and educational resources and qualities of the Thunder Bay National Marine Sanctuary (the ''Sanctuary''). Section 1 of Article IV of this Designation Document lists those activities that may have to be regulated on the effective date of designation, or at some later date, in order to protect Sanctuary resources and qualities. Listing does not necessarily mean that an activity will be regulated; however, if an activity is not listed it may not be regulated, except on an emergency basis, unless Section 1 of Article IV is amended by the same procedures by which the original Sanctuary designation was made.

Article II: Description of the Area

The Sanctuary boundary encompasses a total of approximately 808 square miles of waters, and the submerged lands thereunder, surrounding Thunder Bay, Lake Huron, Michigan. The boundary forms an approximately rectangular area by extending along the ordinary high water mark of the Michigan shoreline from Presque Isle Lighthouse, at 45 21.4 N latitude, south to Sturgeon Point Lighthouse, at 44 42.7 N latitude, and lakeward from those points along latitude lines to 83 W longitude. the precise boundary is set forth in Appendix I to this Designation Document.

Article III: Characteristics of the Area That Give It Particular Value

Thunder Bay and its surrounding waters contain over 160 shipwrecks spanning more than a century of Great Lakes maritime history. Virtually every type of vessel used on open Great Lakes areas has been documented in the Thunder Bay region, linking Thunder Bay inextricably to Great Lakes commerce. Most of the Great Lakes trades had a national, and sometimes an international, significance, and resulted in uniquely designed vessels. Although not all of Thunder Bay's shipwrecks have been identified, based on studies undertaken to date, there is strong evidence of the Bay's national historic significance. The sunken vessels reflect transitions in ship architecture and construction methods, from wooden sailboats to early iron-hulled steamers.

Several major conclusions regarding Thunder Bay's shipwrecks may be drawn from research and analysis undertaken to date: they are representative of the composition of the Great Lakes merchant marine from 1840 to 1970; they provide information on the various phases of American westward expansion; they provide information on the growth of American extraction and use of natural resources; they illustrate the various phases of American industrialization; one shipwreck (Issac M. Scott) provides the vehicle for study and interpretation of a specific event (the Great Storm of 1913) that had strong repercussions nationally, regionally and internationally; and they provide interpretive material for understanding American foreign inter-continental trade within the Great Lakes.

Thunder Bay was established as the first State of Michigan Bottomland Preserve in 1981, to protect these underwater cultural resources. Increasing public interest in underwater cultural resources underscores the importance of continued efforts to discover, explore, document and study the Bay's shipwrecks.

Article IV: Scope of Regulations

Section 1. Activities Subject to Regulation. The following activities are subject to regulation, including prohibition, to the extent necessary and reasonable to ensure the protection and management of the conservation, recreational, historical, research and educational resources and qualities of the area:

a. Disturbing, moving, removing or injuring, possessing, or attempting to disturb, move, remove, injure, or possess an underwater cultural resource;

b. Drilling into, dredging or otherwise altering the lakebottom associated with underwater cultural resources; or constructing, placing or abandoning any structure, material or other matter on the lakebottom associated with underwater cultural resources, except as an incidental result of:

(i) Anchoring vessels;

(ii) Traditional fishing operations;

(iii) Minor projects as currently defined in R. 322.1013 of Part 325, Great Lakes Submerged Lands of Public Act 451 (1994), as amended, that do not adversely affect underwater cultural resources; or

c. Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the NMSA or any regulations issued under the NMSA.

2. *Consistency With International Law.* The regulations governing the activities listed in section 1 of this Article shall apply to United States-flag vessels and to persons who are citizens, nationals, or resident aliens of the United States, and shall apply to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally-recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

3. *Emergencies.* Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality; or minimize the imminent risk of such destruction, loss, or injury, any activity, including those not listed in Section 1, is subject to immediate temporary regulation.

Article V: Effect on Other Regulations, Leases, Permits, Licenses, and Rights

Section 1. Fishing Regulations, Licenses, and Permits. Fishing in the

Sanctuary shall not be regulated as part of the Sanctuary management regime authorized by the Act. However, fishing in the Sanctuary may be regulated other than under the Act by Federal, State, Tribal and local authorities of competent jurisdiction, and designation of the Sanctuary shall have no effect on any regulation, permit, or license issued thereunder.

Section 2. Other. If any valid regulation issued by any Federal, state, Tribal, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, or his or her designate, in consultation with the state of Michigan, to be more protective of Sanctuary resources and qualities shall govern.

Pursuant to section 304(c)(1) of the Act, 16 U.S.C. § 1434(c)(1), no valid lease, permit, license, approval, or other authorization issued by any Federal, State, Tribal, or local authority of competent jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce, or his or her designate, as a result of this designation, or as a result of any Sanctuary regulation, if such lease, permit, license, approval, or other authorization, or right of subsistence use or access was issued or in existence as of the effective date of this designation. However, the Secretary of Commerce, or his or her designee, in consultation with the State of Michigan, may regulate the exercise of such authorization or right consistent with the purposes for which the Sanctuary is designated.

Article VI. Alteration of This Designation

The terms of designation may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with interested Federal, Sate, Tribal, regional, and local authorities and agencies, review by the appropriate Congressional committees, and approval by the Governor of the State of Michigan, and the Secretary of Commerce, or his or her designates.

Appendix I. Proposed Thunder Bay National Marine Sanctuary Boundary Coordinates

(Appendix I will set forth the final Sanctuary boundary after consideration of comments received on the DEIS/MP.)

End of Proposed Designation Document.

IV. Summary of Proposes Regulations

The proposed regulations would set forth the boundary of the proposed Thunder Bay National Marine Sanctuary; prohibit a narrow range of activities; and establish certification and permitting procedures. Other provisions of the existing National Marine Sanctuary Program regulations would also apply to the Sanctuary. These include the regulations for certification of existing permits and other authorizations, notification and review procedures to conduct otherwise prohibited activities, setting forth the maximum per day penalties for violating Sanctuary regulations, and establishing procedures for administrative appeals.

Specifically, the proposed regulations would add a new Subpart R to part 922, title 15, Code of Federal Regulations.

Proposed § 922.190 and proposed appendix A to subpart R would set forth the boundary of the Sanctuary.

Proposed § 922.191 would define various terms used in the regulations. Sanctuary resources would be defined to mean any underwater cultural resource. Underwater cultural resource would be defined as ''any submerged resource possessing historical, cultural, or archaeological significance, including shipwrecks, sites, contextual information, structures, districts, and objects significantly associated with or representative of earlier people, cultures, maritime heritage, and human activities and events.'' This definition would also state that ''[h]istorical resources include 'historical properties,' as defined under the National Historic Preservation Act, as amended, and its implementing regulations, as amended.'' That Act defines ''historic properties'' as ''any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.''

State of Michigan agency representatives suggested NOAA include resource that are significant primarily due to their recreational attraction and use within the definition of underwater cultural resources, similar to provisions of Part 761, Aboriginal Records and Antiquities of Public Law 451 (1994), as amended. However, NOAA's focus has been on those resources that are significant due to their historical, cultural, or archaeological significance. Further, many of the resources within NOAA's proposed definition would include sites that enjoy a substantial amount of recreational use. Consequently, NOAA has preliminarily determined that the proposed definition should not be expanded, but specifically requests comments on this issue.

Other terms appearing in the proposed regulations are defined at 15 CFR Part 922 Subpart A, and/or in the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., and 16 U.S.C. 1431 et seq.

Proposed § 922.192 would prohibit a narrow range of activities and thus make it unlawful to conduct them. However, the prohibited activities could be conducted lawfully if:

(1) Necessary for law enforcement, or to respond to an emergency threatening life or the environment;

(2) Conducted pursuant to a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction, or to any valid right of subsistence use or access, in existence as of the effective date of this designation subject to certification by the Director of the Office of Ocean and Coastal Resource Management under § 922.193 and § 922.47; or

(3) Conducted in accordance with the scope, purpose, terms and conditions of a State or Federal permit issued pursuant to § 922.193 and § 922.49; a National Marine Sanctuary permit issued pursuant to § 922.193 and § 922.48; or a Special Use permit issued pursuant to section 310 of the NMSA.

The first activity prohibited would be disturbing, moving, removing or injuring, possessing, or attempting to disturb, move, remove or injure, or possess an underwater cultural resource, from within the boundary of the Sanctuary. The intent of this regulation is to protect the underwater cultural resources of the Sanctuary for the benefit of the public through, for example, education, observation *in situ*, and research.

The second activity prohibited would be drilling into, dredging or otherwise altering the lakebottom associated with underwater cultural resources, including contextual information; or constructing, placing or abandoning any structure, material or other matter on the lakebottom associated with underwater cultural resources, except as an incidental result of:

(a) Anchoring vessels; (b) traditional fishing operations; or (c) minor projects that the State Archaeologist certifies will not adversely affect underwater cultural resources. Appendix B to Subpart R lists the minor projects that may fall within this latter exception; taken from the current version of R 322.1013 of Part 325, Great Lakes

Submerged Lands of Public Act 451. The intent of this regulation is to protect the underwater cultural resources of the Sanctuary from the harmful effects of activities such as, but not limited to, dredging, excavations, drilling into the lakebottom, and dumping of dredged materials.

A third prohibition would make it unlawful to interfere with, obstruct, delay or prevent an investigation, search, seizure or disposition of seized property in connection with enforcement of the NMSA or any regulations issued under the NMSA.

Proposed § 922.193 would provide for certification by the Director of OCRM of activities conducted pursuant to a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction, or to any valid right of subsistence use or access, in existence as of the effective date of Sanctuary designation.

Proposed § 922.194 would provide for the conduct of activities prohibited by Sanctuary regulations at § 922.192(a) (1) through (2), provided that the activity is conducted in accordance with the scope, purpose, manner, terms and conditions of a State of Michigan permit (State Permit) which the State Archaeologist certifies is consistent with the Programmatic Agreement among NOAA, the State and the Advisory Council on Historic Preservation, developed pursuant to the NMSA and section 106 of the National Historic Preservation Act (NHPA). Such State Permits are deemed to have met the ''authorization'' requirements of 15 CFR § 922.49 of the National Marine Sanctuary Program regulations. If a State Permit is not certified as consistent with the Programmatic Agreement, the applicant would be required to follow the procedures of 15 CFR § 922.49 to obtain an individual Sanctuary authorization of the State Permit. Such activity would also be subject to section 106 of the NHPA. If there is only a Federal permit applicable to the activity, the applicant must follow the procedures of 15 CFR § 922.49 to obtain an individual Sanctuary authorization of the Federal permit, subject to section 106 of the NHPA. Finally, if there is no State or Federal permit required to conduct the prohibited activity, the person must obtain a Sanctuary permit pursuant to 15 CFR § 922.48 of the NMSP regulations to conduct such activity, subject to section 106 of the NHPA. For a proposed activity not prohibited by Sanctuary regulations but that may impact Sanctuary resources, NOAA may review state permit applications for such activity during identified public comment periods and provide comments to the Michigan Department of Environmental Quality, the Michigan Department of State, and other management agencies, as appropriate.

As appropriate, the Director of OCRM would coordinate with the State of Michigan, governing bodies of Tribes with reservations affected by the Sanctuary, and representatives of adjacent county governments, regarding areas of mutual concern and threats to Thunder Bay's underwater cultural resources. The Director may enter into memoranda of understanding regarding such coordination to further the goals of the Sanctuary.

V. Miscellaneous Rulemaking Requirements

National Marine Sanctuaries Act

Section 304 of the NMSA also requires the Secretary to submit to the appropriate Congressional Committees, on the same day this notice is published, documents, including an executive summary, consisting of the terms of the proposed designation, the proposed regulations and the DEIS/MP. In accordance with section 304, the required documents are being submitted to the appropriate Congressional Committees.

National Environmental Policy Act

Section 304 of the NMSA, 16 U.S.C. 1434, requires the preparation of a draft environmental impact statement (DEIS), as provided by the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that the DEIS be made available to the public. NOAA has prepared a DEIS/MP for proposed designation of the Thunder Bay National Marine Sanctuary. The DEIS/MP is available at the addresses listed in the Address section of this proposed rule.

Executive Order 12866: Regulatory Impact

NOAA has concluded that this regulatory action is not significant within the meaning of section 3(f) of Executive Order 12866 because it will not result in:

(1) An annual effect on the economy of $100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, or public health and safety;

(2) A serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) A material alteration of the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of such recipients; or

(4) Novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Executive Order 12612: Federalism Assessment

A Federalism Assessment (FA) was prepared for the proposed designation document, draft management plan, and proposed implementing regulations. The FA concluded that all were fully consistent with the principles, criteria, and requirements set forth in sections 2 through 5 of Executive Order 12612, Federalism Considerations in Policy Formulation Implementation (52 FR 41685, Oct. 26, 1987). Copies of the FA are available upon request from the Office of Ocean and Coastal Resource Management at the address listed above.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulations of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule issued under authority of the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.*, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities as follows:

This proposed rule implements the proposed designation of the Thunder Bay National Marine Sanctuary (TBNMS or Sanctuary). The primary purpose of the proposed Sanctuary would be to protect shipwrecks and other underwater cultural resources. The proposed Sanctuary regulations prohibit the following two activities: (1) disturbing, moving, removing or injuring, possessing, or attempting to disturb, move, remove or injure, or possess an underwater cultural resource; and (2) drilling into, dredging or otherwise altering the lakebottom associated with underwater cultural resources, including contextual information; or constructing, placing or abandoning any structure, material or other matter on the lakebottom associated with underwater cultural resources, except as an incidental result of: (i) anchoring vessels; (ii) traditional fishing operations; or (iii) minor projects that do not adversely affect underwater cultural resources. The regulations, if adopted as proposed, would pertain solely to protection of underwater cultural resources and would not be expected to have a significant impact on a substantial number of small businesses because they would not eliminate or curtail most existing recreational or commercial activities (e.g., recreational diving, sport fishing and hunting, commercial fishing, charter operations, or commercial shipping). Although limited in number, commercial salvage companies and businesses that sell

shipwreck artifacts and other archaeological materials may be adversely impacted because they could not remove or injure underwater cultural resources without a permit. However, such impacts will not be significant because the entire Sanctuary is within State of Michigan waters and commercial salvage and sale of artifacts are already subject to state regulations. Further, the proposed Sanctuary regulations are consistent with prohibitions already in place under State law for the Thunder Bay Underwater Preserve, which is encompassed by the Sanctuary, designated by the State in 1981. There have been no significant commercial shipwreck salvage or ''treasure hunting'' operations in the Thunder Bay region since the State designated the Thunder Bay Underwater Preserve. Moreover, since 1980, there have been only seven salvage permits issued by the State for removal or alteration of shipwrecks or associated artifacts in the region. Consequently, the rule is not expected to significantly impact a substantial number of small business entities.

Accordingly, a Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the Paperwork Reduction act, 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act. The collection of information requirement applies to persons seeking permits to conduct otherwise prohibited activities and is necessary to determine whether the final activities are consistent with the management goals for the Sanctuary. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3507 of the Paperwork Reduction Act. The public reporting burden per respondent for the collection of information contained in this rule is estimated to average 10 hours annually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (a) 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; (b) the accuracy of NOAA's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: Desk Officer for NOAA); and to Richard Roberts, Room 724, 6010 Executive Boulevard, Rockville, MD 20852.

Unfunded Mandates Reform Act of 1995

This proposed rule, if adopted as proposed, would contain no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA)) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: June 13, 1997.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is proposed to be amended as follows:

PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. Section 922.1 is revised as follows:

§ 922.1 Applicability of regulations.

Unless noted otherwise, the regulations in subparts A, D and E apply to all thirteen National Marine Sanctuaries for which site-specific regulations appear in subparts F through R, respectively. Subparts B and C apply to the site evaluation list and to the designation of future Sanctuaries.

3. Section 922.40 is revised to read as follows:

§ 922.40 Purpose.

The purpose of the regulations in this subpart and in subparts F through R is to implement the designations of the thirteen National Marine Sanctuaries for which site specific regulations appear in subparts F through R, respectively, by regulating activities affecting them, consistent with their respective terms of designation in order to protect, preserve and manage and thereby ensure the health, integrity and continued availability of the conservation, ecological, recreational, research, educational, historical and aesthetic resources and qualities of these areas. Additional purposes of the regulations implementing the designation of the Florida Keys National Marine Sanctuary are found at § 922.160.

4. Section 922.41 is revised to read as follows:

§ 922.41 Boundaries.

The boundary for each of the thirteen National Marine Sanctuaries covered by this part is described in subparts F through R, respectively.

5. Section 922.42 is revised to read as follows:

§ 922.42 Allowed activities.

All activities (e.g., fishing, boating, diving, research, education) may be conducted unless prohibited or otherwise regulated in subparts F through R, subject to any emergency regulations promulgated pursuant to §§ 922.44, 922.111(c), or 922.165, subject to all prohibitions, regulations, restrictions, and conditions validly imposed by any Federal, State, or local authority of competent jurisdiction, including Federal and State fishery management authorities, and subject to the provisions of § 312 of the Act. The Assistant Administrator may only directly regulate fishing activities pursuant to the procedure set forth in § 304.(a)(5) of the NMSA.

6. Section 922.43 is revised to read as follows:

§ 922.43 Prohibited or otherwise regulated activities.

Subparts F through R set forth site-specific regulations applicable to the activities specified therein.

7. Section 922.47 is amended by revising paragraph (b) as follows:

§ 922.47 Pre-existing authorizations or rights and certifications of pre-existing authorizations or rights.

* * * * *

(b) The prohibitions listed in subparts F through P, or subpart R do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective

date of the regulations in subpart P, and issued by any Federal, State or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in subpart P, provided that the holder of such authorization or right complies with certification procedures and criteria promulgated at the time of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in subpart P, and with any terms and conditions on the exercise of such authorization or right imposed by the Director as a condition of certification as the director deems necessary to achieve the purposes for which the Sanctuary was designated.

8. Section 922.48 is amended by revising paragraphs (a) and (b) and (d) as follows:

§ 922.48 National Marine Sanctuary permits—application procedures and issuance criteria.

(a) A person may conduct an activity prohibited by subparts F through O, or subpart R if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subparts F through O, or subpart R, as appropriate. Fork the Florida Keys National Marine Sanctuary, a person may conduct an activity prohibited by subpart P if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under § 922.166.

(b) Applications for permits to conduct activities otherwise prohibited by subparts F through O, or subpart R should be addressed to the Director and sent to the address specified in subparts F through O, or subpart R, as appropriate. An application must include:

* * * * *

(d) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct a prohibited activity, in accordance with the criteria found in subparts F through O, or subpart R, as appropriate. The Director shall further impose, at a minimum, the conditions set forth in the relevant subpart.

* * * * *

9. Paragraphs (a) through (c) of section 922.49 are revised to read as follows:

§ 922.49 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by subparts L through P, or subpart R is such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary after the effective date of the regulations in subpart P, provided that:

(1) the applicant notifies the Director, in writing, of the application for such authorization (and of any application for an amendment, renewal, or extension of such authorization) within fifteen (15) days of the date of filing of the application or the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in subpart P, whichever is later;

(2) the applicant complies with the other provisions of this § 922.49;

(3) the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization (or amendment, renewal, or extension); and

(4) the applicant complies with any terms and conditions the Director deems reasonably necessary to protect Sanctuary resources and qualities.

(b) Any potential applicant for an authorization described in paragraph (a) above may request the Director to issue a finding as to whether the activity for which an application is intended to be made is prohibited by subparts L through P, or subpart R, as appropriate.

(c) Notification of filings of applications should be sent to the Director, Office of Ocean and Coastal Resource Management at the address specified in subparts L through P, or subpart R, as appropriate. A copy of the application must accompany the notification.

* * * * *

§ 922.50 [Amended]

10. Section 922.50 is amended by replacing ''L through P'' with ''L through P, and subpart R'' wherever ''L through P'' is found within this section.

11. Part 922 is amended by adding a new subpart R immediately following subpart Q as follows:

Subpart R—Thunder Bay National Marine Sanctuary

922.190 Boundary.
922.191 Definitions.
922.192 Prohibited or otherwise regulated activities.
922.193 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.
922.194 Permit procedures and criteria.

Appendix A to Subpart R of Part 922—Thunder Bay National Marine Sanctuary Boundary Coordinates

Appendix B to Subpart R of Part 922—Minor Projects for Purposes of Section 922.192(a)(2)(iii)

Authority: 16 U.S.C. 1431 *et seq.*

Subpart R—Thunder Bay National Marine Sanctuary

§ 922.190 Boundary.

(a) The Thunder Bay National Marine Sanctuary (Sanctuary) consists of an area of approximately 808 square miles of surface waters of Lake Huron and the submerged lands thereunder, over and around the underwater cultural resources in Thunder Bay. The boundary forms an approximately rectangular area by extending along the ordinary high water mark of the Michigan shoreline from Presque Isle Lighthouse, at 45 21.4 N latitude, south to Sturgeon Point lighthouse, at 44 42.7 N latitude, and lakeward from those points along latitude lines to 83 W longitude. The coordinates of the boundary are set forth in Appendix A to this subpart.

(b) [Reserved].

§ 922.191 Definiitons.

(a) The following terms are defined for purposes of subpart R:

Minor project means any project listed in Appendix B to this subpart.

Programmatic Agreement means the agreement among NOAA, the Federal Advisory Council on Historic Preservation, and the State of Michigan, developed pursuant to the NMSA and section 106 of the National Historic Preservation Act, setting forth the procedures for review and approval of State Permits which authorize activities prohibited by the Sanctuary regulations.

Sanctuary resource means any underwater cultural resource as defined in this section.

State Archaeologist means the State Archaeologist, Michigan Historical Center, Michigan Department of State.

State Permit means leases, permits, licenses, approvals, or other authorizations issued by the State of Michigan for the conduct of activities or projects within the Thunder Bay National Marine Sanctuary that are prohibited by the regulations at section 922.192.

Traditional fishing means those commercial or recreational fishing activities that were customarily conducted within the Sanctuary prior to its designation as identified in the

Environmental Impact Statement and Management Plan for the Sanctuary.

Underwater cultural resource means any submerged resource possessing historical, cultural, or archaeological significance, including shipwrecks, sites, contextual information, structures, districts, and objects significantly associated with or representative of earlier people, cultures, maritime heritage, and human activities and events. Historical resources include ''historical properties,'' as defined in the National Historic Preservation Act, as amended, and its implementing regulations, as amended.

(b) Other terms appearing in the proposed regulations are defined at 15 CFR Part 922 Subpart A, and/or in the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., and 16 U.S.C. 1431 et seq.

§ 922.192 Prohibited or otherwise regulated activities.

(a) Except as specified in paragraphs (b) through (c) of this section, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted:

(1) Disturbing, moving, removing or injuring, possessing, or attempting to disturb, move, remove or injure, or possess an underwater cultural resource.

(2) Drilling into, dredging or otherwise altering the lakebottom associated with underwater cultural resource, including contextual information; or constructing, placing or abandoning any structure, material or other matter on the lakebottom associated with underwater cultural resources, except as an incidental result of:

(i) Anchoring vessels;

(ii) Traditional fishing operations; or

(iii) Minor projects that do not adversely affect underwater cultural resources.

(3) Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the Act or any regulations issued under the Act.

(b) The prohibitions in paragraphs (a)(1) and (2) of this section do not apply to valid law enforcement activities, or any activity necessary to respond to an emergency threatening life or the environment.

(c) The prohibitions in paragraphs (a)(1) and (2) of this section do not apply to any activity: certified by the Director pursuant to § 922.193 and § 922.47; executed in accordance with the scope, purpose, terms and conditions of a State or Federal permit issued pursuant to § 922.193 (a) or (b), and § 922.49; National Marine Sanctuary permit issued pursuant to § 922.193(c) and § 922.48; or a Special Use permit issued pursuant to section 310 of the NMSA.

§ 922.193 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by § 922.192 (a)(1) through (2) if such activity is specifically authorized by a valid State, or local lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, *provided that:*

(1) For any State or local lease, permit, license, approval, or other authorization, or any right of subsistence use, the State Archaeologist certifies to NOAA, within 90 days of the effective date of designation, that the activity authorized under the State or local lease, permit, license, approval, or other authorization, or any right of subsistence use, is being conducted consistent with the Programmatic Agreement, in which case such activity shall be deemed to have met the requirements of this section and § 922.47; or

(2) In the case where either (i) the State Archaeologist does not certify that the activity authorized under a State or local ease, permit, license, approval, or other authorization, or right of subsistence use is being conducted consistent with the Programmatic Agreement; or (ii) the activity is conducted pursuant only to a Federal permit, the holder of the authorization or right complies with paragraphs (b) through (k) of this section.

(b) For an activity described in paragraph (a)(2) of this section, the holder of the authorization or right may conduct the activity prohibited by § 922.192(a)(1) through (2) *provided that*: (1) the holder of such authorization or right notifies the Director, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right and requests certification of such authorization or right; (2) the holder complies with the other provisions of this § 922.193; and (3) the holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director, to achieve the purposes for which the Sanctuary was designated.

(c) The holder of an authorization or right described in paragraph (a)(2) above authorizing an activity prohibited by § 922.192 may conduct the activity without being in violation of applicable provisions of § 922.192, pending final agency action on his or her certification request, provided the holder is in compliance with this § 922.193.

(d) Any holder of an authorization or right described in paragraph (a)(2) above may request the Director to issue a finding as to whether the activity for which the authorization has been issued, or the right given, is prohibited by § 922.192, thus requiring certification under this section.

(e) Requests for findings or certifications should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuary Manager, Thunder Bay National Marine Sanctuary, [Note: This paragraph will provide the Sanctuary Office address]. A copy of the lease, permit, license, approval, or other authorization must accompany the request.

(f) The Director may request additional information from the certification requester as he or she deems reasonably necessary to condition appropriately the exercise of the certified authorization or right to achieve the purpose for which the Sanctuary was designated. The information requested must be received by the Director within 45 days of the postmark date of the request. The Director may seek the views of any persons on the certification request.

(g) The Director may amend any certification made under this § 922.193 whenever additional information becomes available justifying such an amendment.

(h) Upon completion of review of the authorization or right and information received with respect thereto, the Director shall communicate, in writing, any decision on a certification request or any action taken with respect to any certification made under this § 922.193, in writing, to both the holder of the certified lease, permit, license, approval, other authorization, or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(i) Any time limit prescribed in or established under this § 922.193 may be extended by the Director for good cause.

(j) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 922.50.

(k) Any amendment, renewal, or extension made after the effective date

of Sanctuary designation, to a lease, permit, license, approval, other authorization or right is subject to the provisions of § 922.194 and § 922.49.

§ 922.194 Permit procedures and criteria.

(a) A person may conduct an activity prohibited by § 933.192 (a) (1) through (2) if conducted in accordance with the scope, purpose, manner, terms and conditions of a State Permit *provided that:*

(1) The State Archaeologist certifies to NOAA that the activity authorized under the State Permit will be conducted consistent with the Programmatic Agreement, in which case such State Permit shall be deemed to have met the requirements of § 922.49; or

(2) In the case where the State Archaeologist does not certify that the activity to be authorized under a State Permit will be conducted consistent with the Programmatic Agreement, the person complies with the requirements of § 922.49 of this part.

(b) If no State Permit is required to conduct an activity prohibited by § 922.192(a) (1) through (2) of this subpart, a person may conduct such activity if it is conducted in accordance with the scope, purpose, manner, terms and conditions of a Federal permit, *provided that* the person complies with the provisions of § 922.49 of this part.

(c) In instances where the conduct of an activity is prohibited by § 922.192(a) (1) through (2) of this subpart is not addressed under a State or other Federal lease, license, permit or other authorization, a person must obtain a Sanctuary permit from NOAA pursuant to § 922.48 of this part and the Programmatic Agreement in order to conduct the activity.

Appendix A to Subpart R of Part 922—Thunder Bay National Marine Sanctuary Boundary Coordinates

Note: Appendix A to subpart R will set forth the final Sanctuary boundary coordinates after consideration of comments received on the DEIS/MP.

Appendix B to Subpart R of Part 922—Minor Projects for Purposes of Section 922.192(a)(2)(iii)

Pursuant to R 322.1013 of part 325, Great Lakes Submerged Lands of Public Act 451, the Michigan Department of Environmental Quality (Department) issues permits for projects that are of a minor nature which are not controversial, which have minimal adverse environmental impacts, which will be constructed of clean, non-polluting materials, which do not impair the use of the adjacent bottomlands by the public, and which do not adversely affect riparian interests of adjacent owners. The following projects are minor projects:

(a) Noncommercial single piers, docks, and boat hoists which meet the following design criteria:

(i) Are of a length or size not greater than the length or size of similar structures in the vicinity and on the watercourse involved; and

(ii) Provide for the free littoral flow of water and drift material.

(b) Spring piles and pile clusters when their design and purpose is usual for such projects in the vicinity and on the watercourse involved.

(c) Seawalls, bulkheads, and other permanent revetment structures which meet all of the following purpose and design criteria:

(i) The proposed structure fulfills an identifiable need for erosion protection, bank stabilization, protection of uplands, or improvements on uplands;

(ii) The structure will be constructed of suitable materials free from pollutants, waste metal products, debris, or organic materials;

(iii) The structure is not more than 300 feet in length and is located in an area on the body of water where other similar structures already exist;

(iv) The placement of backfill or other fill associated with the construction does not exceed an average of 3 cubic yards per running foot along the shoreline and a maximum of 300 cubic yards; and

(v) The structure or any associated fill will not be placed in a wetland area or placed in any manner that impairs surface water flow into or out of any wetland area.

(d) Groins 50 feet or less in length, as measures from the toe to bluff, which meet all of the following criteria:

(i) The groin is low profile, with the lakeward end not more than 1 foot above the existing water level; and

(ii) The groin is placed at least ½ of the groin length from the adjacent property line or closer with written approval of the adjacent riparian.

(e) Filling for restoration of existing permitted fill, fills placed incidental to construction of other structures, and fills that do not exceed 300 cubic yards as a single and complete project, where the fill is of suitable material free from pollutants, waster metal products, debris, or organic materials.

(f) Dredging for the maintenance of previously dredged areas or dredging of not more than 300 cubic yards as a single and complete project when both of the following criteria are met:

(i) No reasonable expectation exists that the materials to be dredged are polluted; and

(ii) All dredging materials will be removed to an upland site exclusive of wetland areas.

(g) Structural repair of man-made structures, except as exempted by R 322.1008(3), when their design and purpose meet both of the following criteria:

(i) The repair does not alter the original use of a recently serviceable structure; and

(ii) The repair will not adversely affect public trust values or interests, including navigation and water quality.

(h) Fish and wildlife habitat structures which meet both of the following criteria:

(i) Are placed so the structures do not impede or create a navigational hazard; and

(ii) Are anchored to the bottomlands.

(i) Scientific structures such as staff gauges, water monitoring devices, water quality testing devices, survey devices, and core sampling devices, if the structures do not impede or create a navigational hazard.

(j) Navigational aids which meet both of the following criteria:

(i) Are approved by the United States Coast Guard; and

(ii) Are approved under Act No. 303 of the Public Acts of 1967, as amended, being § 281.1001 et seq. of the Michigan Compiled Laws, and known as the Marine Safety Act.

(k) Extension of a project where work is being performed under a current permit and which will result in no damage to natural resources.

(l) A sand trap wall which meets all of the following criteria:

(i) The wall is 300 feet or less in length along the shoreline;

(ii) The wall does not extend more than 30 feet lakeward of the toe of bluff;

(iii) The wall if low profile, that is, it is not more than 1 foot above the existing water level; and

(iv) The wall is constructed of wood or steel or other non-polluting material.

(m) Physical removal of man-made structures or natural obstructions which meet all of the following criteria:

(i) The debris an spoils shall be removed to an upland site, not in a wetland, in a manner which will not allow erosion into public waters;

(ii) The shoreline and bottom contours shall be restored to an acceptable condition;

(iii) Upon completion of structure removal, the site does not constitute a safety or navigational hazard; and

(iv) Department staff shall consider fisheries and wildlife resource values when evaluating applications for natural obstruction removal.

[FR Doc. 97–16053 Filed 6–20–97; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960–AE67

Supplementary Security Income; Overpayment Recovery by Offset of Federal Income Tax Refund

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: These proposed regulations govern use of the Federal income tax refund offset program established under section 2653 of the Deficit Reduction Act of 1984, Pub. L. No. 98–369. They would permit the recovery of supplemental security income (SSI) overpayments through the withholding of amounts due to former SSI recipients as Federal income tax refunds. In these proposed rules, we reflect the provisions of the statute and explain the procedures that we will follow in referring SSI overpayments to the

Department of the Treasury for income tax refund offset (TRO).

DATES: To be sure your comments are considered, we must receive them no later than July 23, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235, sent by telefax to (410) 966–2830, sent by E-mail to ''regulations@ssa.gov,'' or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Robert J. Augustine, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 966–5121. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: Section 2653 of the Deficit Reduction Act of 1984, codified at 31 U.S.C. 3720A and 26 U.S.C. 6402(d), authorized the Secretary of the Treasury, upon receiving notice from a Federal agency that a named individual owes the agency a past-due, legally enforceable debt, to withhold all or a part of any income tax refund that is due to the debtor and pay the amount withheld to the agency. Section 2653 specifically precluded the use of these procedures to recover overpayments of Social Security benefits paid under title II of the Social Security Act (the Act). Under 31 U.S.C. 3720A, a Federal agency that is owed a past-due, legally enforceable debt by an individual may notify the Secretary of the Treasury of the debt in accordance with regulations issued by the Department of the Treasury. The applicable Treasury regulations are codified at 26 CFR 301.6402–6. Before an agency may refer a debt to Treasury, it must, under 31 U.S.C. 3720A, take the following actions: (1) Notify the debtor that the agency proposes to refer the debt for tax refund offset; (2) give the debtor at least 60 days to present evidence that all or part of the debt is not past-due or not legally enforceable; (3) consider all evidence the debtor presents in determining that all or a part of the debt is past-due and legally enforceable; and (4) satisfy any other conditions that the Secretary of the Treasury may prescribe to ensure that the agency's findings are valid and that the agency has made reasonable efforts to obtain the payment of the debt.

Although section 2653 gave us the authority to use the TRO provisions to recover overpayments made to recipients of supplemental security income (SSI) payments under title XVI of the Act, we elected not to do so at that time because we did not think it appropriate to use a procedure we were precluded from using to recover title II overpayments to recover overpayments made under the needs-based title XVI program.

Section 5129 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) removed the restriction on using the TRO provisions to recover title II overpayments. Section 5129 added several additional conditions to the referral of title II overpayments for offset. These included: (1) The overpaid individual may not be currently entitled to Social Security benefits under title II of the Act; (2) the notice that we send to the overpaid individual concerning our intent to seek the offset must describe the conditions under which we are required to waive recovery of an overpayment under section 204(b) of the Act; and (3) if the overpaid individual requests that we waive recovery of the overpayment within the 60-day period allowed under the program for presenting evidence that the debt is not past due or not legally enforceable, we may not certify the overpayment to Treasury without first issuing a determination on the waiver request. We issued final regulations on October 21, 1991 (56 FR 52466) implementing these statutory changes.

Since that time, we have been modifying our computer systems to extend the TRO provisions to various subgroups of former title II program beneficiaries. We now have the necessary systems modifications in place to permit us to extend the TRO provisions to the title XVI program, as well. These title XVI rules closely follow the existing rules for the title II program, including the same conditions that the OBRA 90 legislation required for the title II program. That is, these rules provide that (1) The overpaid individual may not currently be eligible to receive SSI payments under title XVI of the Act; (2) the notice we send to the overpaid individual concerning our intent to seek offset must describe the conditions under which we are required to waive recovery of an overpayment under section 1631(b)(1)(B) of the Act; and (3) if the overpaid individual requests that we waive recovery of the overpayment within the 60-day period allowed under the program for presenting evidence that the debt is not past due or legally enforceable, we may not certify the overpayment to Treasury without first issuing a determination on the waiver request.

Explanation of Changes to Regulations

We propose to add new §§ 416.580 through 416.586 to our regulations to explain our rules on recovery of title XVI overpayments through the withholding of amounts due to former SSI recipients as Federal income tax refunds. Section 416.580 would provide general information about the tax refund offset program and explain that we may pursue collection of an overpayment through this program if the overpaid individual is not eligible for benefits. This new regulatory section also explains that we will not initiate the tax refund offset to collect an overpayment more than 10 years after our right to collect the overpayment first accrued.

Section 416.581 would explain that, before we refer an overpayment to the Treasury Department, we will notify the overpaid individual of our intention to do so. This notice will advise the individual of the amount of the overpayment and the conditions under which we will waive recovery of an overpayment under section 1631(b)(1)(B) of the Act. The notice will also explain that unless, within 60 days from the date of our notice, the overpaid individual repays the overpayment, presents evidence that the overpayment is not past due or not legally enforceable, or requests a waiver of the overpayment, we will refer the overpayment to the Department of the Treasury to offset any tax refund payable to the overpaid individual. The notice additionally will advise the individual of the right to inspect and copy our records related to the overpayment.

Sections 416.582 and 416.583 would explain our procedures for reviewing and making findings when an overpaid individual submits evidence that an overpayment is not past due or not legally enforceable.

Section 416.584 would explain our procedures for the overpaid individual who wishes to review our records related to the overpayment.

Section 416.585 would explain that if, within 60 days after the date of our notice of intent to seek an offset, an individual presents evidence that the overpayment is not past due or not legally enforceable or asks us to waive collection of the overpayment, we will suspend our referral of the overpayment to the Department of the Treasury for offset until we issue written findings

that affirm that all or a part of the overpayment is past due and legally enforceable and, where appropriate, determine that waiver of the overpayment is unwarranted.

Section 416.586 would set out our intention, in cases where a tax refund is insufficient in a tax year to satisfy the amount of the overpayment, to continue to offset in succeeding years any amount of the overpayment that remains, as long as the remainder of the overpayment continues to meet the criteria for referral under the tax refund offset program in succeeding years. This differs from our title II rules on TRO which provide that, where a tax refund is insufficient to recover an overpayment in a given year, we will recertify the remainder for offset in the following year. This proposed section reflects the fact that the Department of the Treasury has the systems capability to retain the overpaid amount in their records for offset against future tax refunds the individual may be due. We are developing a separate proposed rule dealing with title II overpayments that will make this same change in the title II TRO rules.

We also propose to add to § 416.1403(a) a new paragraph (17) that would include in the list of administrative actions that are not initial determinations findings on whether we can collect an SSI overpayment by using the Federal income tax refund offset procedure. Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by subpart N of our regulations, and they are not subject to judicial review.

Electronic Version

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

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

In order to use the TRO provisions to recover title XVI overpayments from income tax refunds payable in 1998, the final rules must be effective in early October 1997, so that we can begin notifying individuals that we propose to refer their overpayments to the Department of the Treasury for offset. Any delay in sending the notices and referring these debts to Treasury will result in lost program savings of up to $6 million. For that reason, we are providing a 30-day (rather than the usual 60-day) public comment period. These proposed rules, which closely follow our existing TRO rules for the title II program and on which we received only minor public comments when promulgated in 1991, benefit the public while adequately safeguarding the rights of former SSI recipients by giving overpaid individuals the right to repay the amount, present evidence that the overpayment is not past due or not legally enforceable, or request us to waive collection of the overpayment, before referral to the Department of the Treasury is made. We will issue written findings affirming that all or part of the overpayment is past due and legally enforceable and, where appropriate, determine that waiver of the overpayment is unwarranted before making such a referral. In view of the above, we believe a 30-day comment period provides ample opportunity for the public to review and comment on these rules.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Programs: No. 96.006 Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Approved: June 12, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

Subparts E and N of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are proposed to be amended to read as follows:

1. The authority citation for subpart E is revised to read as follows:

Authority: Secs. 702(a)(5), 1601, 1602, 1611(c) and (e), and 1631 (a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

2. Sections 416.580, 416.581, 416.582, 416.583, 416.584, 416.585, and 416.586 are added to subpart E to read as follows:

§ 416.580 Referral of overpayments to the Department of the Treasury for tax refund offset—General.

(a) The standards we will apply and the procedures we will follow before requesting the Department of the Treasury to offset income tax refunds due taxpayers who have an outstanding overpayment are set forth in §§ 416.580 through 416.586 of this subpart. These standards and procedures are authorized by the Deficit Reduction Act of 1984 [31 U.S.C. § 3720A], as implemented through Department of the Treasury regulations at 26 CFR 301.6402–6.

(b) We will use the Department of the Treasury tax refund offset procedure to collect overpayments that are certain in amount, past due and legally enforceable, and eligible for tax refund offset under regulations issued by the Secretary of the Treasury. We will use these procedures to collect overpayments only from individuals who are not currently entitled to monthly supplemental security income benefits under title XVI of the Act. We will refer an overpayment to the Secretary of the Treasury for offset against tax refunds no later than 10 years after our right to collect the overpayment first accrued.

§ 416.581 Notice to overpaid individual.

A request for reduction of a Federal income tax refund will be made only after we determine that an amount is owed and past due and provide the overpaid individual with 60 calendar days written notice. Our notice of intent to collect an overpayment through Federal income tax refund offset will state:

(a) The amount of the overpayment;

(b) That unless, within 60 calendar days from the date of our notice, the overpaid individual repays the overpayment, sends evidence to us at the address given in our notice that the overpayment is not past due or not legally enforceable, or asks us to waive collection of the overpayment under section 1631(b)(1)(B) of the Act, we intend to seek collection of the

overpayment by requesting that the Department of the Treasury reduce any amounts payable to the overpaid individual as refunds of Federal income taxes by an amount equal to the amount of the overpayment;

(c) The conditions under which we will waive recovery of an overpayment under section 1631(b)(1)(B) of the Act;

(d) That we will review any evidence presented that the overpayment is not past due or not legally enforceable;

(e) That the overpaid individual has the right to inspect and copy our records related to the overpayment as determined by us and will be informed as to where and when the inspection and copying can be done after we receive notice from the overpaid individual that inspection and copying are requested.

§ 416.582 Review within SSA that an overpayment is past due and legally enforceable.

(a) *Notification by overpaid individual.* An overpaid individual who receives a notice as described in § 416.581 of this subpart has the right to present evidence that all or part of the overpayment is not past due or not legally enforceable. To exercise this right, the individual must notify us and present evidence regarding the overpayment within 60 calendar days from the date of our notice.

(b) *Submission of evidence.* The overpaid individual may submit evidence showing that all or part of the debt is not past due or not legally enforceable as provided in paragraph (a) of this section. Failure to submit the notification and evidence within 60 calendar days will result in referral of the overpayment to the Department of the Treasury, unless the overpaid individual, within this 60-day time period, has asked us to waive collection of the overpayment under section 1631(b)(1)(B) of the Act and we have not yet determined whether we can grant the waiver request. If the overpaid individual asks us to waive collection of the overpayment, we may ask that evidence to support the request be submitted to us.

(c) *Review of the Evidence.* After a timely submission of evidence by the overpaid individual, we will consider all available evidence related to the overpayment. We will make findings based on a review of the written record, unless we determine that the question of indebtedness cannot be resolved by a review of the documentary evidence.

§ 416.583 Findings by SSA.

(a) Following the review of the record, we will issue written findings which include supporting rationale for the findings. Issuance of these findings concerning whether the overpayment or part of the overpayment is past due and legally enforceable is the final Agency action with respect to the past-due status and enforceability of the overpayment. If we make a determination that a waiver request cannot be granted, we will issue a written notice of this determination in accordance with the regulations in subpart E of this part. Our referral of the overpayment to the Department of the Treasury will not be suspended under § 416.585 of this subpart pending any further administrative review of the waiver request that the individual may seek.

(b) Copies of the findings described in paragraph (a) of this section will be distributed to the overpaid individual and the overpaid individual's attorney or other representative, if any.

(c) If the findings referred to in paragraph (a) of this section affirm that all or part of the overpayment is past due and legally enforceable and, if waiver is requested and we determine that the request cannot be granted, we will refer the overpayment to the Department of the Treasury. However, no referral will be made if, based on our review of the overpayment, we reverse our prior finding that the overpayment is past due and legally enforceable or, upon consideration of a waiver request, we determine that waiver of our collection of the overpayment is appropriate.

§ 416.584 Review of our records related to the overpayment.

(a) *Notification by the overpaid individual.* An overpaid individual who intends to inspect or copy our records related to the overpayment as determined by us must notify us stating his or her intention to inspect or copy.

(b) *Our response.* In response to a notification by the overpaid individual as described in paragraph (a) of this section, we will notify the overpaid individual of the location and time when the overpaid individual may inspect or copy our records related to the overpayment. We may also, at our discretion, mail copies of the overpayment-related records to the overpaid individual.

§ 416.585 Suspension of offset.

If, within 60 days of the date of the notice described in § 416.581 of this subpart, the overpaid individual notifies us that he or she is exercising a right described in § 416.582(a) of this subpart and submits evidence pursuant to § 416.582(b) of this subpart or requests a waiver under § 416.550 of this subpart, we will suspend any notice to the Department of the Treasury until we have issued written findings that affirm that an overpayment is past due and legally enforceable and, if applicable, make a determination that a waiver request cannot be granted.

§ 416.586 Tax refund insufficient to cover amount of overpayment.

If a tax refund is insufficient to recover an overpayment in a given year, the case will remain with the Department of the Treasury for succeeding years, assuming that all criteria for certification are met at that time.

3. The authority citation for subpart N is revised to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); 31 U.S.C. 3720A.

4. Section 416.1403 is amended by deleting the word ''and'' at the end of paragraph (a)(15), replacing the period at the end of paragraph (a)(16) with ''; and'', and adding paragraph (a)(17) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(17) Findings on whether we can collect an overpayment by using the Federal income tax refund offset procedure. (See § 416.583).

* * * * *

[FR Doc. 97–16132 Filed 6–20–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. 97N–0217]

Request for Comments on Development of Options to Encourage Animal Drug Approvals for Minor Species and for Minor Uses

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for comments.

SUMMARY: The Food and Drug Administration (FDA) is requesting comments and suggestions relating to legislative and regulatory options to facilitate the approval of new animal

drugs intended for use in minor species or intended for minor uses. The agency is seeking comments and suggestions to assist its Center for Veterinary Medicine (CVM) in fulfilling its responsibility under the Animal Drug Availability Act of 1996 (the ADAA) to issue a report setting forth legislative and regulatory options to facilitate approvals of new animal drugs that fall into these two categories. Facilitating approvals for minor uses and minor species will bring about an increase in approvals of new animal drugs intended for these uses, which would be desirable to address the scarcity of approved, legally marketed new animal drugs intended for minor species or minor uses.

DATES: Written comments by September 8, 1997.

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

FOR FURTHER INFORMATION CONTACT: George A. (Bert) Mitchell, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1761.

SUPPLEMENTARY INFORMATION:

I. Background

''Minor use'' of new animal drugs is defined in the Code of Federal Regulations at § 514.1(d)(1)(i) (21 CFR 514.1(d)(1)(i)) as ''the use of: (*a*) New animal drugs in minor animal species, or (*b*) new animal drugs in any animal species for the control of a disease that (*1*) occurs infrequently or (*2*) occurs in limited geographic areas.''

''Minor species'' are defined at § 514.1(d)(1)(ii) as ''animals other than cattle, horses, swine, chickens, turkeys, dogs, and cats. Sheep are a minor species with respect to effectiveness and animal safety data collection requirements; sheep are a major species with respect to human safety data collection requirements arising from the possible presence of drug residues in food.''

Because the markets are small for approved new animal drugs intended for minor species or for minor uses, there are often insufficient economic incentives to motivate sponsors to develop the data necessary to support approvals. Consequently, manufacturers have not, in many cases, been willing to fund research to obtain these data. Accordingly, only small numbers of new animal drugs intended for minor species or for minor uses have been approved and are legally marketed.

Because of the limited availability of approved new animal drugs intended for use in minor species or for minor uses, veterinarians, animal owners, and livestock producers have limited options for treatment of sick animals. In many cases, the available choices are to leave a sick animal untreated or to treat the animal with an unapproved drug. Even though it might appear that the absence of drug treatment would be safe for both the public and the environment, in the absence of approved therapies, there are increased public health hazards associated with the failure to treat sick animals. For example, the transmission of zoönotic disease is a significant public health risk associated with leaving animals untreated, as is the reduced wholesomeness of food associated with higher morbidity and mortality resulting from failure to treat. The shedding of disease-producing organisms by untreated animals into the environment also increases health risks to other animals and to humans.

Although FDA has attempted to encourage the submission of approvals for minor species and uses in various ways, the agency's efforts to promote such approvals have thus far met with only limited success.

In addition, FDA recently issued final regulations implementing the Animal Medicinal Drug Use Clarification Act of 1994 (the AMDUCA) (Pub. L. 103–396). The AMDUCA and the implementing regulations allow veterinarians, if they follow the conditions set forth in the regulations, to prescribe approved drugs for extralabel therapeutic use in animals. While the AMDUCA does give veterinarians more legal treatment options, the AMDUCA will not, and was not intended to, facilitate the approval of new animal drugs for minor species or minor uses.

II. The ADAA

On October 9, 1996, the President signed the ADAA (Pub. L. 104–250) into law. The primary purpose of the ADAA is to facilitate the approval and marketing of new animal drugs and medicated feeds by building ''needed flexibility'' into the animal drug review processes ''to enable more efficient approval and more expeditious marketing of safe and effective animal drugs'' (H. Rept. 104–823 at 8).

Section 2(f) of the ADAA directs the Secretary of Health and Human Services (the Secretary) to consider legislative and regulatory options for facilitating approval under section 512 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b) of new animal drugs intended for use in minor species or for minor uses. The ADAA further requires the Secretary to announce proposals for legislative or regulatory change to the approval process for new animal drugs intended for use in minor species or for minor uses within 18 months after the date of enactment (i.e., no later than April 9, 1998).

CVM plans to publish a notice of availability in the **Federal Register** and solicit comments on a revised guidance entitled ''Minor Use Guidance Document: A Guide to the Approval of Animal Drugs for Minor Uses and for Minor Species.'' CVM intends this revised guidance will be published as a Level 1 guidance document to facilitate the submission of new animal drug applications for drugs intended for minor uses and for minor species by clarifying how the agency believes that new animal drug approvals for minor species and for minor uses can be achieved, even as FDA develops the proposals required under the ADAA.

This notice requests comments from animal drug manufacturers, users of animal drugs, and interested groups and individuals so that the agency can fulfill this statutory mandate of the ADAA.

III. Agency Request for Comments

FDA is in the process of developing legislative and regulatory options for encouraging approvals of new animal drugs for use in minor species and for minor uses. As part of this process, the agency believes that it would be helpful to obtain comments and additional information on particular issues, as well as additional suggestions of legislative or regulatory options. FDA would find especially helpful comments that address target animal safety, food safety, effectiveness, labeling, manufacturing, environmental impact, and other concerns related to the agency's statutory responsibilities.

Accordingly, FDA is specifically requesting comments and information on the questions and subjects below. This list is not all-inclusive, however, and is not intended to limit the range of options available for public comment. The agency asks that comments be as detailed as possible, with explanations and information to assist FDA in evaluating whether the approaches will effectuate the purposes of the ADAA: That products be safe and effective, accurately labeled, consistently produced, and, most critically, whether the result will be larger numbers of approved new animal drugs for use in minor species or for minor uses.

FDA does not intend anyone to read this list as any indication of the agency's position on a particular approach or a determination that the agency has the resources to implement such an approach.

A. Scope

The agency seeks comments on the criteria found at § 514.1(d)(1) for the determination of a minor species or a minor use.

B. Creating Additional Statutory Authority

Should there be different standards for target animal safety and effectiveness of new animal drugs intended for use in minor species or for minor uses? Should there be different standards for human food safety for new animal drugs intended for minor species and for minor uses? If so, what should those standards be? Should the standards be the same for all minor species or uses? Why? Should products be labeled to reflect the use of different standards? If not, why not? If the act were amended to permit FDA to approve new animal drugs for a minor species or minor use under different standards, how would appropriate doses be determined and how would residue depletion and withdrawal times for food animals be determined?

On the human drug side, certain critical drugs for life-threatening and serious diseases are approved though an accelerated approval process in which followup studies are required to confirm approval (see 21 CFR part 314, subpart H). Similarly, section 522 of the act (21 U.S.C. 360l) requires and authorizes the agency to require postmarket surveillance of certain devices to protect the public health or provide safety and effectiveness data. Would sponsors and users accept conditional approvals and postmarket surveillance as a tradeoff for requiring less in the way of premarket target animal safety and effectiveness studies for new animal drugs for minor species or minor uses? Should a drug approved under such a mechanism bear labeling that reflects its conditional status?

Should the act be amended to allow FDA to accept foreign reviews or approvals of new animal drugs for minor species or for minor uses? How should Congress or FDA determine whether the reviews or approvals of a particular country or countries are acceptable as a basis for approval of uses for minor species or for minor uses.

Should the current statutory standard for new animal drug approval for drugs intended for minor species or minor uses or any alternative standard be implemented through a primary review process external to the agency? If so, how might this process be administered? Who should pay for the external reviews?

Could determinations of animal safety and effectiveness by expert panels or compendia be used to support drug approvals for minor species and minor uses? If so, what information would serve as the basis for such determinations? Should the determinations of these panels or other information be used to issue monographs or similar standards? Who would draft monographs or similar standards and why?

C. Administrative and Regulatory Changes

Should there be different standards for manufacturing of drugs for minor species or minor uses? If so, what should those standards be? Should products be labeled to reflect the use of different manufacturing standards?

Would a strategy similar to that used by the agency to facilitate drug approvals for some aquatic species be successful if extended to other minor species? That strategy includes coordination of investigational new animal drug (INAD) information collected or generated by end users. It also includes a centrally-organized and CVM-operated field education program directed at end users as potential INAD sponsors. In which species/uses would such an approach work or not work? Why?

D. Creating Incentives

Would economic incentives, such as tax breaks, grants, and periods of market or label exclusivity, encourage the pursuit of approvals or supplemental approvals for labeling modifications for minor species or minor uses? If so, what kinds of incentives would be most effective? Would different kinds of incentives be appropriate for different classes of new animal drugs, such as drugs for hobbyist-owned tropical fish as contrasted with production drugs for fish intended for human consumption?

What incentives would encourage sponsors to pursue approval of a drug for a minor species or for a minor use using data in public master files (PMF's)? Are there concerns about data in PMF's that make new animal drug sponsors reluctant to rely on such data? What are those concerns? How could they be addressed?

If producer groups or other organizations were willing to conduct or otherwise fund studies to demonstrate safety and efficacy for new animal drug approvals for minor species or minor uses, would sponsors be willing to use the data from the studies to support approvals and new or revised labeling? If not, why not?

Should a program similar to the U.S. Department of Agriculture's National Research Support Program #7 (NRSP–7), which currently funds studies for minor use therapeutic uses for food- and fiber-producing animals, be developed for wildlife and zoo animals and/or for production uses? Should the NRSP–7 program be expanded to cover such uses?

Could and should philanthropic, public interest, or other not-for-profit organizations be encouraged to fund research for the development of new animal drugs intended for use in minor species or for minor uses? If so, how, and by whom?

Are there mechanisms other than the new animal drug approval process and extralabel uses of animal and human drugs under the AMDUCA that could enhance drug availability for minor species and for minor uses?

E. Extending Existing Legal Authority

Would legislation be desirable to extend the AMDUCA to permit extralabel use of: (1) Medicated feeds or (2) reproductive hormones and implants? What are the pros and cons of approval versus extralabel use under the AMDUCA?

IV. Comments

Interested persons may, on or before September 8, 1997, submit to the Dockets Management Branch (address above) written comments regarding this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 12, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16340 Filed 6–18–97; 1:40 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 808

[Docket No. 96N–0249]

Applications for Exemption From Preemption of State and Local Requirements Pertaining to the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for a proposed rule that appeared in the **Federal Register** of February 19, 1997 (62 FR 7390). The comment period is being opened for 14 days to accept additional comments on the agency's proposal to grant exemptions from preemption for certain cigarette and smokeless tobacco requirements in the States of Alabama, Alaska, and Utah.

DATES: Written comments must be received or postmarked by July 7, 1997. Comments postmarked after such date will not be considered.

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

FOR FURTHER INFORMATION CONTACT: Anne M. Kirchner, Office of Policy (HF–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5321.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 28, 1996 (61 FR 44396), FDA published a final rule (the tobacco rule) restricting the sale and distribution of nicotine-containing cigarettes and smokeless tobacco in order to protect children and adolescents. Because FDA is regulating these products as nicotine-delivery devices under the Federal Food, Drug, and Cosmetic Act (the act), any State or local requirement that is different from, or in addition to, specific requirements for cigarettes or smokeless tobacco under the tobacco rule is preempted under section 521(a) of the act (21 U.S.C. 360k). Section 521(b) of the act provides that FDA may, upon application by a State or political subdivision, and by regulation issued after notice and opportunity for an oral hearing, exempt a State or local device requirement from Federal preemption.

In the **Federal Register** of February 19, 1997 (62 FR 7390), FDA issued a proposed rule that would grant exemption from Federal preemption for certain cigarette and smokeless tobacco requirements in the States of Alabama, Alaska, and Utah.The proposed rule would allow those States to enforce State requirements that are more stringent than FDA counterpart requirements. FDA received approximately one dozen comments to the proposal and one requested that FDA extend the comment period for 14 days.

The request stated that an extension was necessary because the comment stated that the scope of preemption under section 521(a) of the act was explained differently in the tobacco rule than it was in the proposal (62 FR 7390). In order to ensure that all interested parties have a fair opportunity to comment, FDA is extending the comment period for 14 days. Comments must be either received or postmarked by July 7, 1997 in order to be considered. The agency intends to issue a final rule as soon after the comment period closes as is practicable.

Interest persons may, on or before July 7, 1997, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 16, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16309 Filed 6–20–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB68

Abandoned Mine Land Reclamation Fund—Basis for Coal Weight Determination; Notice of Withdrawal

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

ACTION: Proposed rule; notice of withdrawal.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is withdrawing the proposed rule published on December 29, 1992 (57 FR 62116), regarding the determination of coal weight for calculating Abandoned Mine Land (AML) reclamation fees. That proposal was intended to allow operators who transfer run-of-mine coal but are paid on a calculated clean coal basis to also pay their AML fees on that basis. In lieu of rulemaking, OSM will recognize such transactions and allow fees to be paid on the calculated clean basis in certain circumstances, within the scope of the existing regulations. This approach will provide us greater latitude in determining the tonnage on which the first sale or transfer of ownership is based.

DATES: This notice is effective June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Jim Krawchyk, Division of Compliance Management, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220. Telephone 412–921–2676. E-mail: jkrawchy@osmre,gov.

SUPPLEMENTARY INFORMATION:

I. Background
II. Reason For Agency Action

I. Background

Section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *se seq.*, requires all operators of coal mining operations subject to its provisions to pay a reclamation fee on each ton of coal produced. In December 1977 OSM first promulgated regulations to implement this provision (42 FR 62714; Sec. 13, 1977). The regulations base the fee on the actual gross weight of the coal at the first sale, use, or transfer of ownership. This regulation has been in effect basically unchanged since that time.

In 1982 (47 FR 28593; June 30, 1982) we revised the regulatory language to clarify the point in time of fee determination and to stress value and weight parameters for fee calculation purposes. We added at that time 30 CFR 870.129b) (1), (2), and (3) stating that these provisions merely restate our policy since the initial implementation of the fee collection program. The preamble to the regulations, however, did not specifically discuss these three provisions.

Of importance to OSM's decision to withdraw the proposed rule are existing sections 870.12(b)(3) (ii) and (iii) providing:

(ii) Operators selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction.

(iii) Insufficient records shall subject the operator to fees based on raw coal tonnage data.

Operators and OSM personnel now interpret these provisions as authorizing OSM to allow operators to pay reclamation fees on a clean coal tonnage basis if that is the basis of the first transaction and sale. Many small operators are paid on a clean coal basis by purchasers when they deliver their run-of-mine coals to preparation plants.

Accordingly, the operators maintain that OSM should allow them to pay the AML fee based on the actual per ton payment they receive. They argue that section 870.12(b)(3) (ii) and (iii) authorizes AML fee payments in this fashion. The operators say that they should not have to pay on the higher raw coal tonnage figures unless they do not keep records sufficient to document the basis of the payment they receive on clean coal tonnage.

In 1991, OSM commenced a review of the rule's application (Notice of Inquiry; 56 FR 10404; March 12, 1991). Upon examination of the comments received, OSM found merit in the position advocated by the coal producers. OSM had deferred billing amounts that would be due on the higher raw coal tonnage figure pending resolution of the issue.

To address the matter, OSM proposed a rule revision on December 29, 1992 (57 FR 62116), allowing payment on a calculated clean tonnage basis if and when the coal was sold to a preparation plant for cleaning. The preparation plant owner would have assumed some responsibility for paying AML fees. That rule, however, was never finalized and is being withdrawn by this notice.

II. Reason for Agency Action

In examining the public comments, our regulations, and past agency practice with regard to their implementation, it is evident that we have allowed operators to use calculations and other records to substantiate their AML fee liability where necessary and reasonable. For example, in section 870.12(c), if underground and surface mine coal are mixed prior to the first sale or use, this regulation provides that the higher surface rate must be used unless the operator can demonstrate by ''acceptable engineering calculations or other reports'' the amount of coal attributed to surface mining.

Based upon these findings, we believe sections 870.12(b)(3) (ii) and (iii) allow an operator to pay on a clean coal tonnage basis if the operator transfers run-of-mine tonnage to an unrelated second party who cleans the coal, and the operator is paid on only the clean coal tonnage. The difference in the tonnage amounts must be attributed to materials extraneous to the coal removed in the cleaning process, such as dirt and clay, and not to impurities inherent in the coal. This action is designed to address and accommodate a common business practice among small coal operators in a segment of the industry, and does not authorize operators to make arbitrary reductions in the tonnage to be reported. We expect that the majority of the coal tonnage will continue to be reported based on the actual weight at the time of initial sale, transfer, or use as the regulations require. The following scenarios are provided to illustrate the rule's application:

Example 1: An operator delivers 100 tons of coal to a preparation plant owner who determines through accepted standard industry analysis that only 90 tons of coal will be recovered after cleaning. The preparation plant owner pays the operator for 90 tons. The operator is liable for fees on 90 tons because that is the basis on which he was paid.

Example 2: An operator delivers 100 tons of coal to a preparation plant owner who pays the operator for 100 tons. The operator determines that the coal if cleaned would have a reject factor of 10 percent and therefore pays fees on only 90 tons. This would be incorrect and disallowed. The operator should pay fees on 100 tons because that is the basis on which he was paid by the preparation plant owner.

Example 3: An operator delivers 100 tons of coal to a preparation plant owner who determines through accepted standard industry analysis that only 90 tons will be recovered after cleaning. The preparation plant owner pays the operator for only 90 tons. The operator determines that the coal contains 5 tons of ash and therefore pays fees on 85 tons (90 tons of clean coal minus 5 tons of ash). This would be incorrect and disallowed. The operator must pay on the tonnage for which he was paid. No deductions are allowed for matter that is intrinsic to the coal. The correct tonnage for calculating fee payment would be 90 tons.

We believe that basic market forces coupled with proper recordkeeping and review will ensure the integrity of the reclamation fee collection process. A regulatory change is therefore considered unnecessary at this time.

We would point out that the ability to pay on a clean coal basis, however, is predicted on the operator maintaining the proper records. Failure to maintain these records, as specified in 30 CFR 870.12(b)(3)(ii) and 30 CFR 870.16, would result in a fee assessment based on raw coal tonnage figures.

We recognize that a small number of companies have paid fees on raw tonnage amounts even though the sales transaction was based on a clean coal tonnage figure. We will move swiftly to correct inconsistencies that have occurred in the past, provided that any claims for refunds are in accord with the limitations proscribed by 28 U.S.C. 2401(a) (statute of limitations) and the necessary records are available to substantiate them.

If you have questions concerning this notice, please contact Jim Krawchyk at the address and telephone number listed above under **FOR FURTHER INFORMATION.** If necessary, we will arrange for an audit of the company's reclamation fee payments.

Dated: May 9, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 97–16304 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–077–FOR]

West Virginia Permanent Regulatory Program

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

ACTION: Proposed Rule, correction.

SUMMARY: OSM is correcting an error in the closing date of the public comment period as stated in the proposed rule announcing a West Virginia program amendment published on June 10, 1997 (62 FR 31543).

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

In the proposed rule published on June 10, 1997 (FR Doc. 97–15008), OSM is correcting the information listed on page 31543 under **DATES** to read as follows:

DATES: Written comments must be received by 4:00 p.m., July 10, 1997. If requested, a public hearing on the proposed amendment will be held on July 9, 1997. Requests to speak at the hearing must be received by 4:00 p.m., on June 25, 1997.

Dated: June 16, 1997.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 97–16331 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

RIN 1506–AA19

Proposed Amendments to the Bank Secrecy Act Regulations—Special Currency Transaction Reporting Requirement for Money Transmitters; Correction

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule published in the **Federal Register** May 21, 1997 (62 FR 27909). The proposed rule requires money transmitters and their agents to report and retain records of transactions in currency or monetary instruments of at least $750 but not more than $10,000 in connection with the transmission or other transfer of funds to any person outside the United States, and to verify the identity of senders of such transmissions or transfers. This correction clarifies that the United States Postal Service is a money transmitter for purposes of the proposed rule.

FOR FURTHER INFORMATION CONTACT: Albert R. Zarate, Attorney-Advisor, or Eileen P. Dolan, Legal Assistant, Office of Legal Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the notice of proposed rulemaking contains language that may be misleading and is in need of clarification.

Correction of Publication

In proposed rule FR Doc. 97–13302, beginning on page 27909 in the **Federal Register** issue of May 21, 1997, make the following correction:

§ 103.22 [Corrected]

On page 27916, in the third column, in § 103.22, paragraph (i)(1), lines 3 and 4, the language ''each money transmitter or its agent'' is corrected to read ''each money transmitter (including, without limitation, the United States Postal Service) or the money transmitter's agent''.

Dated: June 18, 1997.

Eileen P. Dolan,

Federal Register Liaison Officer.

[FR Doc. 97–16396 Filed 6–20–97; 8:45 am]

BILLING CODE 4820–03–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL–5845–6]

RIN 2060–AH01

Prevention of Significant Deterioration of Air Quality (PSD) Program: Permit Review Procedures for Sources That May Adversely Affect Air Quality in Non-Federal Class I Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshops.

SUMMARY: This document announces the time and place for public workshops regarding EPA's advance notice of proposed rulemaking (ANPR) on PSD permit review procedures for sources that may adversely affect air quality in non-Federal Class I areas (62 FR 27158–27166, May 16, 1997). The ANPR announced EPA's intent to pursue a rulemaking on the PSD permit review procedures for new and modified major stationary sources that may have an adverse impact on the air quality of non-Federal Class I areas, presented a number of issues to be addressed in such a rulemaking, and invited public participation in further articulating and identifying the relevant issues.

DATES: EPA will conduct public workshops on the ANPR from 8:30 a.m. to 4:00 p.m. on July 21 and 22, 1997 in Chicago, Illinois and on July 29, 1997 in Phoenix, Arizona.

ADDRESSES: The public workshops will be held from 8:30 a.m. to 4:00 p.m. at the U.S. EPA Region 5 in the Lake Michigan Room of the Great Lakes Conference and Training Center (12th floor), 77 W. Jackson Boulevard, Chicago, Illinois and at the Embassy Suites—Camelback, 1515 N. 44th Street, Phoenix, Arizona 85008. In order to ensure adequate space to accommodate all attendees, those planning to participate in either of the workshops are asked to confirm their plans with the contact person listed below, either by phone or e-mail.

Materials relevant to this document have been placed in Docket A–96–53. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Written comments should be submitted (in duplicate, if possible) to Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A copy should also be sent to David R. LaRoche at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW., (6102), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David R. LaRoche at U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW., (6102), Washington, DC 20460, (202) 260–7652 (E-mail: laroche.david@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: EPA intends these workshops to be opportunities for informal discussion on the issues related to reviewing permit applications for sources whose emissions may adversely affect non-Federal Class I areas. Each workshop will begin with a background presentation by EPA of the PSD program and a summary of the issues discussed in the ANPR. The rest of the meeting will consist of an informal round-table discussion of those and any other relevant issues suggested by the participants. At the request of one of the participants, the workshop in Chicago has been scheduled for two days in order to allow for discussion on the second day of specific issues related to the Forest County Potawatomi Community's request that part of its reservation be redesignated to Class I.

The PSD program authorizes States and Tribes to request redesignation of their lands as ''Class I'' areas. Over the past twenty years, only federally-recognized Tribes have sought redesignation under this authority. EPA has approved Class I redesignations for the Northern Cheyenne Indian Reservation, the Flathead Indian Reservation, the Fort Peck Indian Reservation, and the Spokane Indian Reservation (*see* 40 CFR 52.1382(c) and 52.2497(c)). Recently, EPA approved Class I redesignation of the Yavapai-Apache Reservation, located in the State of Arizona (*see* 61 FR 56461 (Nov. 1, 1996)) (to be codified at 40 CFR 52.150). EPA has also proposed to approve the Forest County Potawatomi Community request to redesignate tribal lands located in the State of Wisconsin (*see* 60 FR 33779 (June 29, 1995)). Before making a final decision on this proposed action, EPA will provide opportunity for public comment and hold a public hearing.

During EPA's review of the Yavapai-Apache and Forest County Potawatomi redesignation requests, nearby States submitted formal objections to EPA. A common concern has been confusion about the PSD permit review procedures

that would apply in these States in the event a Class I redesignation request is granted, and what EPA's specific role would be in resolving any intergovernmental disputes that arise over proposed permits for PSD sources that may adversely affect non-federal Class I areas. In response to these concerns, EPA has initiated this rulemaking to clarify the PSD permit review and dispute resolution procedures for proposed new and modified major stationary sources locating near non-Federal Class I areas.

The new procedures established in this rulemaking would apply for any State or Tribal lands redesignated as Class I. Thus, the rulemaking is intended to clarify PSD permit review procedures for proposed PSD sources that may adversely affect the air quality of any State or Tribal non-Federal Class I area, and would set forth more specific procedures for EPA's resolution of any intergovernmental permit disputes which may arise.

Dated: June 16, 1997.

Mary D. Nichols,

Assistant Administrator for Air & Radiation.

[FR Doc. 97–16352 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5845–7]

National Oil and Hazardous Substances Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Unit Structures, Inc. Property from the Koppers Company, Inc. Superfund Site from the National Priorities List

SUMMARY: The United States Environmental Protection Agency (EPA), Region 4, announces its intent to delete the Unit Structures, Inc. Property from the Koppers Company, Inc. National Priorities List (NPL) Site and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated by EPA, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and State of North Carolina Department of Environment, Health and Natural Resources have determined that the Site conditions on the Unit Structures Property pose no significant threat to public health or the environment and therefore, CERCLA remedial measures are not appropriate.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before July 23, 1997.

ADDRESSES: Comments may be mailed to: Beverly Hudson, US Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, GA 30303–3104.

Comprehensive information on the Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 9 am to 4 pm, Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 docket office.

The address for the regional docket office is Ms. Debbie Jourdan, US EPA, Region 4, 61 Forsyth Street SW., Atlanta, GA 30303–3104. The telephone number is 404–562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the Wake County Public Library, 310 South Academy Street, Cary, North Carolina 27511. The telephone number is 910–655–4145. The library is open Monday through Thursday from 9 am to 9 pm, and on Friday and Saturday from 9 am until 6 pm.

FURTHER INFORMATION CONTACT: Please contact either Beverly Hudson or Diane Barrett, US EPA Region 4, 61 Forsyth Street SW, Atlanta, GA 30303–3104, at 1–800–435–9233 ext. 28816 or 28830.

SUPPLEMENTARY INFORMATION:

I. Introduction

This notice is to announce EPA's intent to delete the Unit Structures Property portion of Koppers Company, Inc. Site from the NPL. It also serves to request public comments on the deletion proposal. EPA will accept comments on this proposal action for deletion until July 23, 1997.

EPA identifies Sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these Sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in section 300.425(e)(3) of the NCP, Sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete Sites from the NPL. In accordance with section 300.425(e) of the NCP, Sites may be deleted from the NPL where no further response is appropriate. On November 1, 1995, EPA published a notice in the **Federal Register** governing Partial Deletion of Sites listed on the National Priorities List, (60 FR 55411, November 1, 1995). That Policy allows for deletion of portions of Sites that meet the standard provided in the NCP. In making this determination, EPA, in consultation with the State, considers whether this Site has met any of the following criteria for Site deletion:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate response actions under CERCLA have been implemented and no further response actions are deemed necessary; or

(iii) Remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

III. Deletion Procedures

EPA Region 4 will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of the Unit Structures Property portion of the Koppers Site:

(1) EPA Region 4 has recommended deletion and has the relevant documents.

(2) The State has concurred with the decision to delete the Unit Structures property.

(3) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete.

(4) EPA has made all relevant documents available for public review at the information repository and in the Regional Office.

Partial deletion of a Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier,

section 300.425(e)(30) of the NCP states that deletion of a Site from the NPL does not preclude eligibility of the Site for future Fund-financed response actions.

For the partial deletion of this Site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before finalizing the decision. The Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period. The deletion is finalized after the Regional Administrator places a notice of deletion in the **Federal Register**.

The NPL will reflect any partial deletions in the next publication of the final rule. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Unit Structures Property Deletion

The following Site summary provides the Agency's rationale for the proposed intent for partial deletion of this Site from the NPL.

The Site, designated as approximately 52 acres by EPA, is located approximately one mile northwest of the town of Morrisville, Wake County, North Carolina, at the intersection of Highway 54 and Koppers Road. It is bounded by the Norfolk Southern Railway on the east and Church Street on the west and southwest. Geographically, the center of the Unit Structures Property (subsite) is located at 36 40 40.98 latitude, and 95 59 59.96 longitude, according to the geographic centroid by using Geographical Information System software.

In 1962, Koppers Company, Inc. (Koppers) acquired the Site. Between 1968 and 1975, Koppers operated a wood treatment process, known as CELLON, in the southeastern section of the property. The CELLON process involved the injection of pentachlorophenol into wood. Rinsate from the process was pumped into two on-Site lagoons. The Koppers operations also utilized a Fire Pond, located to the south and adjacent to the CELLON process area. The outflow ditch from the Fire Pond was connected to the Medlin Pond which, during the period in which the CELLON process was used, was located off of Kopper's property. The locations of the former CELLON process area, lagoon area, Fire Pond, and Medlin Pond are shown in Figures 1.1 and 1.2 of EPA's December 23, 1992, ROD for the Site.

Koppers dismantled the CELLON process in 1975 and thereafter produced treated wood at off-Site locations. Between 1976 and 1986, Koppers performed various environmental studies and corrective action at the Site, including the removal of contaminated soil from the former lagoon and CELLON process areas. In 1980, EPA performed a Site inspection and determined that no further action was necessary at that time.

In 1986, USI acquired a portion of the Koppers property. A plat of the approximately 33 acre parcel owned by USI is included as Attachment 1. The USI property was not used previously by Koppers for wood treatment operations. As documented by Figure 1.1 and 1.2 of the ROD, the parcel owned by USI is separate and distinct from the former CELLON process area, lagoon area, Fire Pond, and Medlin Pond.

Superfund Regulatory Developments

Based upon environmental concerns associated with Koppers' former wood treatment operations, EPA listed the Site on the NPL on March 31, 1989. In the NPL listing, the Site was delineated by the boundaries of the property which Koppers has historically owned, including the parcel which had been acquired by USI. Between 1989 and 1992, with the oversight and approval of EPA, Beazer East, Inc. (Beazer), which had acquired Koppers in 1988, conducted a Remedial Investigation/Feasibility Study (RI/FS) for the entire Site and adjacent areas potentially impacted by Koppers' former wood treatment operations. The RI involved comprehensive sampling and analysis of soils, surface water, sediments, and groundwater at and in the vicinity of the Site. Based on the findings of the RI, the FS evaluated alternatives for remediating conditions at the Site which potentially presented a threat to human health or the environment. After evaluating the results of the RI/FS and comments received on the Agency's Proposed Plan for the Site, EPA made the following determinations in the December 1992 ROD:

1. Contaminants at the Site requiring remediation are limited to pentachlorophenol, PCDDs/PCDFs, and 2,4-dichlorophenol.

2. The former lagoon and CELLON process areas are the only areas at the Site which present an unacceptable level of soil contaminants. The remedy selected for these areas is excavation and treatment.

3. Groundwater contamination located on the Beazer property and property to the east of the Beazer property requires remediation. Remediation of the groundwater will be accomplished through operation of a groundwater recovery well, located on the Norfolk Southern Corporation property adjacent to the former lagoon area. The groundwater will be extracted and treated to meet remedial action goals.

4. Remediation of surface water and associated sediments is required at the Fire Pond, located on the property retained by Beazer, and the Medlin Pond, located on property acquired by Beazer from a third party in 1993. The remedial action consists of dewatering the two ponds, treating the pond water, backfilling the ponds with clean soil, and performing certain wetlands mitigation activities.

5. The areas requiring remediation, consisting of the former CELLON process area, lagoon area, Fire Pond, and Medlin Pond, will be enclosed with adequate fencing and security measures until completion of the remedial actions.

In addition to the specified remedial actions, the ROD indicated that additional sampling and analysis of groundwater, surface water, and sediments would be performed prior to Remedial Design in order to confirm the extent of contamination requiring remediation. These additional data were collected as part of the Pre-Design Sampling Program conducted in October and November 1993. These data, incorporated into the Final Design Report for the Site, confirmed the findings of the ROD both as to the areas of the Site requiring remediation and the remedial actions specified for those areas.

Currently, Beazer is implementing Remedial Action at the Site in accordance with the ROD. Surface water, soil and wetlands remediation activities are complete, and groundwater remedial action is underway, as EPA noted in the ROD.

The response action defined in this Record of Decision (ROD) is anticipated to be the final action and subsequently the final ROD for this Site. No separate Operable Units are anticipated as this remedy will address all aspects of the Site which currently pose a threat to human health or the environment.

Based upon a review of all the information available, EPA has determined that the Unit Structures Property is recommended for partial deletion. There are no institutional controls for this Subsite. A five-year review will not be conducted at the Subsite, due to the fact that soil and groundwater contaminants are below the health based standards. The concentrations found in the samples taken do not present a current or future threat to public health or the environment.

EPA, with concurrence of the State of North Carolina, has determined that all appropriate Fund-financed response under CERCLA for the Unit Structures Subsite have been completed, and that no further activities by responsible parties are appropriate. Therefore, EPA proposes to delete this Subsite from the NPL.

Dated: April 30, 1997.

Michael V. Peyton,

Acting Deputy Regional Administrator, Region 4, U.S. Environmental Protection Agency.

[FR Doc. 97–16350 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5845–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Agate Lake Scrap Yard Site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region V announces its intent to delete the Agate Lake Scrap Yard Site (the Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State of Minnesota, has determined that no further response is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before July 23, 1997.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Brainerd Public Library, 416 South 5th South Street, Brainerd, MN 56401. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Gladys Beard (SR–6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–7253 or Cheryl L. Allen (P–19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–6196.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency, Region V announces its intent to delete the Agate Lake Scrap Yard Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Potentially Responsible Parties or the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the Site warrant such action.

The EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in section 300.425(e) has been met, EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** document, and a concurrent document in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the Federal Register.

IV. Basis for Intended Site Deletion

The Agate Lake Scrap Yard Site is located in Fairview Township, Cass County, Minnesota, on the southwest shore of Agate Lake. Agate Lake is an estimated one half mile west of Gull

Lake, which is located approximately 15 miles northwest of the city of Brainerd.

The Site is approximately eight acres in size, and is located on land surrounded on three sides by either open water or wetlands. This peninsular land, which rises approximately ten feet above the surrounding water level, is composed of sandy glacial deposits, which extend to a depth of 200 feet or more. There are thin lenses of gravel and clay interspersed in the top 100 feet of the soil profile.

In 1952, Mr. Paul Kramer established a scrap yard on the farmland owned by his mother which consisted of buying and selling scrap yard materials such as white goods, scrap iron and metal and used cars. During the 1970's the scrap included drums of solvents and various oils, along with a large number of transformers of which the oils were used in a smelter and a homemade burner. In the smelter, he recovered aluminum and lead by melting and pouring these molten metals into molds. He also recovered copper by burning the insulation off copper wire. The scrap yard was operated until the end of 1982. The Minnesota Pollution Control Agency (MPCA) staff ordered Mr. Kramer to cease moving, draining or burning any oils, transformers, transformer cases, drums, ashes or soil, until all necessary testing for polychlorinated biphenyls (PCBs) had been completed.

According to Mr. Kramer, he obtained the pole-mounted transformers from the Crow Wing Cooperative Power and Light Company (Crow Wing Coop) in Brainerd, and the large transformers from the Burlington Northern Railroad Company (BNRR), also of Brainerd.

The Site was proposed for the Federal National Priorities (NPL) on October 15, 1984. The listing was finalized on June 10, 1986.

In January 1983, BNRR removed from the Site part of the transformers including oils and drums attributed to BNRR. Also in 1983, Crow Wing Coop hired a contractor to remove the remaining transformers from the Site, and to clean up the Agate Lake Site. Approximately six inches of topsoil were removed in the areas where the transformers had been located around the smelter and burner, and where scrap yard operations had taken place. The removed topsoil was placed in a gully on the property, identified as a microbiological cell suggesting that biological degradation of PCBs and oils would occur. Areas where soils had been removed were back filled with clean topsoil, and then seeded with rye.

In September 1985, MPCA under the Multi-Site Cooperative Agreement with Superfund performed a Remedial Investigation (RI) Feasibility Study (FS) at the Site.

On January 28, 1996, MPCA issued a Request For Response Action (RFRA) to BNRR, Crow Wing Coop and to Mr. Paul Kramer to complete the RI/FS as well as prepare and implement a Response Action Plan (RAP).

In January 1987, the Responsible Parties (RPs), completed the RI and a limited site cleanup by removing large quantities of solid waste and scrap metal. At the request of EPA, additional remedial investigations were undertaken during 1991 and 1992.

Based upon the findings of the RI/FS, the EPA and MPCA recommended the following: removal of 260 tons of lead-contaminated ash, slag and soils; removal of 200 tons of soils contaminated with polychlorinated biphenyls (PCBs); removal of 3 cubic yards of pipe insulation containing asbestos and regular groundwater monitoring of shallow and deep ground water at the Site, as well as a deed restriction that prohibits well installation in the area in which groundwater contamination has been found. The groundwater does not discharge to surface water therefore there is no impact on the surrounding lakes.

In September 1992 and May 1993, the MPCA issued Interim Response Actions (IRAs) to address all the contaimination identified in the RI/FS's with the exception of groundwater contamination and deed restrictions.

In January of 1994 a Record of Decision (ROD) was issued to address the remaining cleanup. The remedy selected in the ROD involves the long-term monitoring of the shallow sand aquifer at the Site, by means of existing monitoring wells. The ROD also requires the installment of four additional wells in selected locations and institutes specific deed restrictions to a portion of the property whereby no drinking wells would be allowed to be installed in the area of contaiminated groundwater. The long-term monitoring also serves to document the process of natural attenuation which addresses the remaining low levels of perchloroethene (PCE) present in groundwater at the Site.

On March 5, 1997, Environmental Protection Agency Contractors, Conestoga-Rovers and Associates (CRA), submitted their Annual Report in accordance with the FS dated February 26, 1993. The report stated that in October 1996, analytical results show, only two wells exhibited concentrations of PCE. These wells include observance well OW6 and OW7. Although monitoring OW4 showed PCE concentrations of 4.8 μg/L in April 1996, no detections were present during the October 1996 event. The PCE concentrations at OW6 were 6 μg/L, which is below the Health Risk Limit (HRL) of 7 μg/L. PCE concentrations at OW6 have shown a steady decrease since January 1992, and this is the first time PCE concentrations at OW6 have been below the HRL since a sample round in October 1986 showed no detections. The PCE concentrations at OW7 in October 1997 were 3.6 μg/L. This further supports the conclusion that there is not a significant source of PCE impacting the groundwater and that the effects of natural attenuation has reduced the PCE concentrations.

All activities have been completed at the Site. The final inspection took place on November 30, 1994, during which the several items needed attention. The RPs agreed to complete the items identified. The Final Remedial Completion Report was approved by MPCA on February 2, 1995, thereby initiating Site removal from the NPL. All the HRLs has been met at the entire site, therefore the natural attenuation has provided protection of human health and the environment.

A five-year review pursuant to OSWER Directive 9355.7–02 (''Structure and Components of Five-Year Reviews'') will be conducted at the Site. The five-year review is schedule for September 1999.

EPA, with concurrence from the State of Minnesota, has determined that all appropriate Fund-financed responses under CERCLA at the Agate Lake Scrap Yard Site have been completed, and no further CERCLA response actions are appropriate in order to provide protection of human health and environment. Therefore, EPA proposes to delete the Site from the NPL.

Dated: June 12, 1997.

Michelle D. Jordan,

Acting Regional Administrator, U.S. EPA, Region V.

[FR Doc. 97–16351 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400111A; FRL–5727–2]

Addition of Dioxin and Dioxin-Like Compounds; Modification of Polychlorinated Biphenyls (PCBs) Listing; Toxic Chemical Release Reporting; Community Right-to-Know; Extension of Comment Period and Docket Control Number Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period and docket control number correction.

SUMMARY: In the **Federal Register** of May 7, 1997, EPA issued a proposed rule to add a chemical category that includes dioxin and 27 dioxin-like compounds to the list of toxic chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and section 6607 of the Pollution Prevention Act of 1990. In response to a request, EPA is extending the comment period by 60 days until September 5, 1997. The comment period for the proposed rule was scheduled to close on July 7, 1997. In addition, EPA is correcting the docket control number for the proposed rule, which was incorrectly identified in two places in the May 7, 1997 proposal as ''OPPTS–400109.'' The correct docket control number is ''OPPTS–400111.''

DATES: Written comments must be received by September 5, 1997.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G-099, Washington, DC 20460, Attention: Docket Control Number OPPTS–400111.

Comments and data may also be submitted electronically by following the instructions under Unit IV. of this document. No confidential business information (CBI) should be submitted through e-mail.

Comments containing information claimed as confidential must be clearly marked as CBI. If CBI is claimed, three additional sanitized copies must also be submitted. Nonconfidential versions of comments on the proposed rule will be placed in the rulemaking record and will be available for public inspection. Comments should include the docket control number for the proposal, OPPTS–400111, and the name of the EPA contact for the proposal.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Petitions Coordinator, 202–260–3882, e-mail: bushman.daniel@epamail.epa.gov, for specific information on this document, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

In response to a petition from Communities For A Better Environment to add dioxin and 27 dioxin-like compounds to the list of chemicals subject to the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA), EPA proposed to add a category of dioxin and dioxin-like compounds to the list. In conjunction with that proposed addition, EPA proposed to modify the current listing for polychlorinated biphenyls (PCBs). EPA requested comment on, but did not at that time propose, the establishment of lower reporting thresholds for the dioxin and dioxin-like compounds category. EPA stated that any final action to add a dioxin and dioxin-like compounds category will not be taken until EPA is ready to take final action on a rule setting lower reporting thresholds for chemicals that, like dioxin and dioxin-like compounds, persist in the environment and bioaccumulate. The proposal was issued in the **Federal Register** of May 7, 1997 (62 FR 24887) (FRL–5727–2), with a comment response deadline of July 7, 1997.

II. Extension of Comment Period

On June 4, 1997, EPA received a request from the Chlorine Chemistry Council (CCC), a business council of the Chemical Manufacturers Association, to extend the comment period on the proposed rule for 60 days. The CCC requested the extension because they believe that the original comment period was too short. Specifically, the CCC believes that 60 days is insufficient to analyze and comment thoroughly on the proposed category addition and that additional time is needed to study the impact of potential lower reporting thresholds for the category. The CCC also stated that additional time should be provided to allow the seven new industry groups recently added to the facilities that must report under EPCRA section 313 to evaluate their reporting obligations under EPCRA and the possible impact of the proposed category addition. In addition, the CCC states that since EPA has stated that the proposed rule would not be finalized until a rule lowering the reporting thresholds is ready to be finalized, extending the comment period for the proposed addition will not delay the submission of any data on the category.

EPA has considered these comments and has determined that extending the comment period is an appropriate action that will not cause a significant delay in the evaluation of the proposed category addition. Therefore, EPA is extending the comment period on the proposed rule until September 5, 1997. All comments should be submitted to the address listed under the ADDRESSES unit at the front of this document. All comments must be received by September 5, 1997.

III. Docket Number Correction

In the May 7, 1997 proposed rule (62 FR 24887), the docket established for the proposed rulemaking was incorrectly identified as ''OPPTS–400109'' in 2 of 3 places under the ADDRESSES unit on page 24887, column 3, lines 11 and 40. The correct docket control number is OPPTS–400111. EPA wants to eliminate any confusion and make it clear that the correct docket control number to use for submitting comments on the proposed rule is OPPTS–400111.

IV. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number ''OPPTS–400111'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in

WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–400111. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Dated: June 17, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–16354 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 73, and 76

[MM Docket Nos. 94–150, 92–51, 87–154, DA 97–1246]

Television LMAs

AGENCY: Federal Communications Commission.

ACTION: Notice. Request for comments.

SUMMARY: By this public notice, the Commission requests parties to all existing television local marketing agreements (''LMA'') to provide certain factual information regarding the terms and characteristics of these agreements. This information will supplement the record in rulemaking proceedings currently pending before the Commission that relate to the treatment of television LMAs under the broadcast attribution and ownership rules.

DATES: Parties to any existing television LMAs should file an original and four copies of the requested information by July 8, 1997.

ADDRESSES: The requested submissions should be addressed to: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION: Alan Baughcum, Mass Media Bureau, Policy and Rules Division, (202) 418–2170 or Kim Matthews, Mass Media Bureau, Policy and Rules Division, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a synopsis of the public notice adopted June 12, 1997, and released June 17, 1997. The complete text of this public notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Service (ITS), (202) 857–3800, 1919 M Street, NW, Room 246, Washington, DC 20554.

Synopsis of Public Notice Seeking Further Information Regarding Television LMAs

1. By this public notice, the Commission requests parties to all existing television local marketing agreements (''LMA'') to provide certain factual information regarding the terms and characteristics of these agreements. This information will supplement the record in rulemaking proceedings currently pending before the Commission that relate to the treatment of television LMAs under the broadcast attribution and ownership rules.

2. An LMA, or time brokerage agreement, is a type of contract in which the licensee of a broadcast station makes available blocks of broadcast time to a broker, who then supplies the programming to fill that time and sells the commercial spot announcements to support the programming. Currently, the Commission does not attribute television LMAs; they consequently are not subject to the broadcast ownership rules. *See* 47 CFR 73.3555. The Commission, however, has proposed to treat time brokerage of another television station in the same market for more than 15 percent of the brokered station's weekly broadcast hours as being attributable, and therefore as counting toward the brokering licensee's multiple ownership limits. See Further Notice of Proposed Rule Making in MM Docket Nos. 94–150, 92–51, 87–154, FCC 96–436, at ¶¶26–31 (released November 7, 1996) 61 FR 67275 (published December 20, 1996) (Attribution Notice). The Commission has also sought comment on how to treat existing television LMAs, including to what extent such LMAs should be grandfathered, under any guidelines that are adopted that would attribute LMAs to the brokering station. See Second Further Notice of Proposed Rule Making in MM Docket Nos. 91–221, 87–8, FCC 96–438, at ¶¶80–91 (released November 7, 1996) 61 FR 66978 (published December 19, 1996) (Local TV Ownership Notice).

3. In seeking comment on these proposals, the Commission requested information on the terms and characteristics of existing television LMAs. Attribution Notice at ¶31; Local TV Ownership Notice at ¶87. The commenters, however, have not provided us sufficient information on a range of important factual issues. For example, we do not have complete information about the number of existing television LMAs, the date of origination, the duration of these contractual arrangements, or the location of stations subject to LMAs.

4. To provide a more complete record, the Commission consequently requests parties to any existing television LMA, whether it involves stations in the same local market or in different markets, to submit the following information:

(1) For both the brokering and brokered stations, the name of the licensee, call letters, channel number, and community of license.

(2) The name and rank of the Nielsen Designated Market Area(s) in which the brokering and brokered stations are located.

(3) Whether the brokering and brokered stations have overlapping signal contours and, if so, specify the degree of city grade, grade A or grade B overlap.

(4) The date on which the parties entered into the LMA.

(5) Information regarding the term of the LMA—specifically, the start and end dates of the initial term of the LMA, whether the LMA includes renewal provisions, and, if so, the specific terms of such renewal provisions, *e.g.*, length, at which party's option the renewal may be exercised, whether renewal is automatic, notice for exercising renewal option, etc.

(6) The percentage of the brokered station's weekly broadcast hours that is brokered to the brokering station.

(7) Whether the brokering or brokered stations are owned by or affiliated with the ABC, CBS, Fox, NBC, UPN, or WB broadcast television networks. If so, please specify the identity of the network and whether the relationship between network and station is that of ownership or affiliation.

(8) The reported Nielsen all-day audience share (measuring 9 a.m. through midnight) for both the brokering and brokered station during the last three most recent rating periods.

(9) A brief summary of any other information that parties to an LMA, at their option, may wish to bring to the Commission's attention, such as any efficiencies or public interest benefits they believe have resulted from the LMA, whether the station was off the air prior to the LMA being entered into, whether the station has been or is for sale, or whether the station was constructed while under the LMA.

5. This factual information will greatly assist the Commission in considering the proposals in the Attribution Notice regarding the attribution of television LMAs. It is also particularly relevant to the Commission's assessment of the need to grandfather existing television LMAs in the event they are deemed attributable, and the form this grandfathering should take. Parties to existing LMAs are the

best, if not the sole, source of this information. Failure to provide the requested information may impair the Commission's ability to fashion appropriate grandfathering rights in the event LMAs are deemed attributable. We consequently require for every existing television LMA the licensee of the brokering station and/or the licensee of the brokered station to submit the information described above. In the event parties to an LMA seeking grandfathered status fail to provide this information they will be required to explain their failure to do so.

6. Parties should file an original and four copies of the requested information by July 8, 1997. These submissions should reference MM Docket Nos. 91–221, 87–8, 94–150, 92–51, and 87–154, and should be addressed to: Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition, we encourage, but do not require, parties to submit the requested information on diskette. Such diskette submissions would be in addition to, and not a substitute for the formal filing requirements described above. Those parties submitting diskettes should submit them to Alan Baughcum, Federal Communications Commission, Mass Media Bureau, Policy & Rules Division, 2000 M Street, Suite 531, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using WordPerfect for Windows or Wordperfect for DOS, versions 5.1 or higher. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labeled with the party's name, the words ''TV LMA,'' and the date of submission.

7. The submissions will be available for viewing and copying in the FCC's Public Reference Room, Room 239, 1919 M Street, NW., Washington, DC 20554. Copies may also be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800).

8. For additional information, please contact Alan Baughcum (202–418–2170) or Kim Matthews (202–418–2130) of the Policy & Rules Division, Mass Media Bureau.

FCC Notice to Individuals Required by the Paperwork Reduction Act

9. Public reporting burden for this collection of information is estimated to average 1 hour per filing, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Federal Communications Commission, Performance Evaluation & Record Management, AMD–PERM, Paperwork Reduction Project (3060–0778), Washington, DC 20554. FCC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law No. 104–13, October 1, 1995, 44 USC 3507.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16253 Filed 6–20–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 604

[Docket No. FTA–97–2624]

RIN 2132–AA58

Charter Services Demonstration Program

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed rulemaking; request for comments and recommendations.

SUMMARY: Section 3040 of the Intermodal Surface Transportation Efficiency Act (ISTEA) directed the Federal Transit Administration (FTA) to issue regulations establishing a demonstration program that would permit transit operators to provide charter services for the purpose of meeting the transit needs of the government, civic, charitable, and other community activities which otherwise would not be served in a cost effective and efficient manner. Section 3040 required FTA to consult with a board representing public transit operators and privately owned charter services. Section 3040 also required FTA to submit a report to Congress evaluating the effectiveness of the charter demonstration program and providing recommendations for improving the current charter service regulations. Today's Notice of Proposed Rulemaking (NPRM) presents results and conclusions drawn from the charter demonstration program, and seeks comments and recommendations regarding improvements to the charter service regulations.

DATES: Comments must be received by August 22, 1997.

ADDRESSES: Comments should be submitted to U.S. Department of Transportation, Central Docket Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rita Daguillard or Regina Martin, Federal Transit Administration, 202/366–1936.

SUPPLEMENTARY INFORMATION:

I. Background

A. FTA's Charter Service Requirements

On April 13, 1987, the Federal Transit Administration (FTA), then the Urban Mass Transportation Administration (UMTA), revised its charter service regulation, 49 CFR Part 604. The principle behind this regulation is that federally funded equipment and facilities may not be used to compete unfairly with private charter operators, in keeping with 49 U.S.C. 5323(d) and 5302(a)(7) of the Federal transit laws. When the regulation went into effect on May 13, 1987, it was subject to five limited exceptions, set out in 49 CFR 604.9. Under these exceptions, a recipient of Federal funds may provide charter services if: (1) There are no willing and able private operators; (2) the private charter operator does not have the capacity needed for a particular charter trip; (3) the private charter operator is unable to provide equipment accessible to the elderly and persons with disabilities; (4) in non-urbanized areas, the charter service that would be provided would result in a hardship on users; or, (5) private charter operators are not capable of providing service for special events.

On December 22, 1987, the President signed the Department of Transportation and Related Agencies Appropriations Act, 1988 (Pub. L. 100–202, 101 Stat. 1329; hereinafter the ''FY 1988 Act''). In the Conference Report accompanying the FY 1988 Act, FTA was directed to amend its charter service regulation to ''permit non-profit social service agencies to seek bids for charter service from publicly funded operators.'' (Conf. Rept., Committee Print accompanying Department of Transportation and Related Agencies Act, 1988, 100th Cong., 1st Sess. 62). This report suggested that ''(t)hese non-profit agencies * * * be limited to government entities subject to sections 501(c) 1, 3, 3 (sic) and 19 of the Internal Revenue Code.'' The report recommended that ''(i)n such cases, the public operator * * * be required to

identify to the chartering organizations any private operator that has notified it of its willingness and ability to provide comparable charter service.''

Further to this congressional directive, FTA amended its charter regulation on December 30, 1988, to provide three additional exceptions to the general prohibition on the use of federally funded equipment and facilities for charter service (53 FR 53348).

The first exception allows the use of FTA-funded equipment and facilities for direct charter service with non-profit social service agencies that are governmental entities or organizations exempt from taxation under Internal Revenue Code 501(c) (1), (3), (4) and (19), provided that the agency is contracting for service for persons with disabilities; is a recipient of funds under certain U.S. Department of Health and Human Services (''USDHHS'') programs; or has been State-certified according to the procedure set forth in § 604.9(b)(5)(iii) of the Charter Service Regulation.

The second exception provides an additional exemption for non-urbanized areas by allowing FTA-funded equipment and facilities operated by recipients in such areas to be used incidentally in direct charter service for social services agencies that are governmental entities or organizations exempt under Internal Revenue Code 501(c) (1), (3), (4) and (19), provided that the agency is contracting for service for elderly persons.

The third exception allows FTA-funded equipment and facilities to be used on an incidental basis in any particular charter service for which the FTA recipient and the local private operators have reached an agreement as part of the willing and able determination allowing the recipient to provide such service.

B. Section 3040 of ISTEA

On December 18, 1991, the President signed the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Section 3040 of ISTEA directed FTA to issue regulations implementing a charter services demonstration program in not more than 4 states. Under this demonstration program, transit operators would be permitted to provide charter service for the purpose of meeting the transit needs of the government, civic, charitable, and other community activities which otherwise would not be served in a cost effective and efficient manner. Section 3040 provided that in developing such regulations, FTA should consult with a board equally represented by public transit operators and privately owned charter services. FTA was directed to transmit to Congress, not later than 3 years after the date of enactment of the Federal transit laws, a report containing an evaluation of the effectiveness of the demonstration program regulations established under this section and to issue recommendations for improving the current charter services regulation.

The Conference Report accompanying ISTEA, (H.R. Rep. No. 404, 102nd Cong., 1st Sess. 424 (1991)), explained that the demonstration program had been mandated in response to concerns expressed by local transit operators regarding the existing charter service regulation. The Report stated that the implementing regulations should be designed to enable public transit operators to provide charter services to government, civic, charitable and other community organizations that serve a public purpose and help address unmet transit needs. According to the Report, it was intended that these regulations would grant public transit operators additional flexibility that was not afforded under the existing charter regulations, without creating undue competition for privately owned charter operators. The Report indicated that the results of the demonstration program should provide Congress and FTA with data to determine the most effective method for providing charter services to local communities, and whether the current regulations are in need of modification. The Report recommended that FTA select the state of Michigan as a participant in the program.

II. The Charter Services Demonstration Program

Pursuant to the congressional directive, FTA established a Federal Advisory Committee (FAC), effective March 16, 1992, comprised of individuals equally representing public and private operators, to assist FTA in implementing regulations establishing the charter service demonstration. After consulting with the FAC, FTA issued a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 28, 1992, describing FTA's proposed charter demonstration program, including provisions to allow public transit operators in the selected demonstration sites additional flexibility in the development of a local charter policy to meet local circumstances.

A State Department of Transportation (DOT) or Metropolitan Planning Organization (MPO) in each of the selected demonstration sites was empowered to determine the charter services that the public operator actually provided during the demonstration. The State DOT or MPO appointed a local advisory panel, composed of four to six persons, equally represented by public transit operators or local business organizations and representatives of local private charter operators. The DOT or MPO adopted the local charter policy that was recommended by the local advisory board.

The NPRM solicited proposals from interested public transit agencies to participate in the demonstration. After consultation with the FAC, FTA selected the following public transit operators in four states encompassing large and medium sized cities, as well as rural areas:

- Monterey-Salinas Transit (MST), Monterey, California.
- Central Oklahoma Transportation and Parking Authority (COTPA), Oklahoma City, Oklahoma.
- Bi-State Development Agency (Bi-State), St. Louis, Missouri.
- Michigan Department of Transportation (MDOT), with four unnamed sites within the state.
- Yolo County Transit Authority (YCTA), Yolo, California.

MDOT subsequently selected the four sites for participation in demonstration in Michigan:

- Isabella County Transportation Commission (ICTC), Isabella County.
- Capital Area Transit Authority (CATA), Lansing.
- Marquette County Area Transportation Authority (MarqTran), Marquette.
- Muskegon Area Transit System (MATS), Muskegon.

The final rule, issued July 9, 1993, incorporated the provisions of the NPRM, identified the eight demonstration sites, and authorized the demonstration period from August 9, 1993, through August 9, 1994.

Few of the demonstration participants were able to implement the demonstration locally by August 1993. The process of informing the private operators, establishing and convening the local advisory committee, and reaching a consensus on the local charter policy spanned several months. As a result of the initial delays, FTA extended the charter demonstration through October 31, 1994 to allow for a full year of demonstration activity. However, many public operators continued to express concern that the length of the demonstration did not provide sufficient time to implement the local charter policy and accurately evaluate the effects of the demonstration. In response to the concerns, FTA extended the

demonstration through October 31, 1995.

Most of the local demonstrations were implemented in the fall of 1993. However, Marquette County did not initiate its demonstration until January 1995.

III. Demonstration Methodology

A. Structure of the Demonstration

The ISTEA mandate for the charter demonstration required the Secretary of Transportation to transmit to Congress a report containing an evaluation of the effectiveness of the demonstration program regulations and make recommendations to improve current charter service regulations. The objective of the evaluation was to assess the effectiveness of the demonstration program. The evaluation focused specifically on:

- The impact on the public operators
- The impact on customers
- The impact on private operators
- The effectiveness of local decisionmaking process

The evaluation addressed each of the eight demonstration sites individually and presented a summary of all sites. The evaluation was based on the charter information provided by the public operators for the demonstration and pre-demonstration periods, the results of the customer surveys, and discussions with the public and private operators. Because private operator data was not received from at least three private operators in any of the sites, except Yolo County, FTA only presented an analysis of the private operator data for Yolo County.

FTA analyzed the public operators' charter service in terms of quantity of service provided, the groups served, and the consistency of the service with the local charter policy. FTA analyzed the impact on the individual public operators' operations based on the quantity of service provided, the charter revenue generated, the change in level of service from the pre-demonstration, and comparison of charter service to overall operations.

Congress mandated the demonstration in response to public transit agencies' concerns about the unmet needs of specific types of organizations, including the government, civic, charitable, and community groups. The evaluation assessed the extent to which the public operators provided charter service to meet the needs of these groups during the demonstration. FTA classified the charters performed by the public operator into categories including private groups and individuals, community, government, subcontracts to private operators, convention, and university. FTA analyzed the impact on customers by the changes in the level of service provided to each group.

FTA analyzed the impact on private operators based on the total charter revenue hours and revenue earned by the public operator, changes in the level of service provided by the public operator, and changes in private operator service, where reported, results of the customer surveys, and comments provided by the private operators during the demonstration.

FTA assessed the effectiveness of the local decision-making process based upon the development of the local advisory committee, development of the local charter policy, communication among the committee members, and proper reporting of charter activities.

B. General Public Comments

On September 12, 1996, FTA held a charter bus demonstration review meeting to present the results of the charter demonstration. The meeting was also intended as a forum in which the public could make comments and suggestions regarding the draft final report of the evaluation of the charter bus demonstration. Many of those attending the meeting had been members of the FAC that assisted FTA in establishing the demonstration. FTA also received some written comments on the report. These comments and a transcript of the September 12, 1996, public meeting have been filed in the docket.

Generally, the comments indicated that public operators felt that public transit authorities should be allowed a great latitude in chartering buses directly with anyone having the need for a chartered bus within their service areas. In essence, the public operators objected to the requirement of being precluded from providing charter service if there is at least one local ''willing and able'' private operator. They expressed the view that many private operators determined ''willing and able'' under the current definition of the charter regulation were actually unwilling and unable to provide needed charter services in their communities.

On the other hand, private operators felt that the demonstration did not support the claims by the public operators of unmet transportation needs. Therefore, they supported minor, if any, changes to the current charter regulations. However, there was support among the private operators to establish a massive outreach program by FTA to better educate public operators on the current charter requirements. They also advocated promoting cooperative efforts between both the private and public operators in meeting local charter needs.

IV. Results of the Charter Demonstration Program

The data gathered as a result of the charter demonstration program did not support the public operators' claims of unmet needs for the groups for which the demonstration was primarily intended: government, civic, charitable and other community activities. Although the public operators in each area identified groups that would not be otherwise served in a cost effective manner, including those for which the demonstration was intended and those particular to each site, the charter service provided during the demonstration did not serve a significant number of these groups or significantly increase the level of service to these groups.

Based on these results, the demonstration did not indicate the need for FTA to significantly alter its current service regulations. However, the demonstration did indicate that there may be a need for some minor changes to the charter service regulations in order to improve the ability of public operators to utilize the existing exceptions to the charter regulations in providing needed charter service.

V. FTA'S Current Charter Service Exceptions

Pursuant to 49 CFR Part 604, recipients of Federal funds are prohibited from providing charter service using federally funded equipment or facilities except on an incidental basis if there is at least one private charter operator willing and able to provide the service. The charter regulations provide several exceptions under which a recipient of FTA funds may operate charter service. While these exceptions generally provide FTA recipients with sufficient flexibility in meeting charter needs that cannot be met by private operators, the results of the demonstration suggest that some minor modification is necessary to meet certain needs not addressed by the current exceptions.

The following are the types of charter service that FTA recipients may provide under the seven current exceptions to the charter service regulations:

1. *Direct service to customers when there are no willing and able private charter operators.*

A public operator may provide incidental charter service if it determines on an annual basis that there are no private charter operators willing and able to provide the service. The

public operator must conduct an annual public participation process. If at least one willing and able private charter operator exists, the public operator cannot provide charter service under this exception.

2. *Under contract to provide FTA-funded vehicles or service to a private operator to satisfy a capacity need or a need for accessible equipment.*

The public operator must enter into an agreement with the private charter operator for the service—not directly with the charter customer. The public operator may not have an exclusive arrangement with only one private operator; the public operator must respond equitably to requests from all private operators.

3. *In a non-urbanized area, direct service to customers when the service provided by a willing and able operator(s) creates a hardship on the customer due to minimum duration requirements or distance between the charter origin and operator location.*

The public operator must petition the FTA Regional Administrator for approval. The public operator must provide notice of its request for an exception to all willing and able private operators.

4. *Direct service to customers for special events where private operators are not capable of providing the service.*

A public operator may petition the FTA Regional Administrator to provide charter service directly to customers for special events, at least 90 days prior to the event. The petition must describe the event, explain how it is special, and specify the amount of charter service that the private operators cannot provide.

5. *Under contract to private, non-profit organization serving persons with disabilities or with a government entity that is a qualified social service agency receiving Federal funds, or receiving welfare assistance funds.*

A public operator may provide charter service directly to a government entity or private, non-profit organization if one of the following conditions apply: a significant number of disabled persons will be passengers on the trip; the organization is a qualified social service agency; or the entity is eligible to receive directly or indirectly from a state or local government body public welfare assistance funds for purposes that may require transportation.

6. *In a non-urbanized area, under contract to a government entity or a private, non-profit organization that certifies that more than 50 percent of the passengers will be elderly.*

7. *Direct service to customers through formal agreements with all private charter operators.*

A public operator may provide charter service directly to a customer, if an agreement has been reached with all willing and able private operators. The public operator must provide for an annual participation process to identify all ''willing and able'' private operators. The formal agreement must specify the type of charter service allowed under the agreement.

VI. FTA'S Recommended Action

The results of the demonstration program indicate that while no major overhaul of the charter regulations is required, some minor changes may be needed to provide public operators with additional flexibility in providing charter service to their communities. Therefore, FTA proposes the following actions, and seeks comments from interested parties.

A. Amendment of the Definition of ''Willing and Able'' Private Operators (49 CFR 604.5(p)) and FTA Review of the ''Willing and Able'' Determination Process (49 CFR 604.13(e))

Under 49 CFR 604.5, any private operator having one bus or one van and licensed to provide charter service may be determined ''willing and able'', thereby precluding an FTA recipient from providing charter service for at least one full calendar year. As a result, some FTA recipients have maintained that they are often unable to provide needed charter service to their communities when ''willing and able'' private operators do not have the desire or capability to provide certain trips. In response to this perception that ''willing and able'' is too broadly defined, FTA proposes to modify the definition to exclude operators who may in actual fact be incapable of providing service within a recipient's service area. FTA believes that as a general rule, only private operators located within a reasonable distance of a particular service area are likely to provide reliable and cost-effective service to users in that area. Therefore, FTA proposes to amend 49 CFR 604.5 to define a ''willing and able'' operator as having one bus or one van, possessing legal authority, including the necessary safety certifications, licenses and other legal prerequisites, to provide charter service, and located within a 125 mile radius of the recipients service area. FTA believes that this geographic limitation will narrow the definition of ''willing and able'' sufficiently to include only those private operators who are able to provide service within reasonable time limits and at a reasonable cost.

An organization representing private operators suggested that an FTA recipient could be permitted to look behind evidence that a private charter operator is ''willing and able'' to provide the requested service if it has valid reasons to believe that the operator is unable to effectively serve local charter needs. In these instances, the FTA recipient would be required to inform FTA of its basis for concluding that a private operator responding to its annual notification is unwilling or unable to provide the service specified. FTA could then make a determination based on the recipient's submittal and on information from the private operator in question. FTA believes that this proposed change may allow recipients additional flexibility in situations where a private operator technically meets the ''willing and able'' criteria, but is unlikely, either due to chronic lack of vehicle capacity or to an unwillingness to provide trips of a certain type or duration, to meet all local charter needs. FTA thus proposes to amend section 604.13(e) accordingly.

FTA seeks comments on its proposed amendment of 49 CFR 604.5(p) and 49 CFR 604.13(e)).

B. Extension of Non-urbanized Area Hardship Exception (49 CFR 604.9(b)(3))to Small Urbanized Areas (50,000 to 200,000 Population)

Under 49 CFR 604.9(b)(3), an FTA recipient may petition FTA for an exception to provide charter service directly to the customer in non-urbanized areas (population under 50,000) if the charter service provided by the ''willing and able'' private charter operator(s) would create a hardship on the customer due to state-imposed minimum duration requirements. Some public sector participants in the demonstration program suggested that this exception be extended to small urbanized areas, many of which also lack readily available and reasonably priced charter services. In response to these comments, FTA proposes to extend the non-urbanized hardship exception at 49 CFR 604.9(b)(3) to small urbanized areas having populations between 50,000 to 200,000. FTA believes that this amendment may provide recipients in small urbanized areas with additional flexibility in providing charter service to their communities.

FTA seeks comments on its proposed amendment of 49 CFR 604.9(b)(3).

C. Amendment of the Exception for Formal Agreements (49 CFR 604.9(b)(7) With All Private Charter Operators

Under 49 CFR 604.9(b)(7), if an FTA recipient obtains a formal agreement with all ''willing and able'' private operators, it can provide certain specified types of charter service directly to the customer. Section 604.9(b)(7) requires an FTA recipient to complete the ''willing and able'' determination process for all private operators responding to its charter notice, and to obtain written agreements from each of these operators. Some FTA recipients maintain that they are unable to make use of this exception because of the impracticability of obtaining agreements from all local private operators. They note that it is often impossible to obtain unanimous consenus from a large number of organizations having varying interests and divergent views. Thus, they state, while this exception is effective in theory in allowing recipients to meet certain charter needs, it is unworkable in actual fact.

One participant in the September 12, 1996 charter demonstration review meeting suggested that instead of requiring unanimity, the regulation should provide that only a ⅔ majority of all local private operators would be required for a formal charter agreement. FTA believes that providing for a majority rather than a unanimous vote on the formal agreement will facilitate the use of this exception by more FTA recipients, thereby allowing them to provide a wider range of needed services to their communities.

FTA seeks comments on its proposed amendment of 49 CFR 604.9(b)(7).

D. Implementation of an Outreach Program to Foster a Better Understanding of the Charter Regulations and Exceptions

The demonstration program revealed that many public and private operators have an incomplete understanding of FTA's charter requirements and how to use them effectively to serve the charter needs in their communities. Therefore, FTA proposes to implement an outreach program for public and private operators to provide them with a better understanding of how to better utilize the charter regulations and exceptions. The outreach program would include the distribution of brochures and literature to public and private operators describing the charter bus regulations and exceptions, and examples of how to best utilize the exception process. FTA also proposes to sponsor seminars and information sessions on the charter requirements at meetings and conferences sponsored by various industry groups. FTA believes that the establishment of an outreach program would not only minimize the ongoing misunderstanding between some of the public and private operators, but would also serve as a resource to other operators entering the charter business.

This proposed effort was supported by the majority of participants in the September 12, 1996, meeting as a useful tool in improving the understanding and utilization of the existing exceptions to the charter regulations. FTA seeks additional suggestions for implementing its education and outreach program.

VII. Regulatory Impacts

A. Regulatory Process Matters

The proposed rule is considered to be a nonsignificant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 11034. It is also a nonsignifant rule for the purposes of Executive Order 12866. The Department certifies, under the Regulatory Flexibility Act, that the NPRM, if adopted, would not have a significant economic effect on a substantial number of small enities. The NPRM would not impose any costs or burdens on regulated entities. The rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

B. Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*

C. Unfunded Mandates Reform Act of 1995

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 604

Administrative practice and procedure, Buses, Grant programs—transportation, Mass transportation, Reporting and recordkeeping requirements.

Proposed Amendment to 49 CFR Part 604

Accordingly, for the foregoing reasons, Title 49, Code of Federal Regulations, Part 604, Charter Service, is proposed to be amended as follows:

PART 604—CHARTER SERVICE

1. The authority citation for part 604 continues to read as follows:

Authority: 49 U.S.C. 5323(d); 23 U.S.C. 103(e)(4); 142(a); and 142(c); and 49 CFR 1.51.

2. Section 604.5 is proposed to be amended by revising paragraph (p) to read as follows:

§ 604.5 Definitions.

* * * * *

(p) *Willing and able* means having the desire, having the physical capability of providing the categories of revenue vehicles requested, including the necessary safety certifications, licenses, and other legal prerequisites, to provide charter service, and located within a 125-mile radius of the area in which it is proposed to be provided.

3. Section 604.9 is proposed to be amended by revising paragraphs (b)(3) and (b)(7) to read as follows:

§ 604.9 Charter service.

* * * * *

(b) * * *

(3) A recipient in a non-urbanized or small urbanized area may petition FTA for an exception to provide charter service directly to the customer if the charter service provided by the willing and able private charter operator or operators would create a hardship on the customer because:

(i) The willing and able private charter operator or operators impose minimum duration's pursuant to State regulation and the desired trip length is shorter than the mandatory trip length; or

(ii) The willing and able private operator or operators are located too far from the origin of the charter service.

* * * * *

(7) A recipient may provide charter service directly to the customer where a formal agreement has been executed between the recipient and a two-thirds (2/3) majority of all private charter operators it has determined to be willing and able in accordance with this part, provided that:

(i) The agreement specifically allows the recipient to provide the particular type of charter trip;

(ii) The recipient has provided for such an agreement in its annual charter notice published pursuant to this part before undertaking any charter service pursuant to this exception;

(iii) If a recipient has received several responses to its annual charter notice but ceased its review process after determining that one private operator was willing and able, it must, before concluding a formal charter agreement

under this section, complete the review process to ensure that a two-thirds (⅔) majority of the willing and able private operators are valid parties to the agreement.

* * * * *

4. Section 604.13 is proposed to be amended by revising paragraph (e) to read as follows:

§ 604.13 Reviewing evidence submitted by private charter operators.

* * * * *

(e) A recipient may look behind the evidence submitted by a private charter operator only if the recipient has reasonable cause to believe:

(1) That some or all of the evidence has been falsified; or

(2) That the private operator may not be capable of providing certain specified types of charter service.

(i) A recipient believing that it has reasonable cause to determine that a private operator or operators is/are not willing and able pursuant to this paragraph (e)(2), may petition the FTA Regional Administrator for a determination. The recipient must send a copy of its petition to the private operator or operators in question. The private operator or operators may submit evidence opposing the petition to the FTA Regional Administrator within 30 days of receipt of a copy of the recipient's petition.

(ii) The FTA Regional Administrator will rule on the recipient's petition within 60 days of receipt.

* * * * *

Issued on: June 16, 1997.

Gordon J. Linton,

Administrator.

[FR Doc. 97–16126 Filed 6–20–97; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Notice of Availability of Draft Recovery Plan for the Marsh Sandwort (Arenaria paludicola) and Gambel's Watercress (Rorippa gambelii) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for two wetland plants, the marsh sandwort (*Arenaria paludicola*) and Gambel's watercress (*Rorippa gambelii*). Only one marsh sandwort population, with fewer than 10 individuals, is known to exist; it occurs in San Luis Obispo County, California. Four populations of Gambel's watercress are currently known, one with about 500 individuals near the marsh sandwort population, two others with about 300 individuals each, also in San Luis Obispo County, and a fourth population of approximately 100 plants on Vandenberg Air Force Base in Santa Barbara County. Both species are threatened by encroaching native and alien vegetation associated with lowered water tables, agricultural and residential development, and off-road vehicle use. In addition, the very low numbers of individuals and populations put these species at great risk of extinction due to stochastic events. The Service solicits review and comment from the public on this plan.

DATES: Comments on the draft recovery plan must be received on or before August 22, 1997 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, 2140 Eastman Avenue, Suite 100, Ventura, California 93003 (phone: 805/644–1766); and the San Luis Obispo Public Library, 995 Palm St., San Luis Obispo, California 93401. Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to the Field Supervisor, at the above Ventura address.

FOR FURTHER INFORMATION CONTACT: Constance Rutherford, Botanist, at the above Ventura address, (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species. They establish criteria for the recovery levels necessary for downlisting or delisting the species. They also provide an estimation of time and cost of implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (U.S.C. 1531 *et seq.*) (Act) requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice, to provide an opportunity for public review and comment, be given during plan development. The Service will consider all significant information presented during a public comment period, prior to the approval of each new or revised Recovery Plan. The Service and other Federal agencies also will take these comments into account in the course of implementing approved recovery plans.

Marsh sandwort, a member of the pink family (*Caryophyllaceae*), historically had a large range along the Pacific coast, extending from southern California north to Washington. It occurred in San Bernardino, San Luis Obispo, Santa Cruz, and San Francisco counties in California, as well as in Pierce County, Washington. Recent searches of sites where the species was previously reported in Washington have resulted in negative findings. Of the seven historical populations in California, only a single known extant population occurs today, in Black Lake Canyon on the Nipomo Mesa in southern San Luis Obispo County.

Gambel's watercress was reported in the early 1900s from several wetland locations in southern California, ranging from Los Angeles and San Bernardino counties south to a disjunct population in the Valley of Mexico near Mexico City. Three small populations of this species have been reported in the 1980s, from Black Lake Canyon, Oso Flaco Lake, and Little Oso Flaco Lake in San Luis Obispo County. These areas are located within 6.4 kilometers (4 miles) of each other. The Black Lake Canyon population, numbering about 500 individuals, is located approximately 200 meters (656 feet) downstream of the marsh sandwort plants.

Both the marsh sandwort and Gambel's watercress are found in freshwater marshes, from sea level to about 450 meters (1,476 feet). Wetland habitats have been disappearing from the Pacific Coast of North America at a rapid rate since the early part of the century. The conversion of wetland habitat to agriculture, ranching activities, and increased urbanization, and the use of off-road vehicles for recreation, have eliminated or degraded habitat. Additionally, the groundwater table in the lower canyon has been dropping steadily in the past few years, possibly due to water drawdown from well-drilling, water uptake and transpiration from the many introduced eucalyptus trees in the area, and the

drought in California during the past decade. In addition to changes in water levels, degradation of water quality may result from an increase in development and agricultural use in the area.

Increased erosion from the steep sandy slopes of Black Lake Canyon, both from development on the canyon rim and natural causes such as landslides, could result in increased sedimentation into bottom habitats. Such sedimentation could degrade bottom wetland habitats for these two rare plants.

The conversion of pristine natural habitats to agriculture and increased urbanization have resulted in the replacement of native vegetation with exotic plant species. Both endangered plants therefore have to compete for water, nutrients, light, and space with exotic species, as well as with densely growing native vegetation surrounding them.

The bottom and parts of the slopes of Black Lake Canyon have been designated as a Sensitive Resource Area by San Luis Obispo County, so that further development is restricted and subject to more careful environmental review by the county. A new amendment that would expand the Sensitive Resource Area boundary and increase erosion control on surrounding lands has been proposed and is currently being reviewed by the County Planning Department.

The main objective for the long-term management and recovery of the marsh sandwort and Gambel's watercress is to secure viable, self-sustaining populations of both species in their natural habitats. The recovery strategy for these endangered plants involves six major steps: protect, maintain, and enhance species' habitats; monitor and document species' populations and habitat characteristics; conduct research on the ecology and biology of the species; increase existing populations; establish new populations; and evaluate progress and update management and recovery guidelines.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All significant comments received by the date specified above will be considered prior to the approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533(f)).

Dated: May 6, 1997.

Thomas J. Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 97–16327 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Notice of Availability of a Draft Recovery Plan for the Stephens' Kangaroo Rat for Review and Comment

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of document availability.

SUMMARY: The Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the Stephens' kangaroo rat (Dipodomys stephensi). The Stephens' kangaroo rat occurs on Federal, State, local, and private lands in western Riverside County, northwestern San Diego County, and possibly, southwestern San Bernardino County, California. The Service solicits review and comment from the public on this plan.

DATES: Comments on the draft recovery plan must be received on or before August 22, 1997 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor at the following address: Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Telephone requests may be made by calling 619/431–9440. Comments and material received are available for public inspection by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Arthur Davenport at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species. Plans also establish criteria for the recovery levels necessary for downlisting or delisting the species. They also provide an estimation of time and cost of implementing the recovery measures needed.

The Endangered Species Act of 1973, as Amended (U.S.C. 1531 *et seq.*) (Act) requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice, to provide an opportunity for public review and comment, be given during plan development. The Service will consider all significant information presented during a public comment period prior to the approval of each new or revised Recovery Plan. The Service and other Federal agencies also will take these comments into account in the course of implementing approved recovery plans.

The Stephens' kangaroo rat is associated with habitats that have low to nonexistent perennial cover, forbs, and bare ground. This species is known to currently occur in western Riverside County and northwestern San Diego County. The species may also still occur in southwestern San Bernardino County. The threats to the species include habitat loss and degradation due to invasive exotic species. Protection and management of its habitat are the primary goals of the recovery effort.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All significant comments received by the date specified above will be considered prior to the approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533(f)).

Dated: April 23, 1997.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–16325 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970606131–7131–01; I.D. 041497C]

RIN 0648–AG25

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 8

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 8 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). Amendment 8 would revise the earned income requirement for a commercial vessel permit for king or Spanish mackerel, establish a moratorium on the issuance of commercial vessel permits for king mackerel, extend the management area for cobia to include the exclusive economic zone (EEZ) off the states of Virginia through New York, specify allowable gear in the fisheries for coastal migratory pelagic resources, allow the retention of up to five cut-off king mackerel in excess of an applicable commercial trip limit, and add to the management measures that may be established or modified by the FMP's framework procedure. In addition, NMFS proposes to clarify that a Federal vessel permit is not required for the use of a sea bass pot north of Cape Hatteras, NC; clarify what constitutes commercial fishing for the purpose of obtaining a commercial vessel permit; revise the definition of ''charter vessel'' to conform to a new definition of charter fishing in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); make explicit the authority of NMFS to reopen a fishery that has been closed prematurely, i.e., prior to a quota having been reached; and correct references in the codified text. The intended effects of this rule are to protect king and Spanish mackerel from overfishing and maintain healthy stocks while still allowing catches by important commercial and recreational fisheries and to clarify and correct the regulations.

DATES: Written comments must be received on or before August 7, 1997.

ADDRESSES: Comments on the proposed rule must be sent to Mark Godcharles, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of Amendment 8, which includes an environmental assessment, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA), may be obtained from the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; Phone: 803–571–4366; Fax: 803–769–4520 or from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; Phone: 813–228–2815; Fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 813–570–5305.

SUPPLEMENTARY INFORMATION: The fisheries for coastal migratory pelagic resources are managed under the FMP. The FMP was prepared jointly by the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council (Councils) and is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

In Amendment 8, the Councils propose to add two fishery problem statements to the FMP, increase the minimum earned income requirement to qualify for a commercial mackerel permit, implement a 5-year moratorium on issuing new permits for commercial king mackerel fishing in the EEZ and establish criteria for transferring permits during the moratorium, specify authorized gears and requirements for testing experimental gears used to harvest species managed under the FMP, extend the cobia management area to include the Mid-Atlantic EEZ, and make major revisions to the FMP's framework procedure for changing catch specifications.

Earned Income Requirement for Mackerel Permits

Currently, to obtain a commercial king or Spanish mackerel permit, a vessel owner or operator must document that at least 10 percent of his/her earned income was derived from the sale of fish during one of the 3 calendar years preceding the application. The Councils propose to require that at least 25 percent of earned income, or at least $10,000, must have been derived from the sale of fish or from charter fishing during one of the 3 calendar years preceding the application. As recently defined in the Magnuson-Stevens Act, ''charter fishing'' includes operations of either a charter vessel or a headboat. The Councils chose this alternative as the least restrictive option to differentiate more equitably between fishermen subject to bag limits and fishermen subject to the quotas—the latter being fishermen who are primarily dependent on king and Spanish mackerel for their livelihoods. The Councils expect the revised earned income or gross sales requirement would eliminate from participation under the quotas some fishermen who currently qualify for commercial permits based on sales of small amounts of fish. Under the revised requirement, such fishermen would be restricted to the bag limits.

Effective on the first of the month following the date that is 13 months after the date of publication of the final rule to implement Amendment 8, the ''revised earned income implementation date,'' only those vessel permits for king or Spanish mackerel that were issued under the revised earned income or gross sales requirement would be valid for king or Spanish mackerel. Under this implementation schedule, a king or Spanish mackerel permit that is valid on the date of publication of the final rule would remain valid through the date of expiration stated on the permit. King and Spanish mackerel permits issued after the date of publication of the final rule would be valid for the normal period, generally 1 year, if the revised earned income or gross sales requirement is met, and would be valid until the revised earned income implementation date, if the revised earned income or gross sales requirement is not met.

Moratorium on Commercial Permits for King Mackerel

The Councils propose a moratorium on commercial permits for king mackerel effective through October 15, 2000. To obtain a king mackerel permit under the moratorium, a vessel owner must have owned a vessel with a commercial vessel permit for king mackerel on or before October 16, 1995, the control date for the king mackerel fishery (60 FR 53576, October 16, 1995).

Under the proposed permit moratorium, separate Federal

commercial permits for king and Spanish mackerel would be issued instead of the existing combined Federal commercial permit for king and Spanish mackerel.

Under the moratorium, a commercial vessel permit for king mackerel that is not renewed or that is revoked would not be reissued. A permit is considered to be not renewed when an application for renewal is not received by the Regional Administrator, Southeast Region, NMFS, within 1 year of the permit expiration date. (The designation ''Regional Administrator'' appears in the regulatory text as ''Regional Director'' or ''RD''.)

An owner or operator of a vessel that does not have a king mackerel permit on the date of publication of the final rule to implement Amendment 8 would have to submit an application for a permit to the Regional Administrator, postmarked or hand delivered not later than 90 days after the date of publication of the final rule.

Under the moratorium, an owner would not be issued initial commercial vessel permits in numbers exceeding the number of vessels permitted in the king mackerel fishery that he/she owned simultaneously on or before October 16, 1995. For example, an owner who owned two permitted vessels at one time on or before October 16, 1995, and currently owns one permitted vessel, would qualify for an additional permit for a vessel he/she owns. On the other hand, an owner who owned only one permitted vessel on or before October 16, 1995, but who currently owns a second permitted vessel, would not qualify for an additional permit. This would not preclude an owner from acquiring additional permits through transfers of permits under the moratorium.

An owner would be allowed to transfer a permit to another vessel owned by the same entity. In addition, an owner whose earned income or gross sales qualified for a commercial vessel permit would be able to transfer the permit to the buyer of the permitted vessel or to the owner of another vessel. Such new owner could receive an initial king mackerel permit without meeting the earned income or gross sales requirement and would have 1 full calendar year to meet that requirement, plus an additional 3 ½ months to document his/her earned income or gross sales and apply for renewal and for NMFS to process the application and issue a renewed permit. The new owner, rather than the vessel operator, would be required to meet the earned income or gross sales requirement for such renewal. The grace period, i.e., 1 full calendar year plus 3 ½ months, would also be available to an owner who loses an earned-income or gross-sales qualifying operator. Finally, an owner of a vessel whose permit was qualified for by an operator could transfer the permit to the operator if the operator buys the vessel.

The Councils propose the moratorium to stabilize participation in the king mackerel fishery and prevent further increases in effort on stocks that are currently undergoing rebuilding. For commercial king mackerel fisheries, the Councils want to prevent speculative entry, and possibly reduce the number of permitted vessels, while they consider a limited access program. NMFS's permit records indicate an increase of 102 percent in the number of commercial king mackerel permits issued from the 1987/88 to the 1993/94 fishing year (1,280 to 2,588). The Councils believe that continuation of the moratorium through October 15, 2000, would allow ample time to develop a long-range limited access program that would provide a more equitable distribution of catch among current participants who have had a historical dependence on the fishery.

The 90-day period for applications for king mackerel permits under the moratorium for vessels not currently permitted would allow a basis for planning further management measures. After that 90-day period, the maximum number of vessels permitted for king mackerel under the moratorium would be known, rather than being subject to additional applications/permits. In addition, the 90-day period would limit the duration of the administrative functions of ascertaining eligibility for and issuing permits under the moratorium criterion.

Effective on the first of the month following the date that is 13 months after the date of publication of the final rule to implement Amendment 8, the ''moratorium implementation date,'' only those vessel permits for king mackerel that were issued under the moratorium criterion would be valid for king mackerel. (The moratorium implementation date would be the same date as the revised earned income implementation date.) Under this implementation schedule, a king mackerel permit that is valid on the date of publication of the final rule would remain valid through the date of expiration stated on the permit. King mackerel permits renewed after the date of publication of the final rule would be valid for the normal period, generally 1 year, if the moratorium criterion is met, and would be valid until the moratorium implementation date, if the moratorium criterion is not met.

Extend the Cobia Management Area

The Councils propose to extend the cobia management area northward to include the area of authority of the Mid-Atlantic Fishery Management Council. By repositioning the northern boundary at the New York/Connecticut boundary, the cobia management area would be expanded to include the EEZ off the states of Virginia through New York. With this proposal, the Councils are trying to provide more consistency with National Standard 3 of the Magnuson-Stevens Act, which requires that, to the extent practicable, an individual stock of fish be managed as a unit throughout its range.

The proposal would extend into the Mid-Atlantic EEZ two management measures for cobia—the recreational/commercial bag limit of 2 fish per person per day, regardless of the number of trips or duration of a trip; and the minimum size limit of 33 inches (83.8 cm), fork length.

Authorized Gear

The Councils propose to specify, revise, and clarify the gear allowed to be used in directed fishing in the EEZ of the Gulf, South Atlantic, and Mid-Atlantic for all coastal pelagic species. Accordingly, the proposed rule contains new and revised definitions of fishing gears. Hook-and-line gear would be defined to include automatic reel, bandit gear, buoy gear, handline, longline, and rod and reel. Each of the hook-and-line gears would be defined. (The current definition of buoy gear would not be changed.) Three types of gillnets, i.e., long gillnet, stab net, and trammel net, would be defined and the definition of run-around gillnet would be revised. ''Long gillnet'' would be defined as a gillnet that has a float line that is more than 1,000 yd (914 m) in length. The current regulations at 50 CFR 622.31(d) contain restrictions on the use of such a gillnet for coastal migratory pelagic fish in the Gulf, Mid-Atlantic, or South Atlantic EEZ. The term ''long gillnet'' would simplify references to such a gillnet. The Councils propose the changes to clarify intent, prevent gear conflicts, and, by specifying possession limits for incidental catch when gear not authorized in directed fishing is on board, enhance enforceability.

King Mackerel, Atlantic Migratory Group

For the Atlantic migratory group of king mackerel in the area north of Cape Lookout Light, NC (i.e., north of 34°37.3'

N. lat.), all gear would be allowed in the directed fishery for this group except a long gillnet. In that area, the proposal would allow the use of drift gillnets, which currently is prohibited throughout the management area for all coastal pelagic species. South of Cape Lookout Light, NC, proposed authorized gear would be automatic reel, bandit gear, handline, and rod and reel.

King Mackerel, Gulf Migratory Group

For the Gulf migratory group of king mackerel, the Councils re-specified that the only authorized gears for directed fishing for this group would remain hook-and-line gear and run-around gillnet. The use of unauthorized gears in directed fishing for Gulf migratory group king mackerel would continue to be prohibited as would the possession of king mackerel on vessels with a drift gillnet or a long gillnet on board. Also, the purse seine incidental catch allowance for king mackerel would remain unaffected. However, fishermen would be allowed to make multi-species trips with unauthorized gear on board (e.g., shrimp trawls, crab and lobster traps) and commercially harvest king mackerel using authorized gear. Such commercial harvest would be subject to the existing trip limits. Currently, the regulations do not allow multi-species trips or the possession of Gulf group king mackerel on board vessels carrying unauthorized gear. In specifying authorized gears in Amendment 5 (55 FR 29370, July 19, 1990), the Councils did not intend to disallow traditional multi-species fishing practices in the Gulf of Mexico.

Spanish Mackerel, Atlantic Migratory Group

For vessels fishing in the EEZ north of Cape Lookout, NC, the Councils propose the following authorized gears for the Atlantic migratory group of Spanish mackerel: Automatic reel, bandit gear, handline, rod and reel, cast net, run-around gillnet, stab net, and drift gillnet. South of Cape Lookout, their proposals would allow automatic reel, bandit gear, handline, rod and reel, cast net, run-around gillnet, and stab net.

For vessels gillnetting Spanish mackerel in the EEZ off the Florida east coast north of the Dade/Monroe County, FL, boundary, the Councils propose additional regulations regarding gillnet construction and deployment. The float line for a gillnet used for directed Spanish mackerel fishing could not be longer than 800 yd (732 m). Additionally, the float line would have to contain a maximum of nine distinctive floats that would be different from the usual net buoys, spaced uniformly at a distance of 100 yd (91.44 m) or less, and bear the official number of the vessel from which the gillnet is deployed.

Under the proposals, a vessel targeting Spanish mackerel could have two gillnets on board, but only one could be deployed at any one time. The stretched-mesh sizes of the two gillnets would have to differ by at least 0.25 inch (0.64 cm); the gillnet used to capture Spanish mackerel still would have to comply with the current minimum mesh size, i.e., 3.5 inches (8.9 cm), stretched mesh. The gillnet could not be soaked for more than 1 hour. The soak period would begin with placement of the first mesh in the water and end with its retrieval back on board the vessel in a continuous effort to completely remove the gillnet from the water. Limiting soak time to no more than 1 hour prevents indiscriminate use of nets, reduces incidental take of non-targeted species, and improves the quality of harvested fish.

Spanish Mackerel, Gulf Migratory Group

For the Gulf migratory group of Spanish mackerel, the Councils proposed no revisions. Consequently, authorized gears would remain all gears except long gillnets, drift gillnets, and purse seines.

Cero

For cero in the South Atlantic and Gulf EEZ, the Council proposes to authorize all gears except long gillnets.

Cobia

For cobia in the Mid-Atlantic and South Atlantic EEZ, the proposed authorized gears are automatic reel, bandit gear, handline, rod and reel, and pelagic longline. Authorized gears in the Gulf EEZ would be all gears except long gillnets.

Dolphin

For dolphin in the South Atlantic EEZ, proposed authorized gears are automatic reel, bandit gear, handline, pelagic longline, and rod and reel. Authorized gears in the Gulf EEZ would be all gears except long gillnets.

Little Tunny

For little tunny in the South Atlantic EEZ south of Cape Lookout, NC, proposed authorized gears are automatic reel, bandit gear, handline, pelagic longline, and rod and reel. In the South Atlantic EEZ north of Cape Lookout, the Councils propose to allow all gears except long gillnets. In the Gulf EEZ, authorized gears would be all gears except long gillnets.

Bluefish

For bluefish in the Gulf EEZ, authorized gears would be all gears except long gillnets.

Unauthorized Gear

Under Amendment 8, unauthorized gear could not be used in directed fishing for any coastal migratory pelagic species. Possession of coastal migratory pelagic fish would be prohibited for a vessel which fished in the Gulf, Mid-Atlantic, or South Atlantic EEZ with a long gillnet on board. The existing prohibition for possessing king or Spanish mackerel on a vessel that fished in the Gulf EEZ with a drift gillnet on board would remain in effect. Otherwise, as proposed, for a vessel with unauthorized gear on board that has fished in the EEZ, the incidental catch of king and Spanish mackerel and cobia would be limited to the bag limit and would be unlimited for coastal migratory pelagic species without bag limits. No changes are proposed for incidental catch allowances for king and Spanish mackerel taken by purse seines and for king mackerel taken in a gillnet with a mesh size less than 4.75 inches (12.1 cm), stretched mesh.

Experimental Gears

The Councils also propose certain specifications and criteria for the use of experimental gear to harvest coastal migratory pelagic fish in the South Atlantic and Mid-Atlantic. Use of experimental gear, i.e., gear not authorized by the regulations, would constitute exempted fishing when conducted under a permit issued pursuant to regulations on exempted fishing, contained in 50 CFR 600.745(b). Those regulations adequately address the Councils' concerns related to the development and testing of experimental gear in directed coastal migratory pelagic fisheries. Consequently, no additional regulations are proposed.

Exemption to King Mackerel Trip Limits

To minimize waste, the Councils propose to allow the retention on a vessel holding a commercial king mackerel permit of five cut-off king mackerel per trip (i.e., king mackerel that have been damaged/severed by predators, such as barracuda or sharks, during capture). Such damaged king mackerel would not be counted against commercial vessel trip limits, could not be sold or purchased, and would be exempt from the requirement that fish be landed with heads and fins intact.

Atlantic Group King Mackerel Trip Limits

Under another regulatory action, NMFS implemented the trip limits proposed in Amendment 8 for commercial vessels fishing for Atlantic group king mackerel. They became effective September 23, 1996 (61 FR 48848; September 17, 1996). Accordingly, this proposed rule does not include those trip limits.

Additional Measures in Amendment 8

Amendment 8 contains several measures that do not require changes in 50 CFR part 622.

Problems in the Fishery

To the ten fishery problems already identified in the FMP, the Councils propose to add two more, namely:

11. Localized reduction in abundance of fish due to high fishing pressure; and
12. Disruption of markets.

The proposals identify the Councils' concerns that increased fishing effort for some species (e.g., dolphin) could reduce availability in some areas, negatively impact markets, and cause user conflicts.

Revise the FMP Annual Framework Adjustment Process

Annual Stock Assessment Procedure

The Councils propose the following revisions regarding the development of the annual report by the Mackerel Stock Assessment Panel (Panel). They would clarify that stock condition would be assessed in alternate, even-numbered years. For fish groups that can be managed separately, the Councils also would require estimates of the spawning potential ratio (SPR) and fishing mortality rates (F) relative to 20, 30, and 40 percent SPRs ($F_{20\%SPR}$, $F_{30\%SPR}$, $F_{40\%SPR}$). The additional information would help determine and avoid overfished conditions and overfishing and provide information necessary for rebuilding stocks to maximum sustainable yield (MSY). The Councils also propose to remove the requirement that the Panel calculate allowable biological catch (ABC) separately for eastern and western groups of Gulf group king mackerel when stock identification data support division.

The Councils also would require the Panel to estimate the current mixing rate of Atlantic and Gulf migratory groups of king mackerel in the south Florida mixing zone. That estimate would help in tracking quotas, determining the impacts of changing seasonal boundary lines now separating these groups, and evaluating the impacts of establishing a permanent boundary to separate the two groups. The information also could aid the Councils in their considerations regarding development of separate FMPs for coastal migratory pelagic species. That possibility would be explored in a Council staff report to be prepared after next year's stock assessment.

Optimum Yield, Overfishing Definitions, and Rebuilding Programs

The Councils propose to revise the definitions of overfished and overfishing, and to restructure rebuilding programs. The proposals, initially recommended by the SPR Management Strategy Committee, have been endorsed by the Panel. The proposed definitions would specify that a mackerel group would be considered overfished if its transitional SPR is below 20 percent; the current FMP definition specifies a higher SPR of 30 percent. Based on these definitions and SPR estimates generated for the 1997 stock assessment, no mackerel groups would currently be considered to be overfished. Consequently, if the proposals are approved, no rebuilding programs would be immediately necessary. However, the Councils' proposals would, for overfished stocks, require recovery above overfished levels within a specified time frame, as well as continued rebuilding to the new optimum yield (OY) targets. The Councils propose to specify long-term OY at 30 and 40 percent SPRs, respectively, for the Gulf and Atlantic migratory groups of king and Spanish mackerel.

For stocks that are not overfished, that is, stocks whose transitional SPR is equal to or greater than 20 percent, the act of overfishing would be defined as harvesting at a level which exceeds the fishing mortality rate associated with the threshold static SPR of 20 percent ($F_{20\%SPR}$). When such overfishing occurs, the stock may become overfished and, therefore, a program to reduce fishing mortality rates toward management target levels, i.e., OY, would be implemented, even if the stock or migratory group is not in an overfished condition.

The Councils also propose a definition of overfishing for a stock or migratory group for which insufficient information is available to determine if it is overfished, based on its transitional SPR. For those species or groups, overfishing would be defined as a fishing mortality rate in excess of the fishing mortality rate corresponding to a default threshold static SPR of 30 percent. Again, if such overfishing occurs, a program to reduce fishing mortality rates to at least the level corresponding to management target levels would be implemented.

Councils' Review of Annual Assessment Report

In addition to proposing changes to the procedure for the annual review of the stock assessment report, the Councils propose an alternative for considering information received separately from the annual assessment report. In either instance, the Councils would consult with their Advisory Panels and Scientific and Statistical Committees to review the Panel's annual report or other information, respectively, and provide advice before taking final action. Currently, the FMP states that the Councils may convene such advisory groups for these purposes. The requirement to hold a public hearing at the time and place where the Councils consider the Panel's report, or information received separately, would apply in either instance.

FMP Framework Management Options Available to the Councils

The Councils would revise five of the nine management measures in the FMP that may be adjusted under the annual framework process and add two more. They propose to add the ability to change overfishing levels and reallocate total allowable catch (TAC) between the commercial and recreational sectors of the Atlantic group Spanish mackerel fishery. The proposed revisions would allow the Councils to recommend zero quotas and bag limits, gear prohibitions, reopenings of closed seasons or areas, and closures or reopenings of spawning seasons or areas.

The Councils recommend the proposals to clarify the range of options available and to allow for more timely implementation of management measures than is possible through the FMP amendment process. For example, the Councils would be able to respond more quickly to new information and rapid changes in the stocks indicating a need to adjust overfishing levels or establish zero bag limits and quotas to avoid rapid stock depletion. The Councils also want the option of prohibiting certain gears under the framework process in order to respond quickly to loopholes in the regulations that frustrate their intent, such as have occurred in the construction and use of drift gillnets for king mackerel off the east coast of Florida. The modification to the option regarding seasons or area closures and reopenings would clarify that measures to protect spawning fishes could be included as part of the framework adjustment process.

Timely reallocation of TAC for Atlantic group Spanish mackerel would allow for adjustment of quotas in response to recent harvest information and changes in the fishery. Yearly adjustment would help mitigate the negative social and economic impacts that either the commercial or recreational sector might experience given periodic shifts in effort.

The Councils would further modify the FMP in that the South Atlantic Fishery Management Council (South Atlantic Council) would propose regulations for the commercial fishery for Gulf group king mackerel in the Florida east coast subzone (Dade through Volusia Counties from November 1 through March 31, yearly). In that area, the South Atlantic Council would be responsible for setting vessel trip limits, closing seasons or areas, or adjusting gear restrictions. Otherwise, no other changes are proposed to revise the FMP provision, which now requires that the South Atlantic Council and the Gulf of Mexico Fishery Management Council (Gulf Council) be responsible, respectively, for the Atlantic and Gulf migratory groups of king and Spanish mackerel. This proposal would increase administrative efficiency and reduce costs and burdens to fishermen in this area who desire to participate in the management process, but now have to interact with both Councils.

Regulatory Changes That May Be Implemented by NMFS

The Councils' proposed modification of the FMP mirrors those previously discussed above under the heading FMP Framework Management Options Available to Councils. The changes would allow NMFS to implement any of the options that could be adjusted annually by the Councils. However, under the new authority that would be granted to NMFS, any reallocation of TAC for Atlantic group Spanish mackerel could not exceed 10 percent of the recreational allocation or the commercial quota in any given year. The Councils chose the 10–percent limitation to ensure that allocations/quotas would be changed gradually and, thus, minimize social and economic impacts on recreational and commercial fisheries. Also, any proposed adjustment could be implemented over several years to reach a desired goal, but would have to be assessed each year relative to changes in TAC and the potential social and economic impacts to either sector of the fishery.

The proposed modifications would explicitly authorize NMFS to reopen a commercial mackerel fishery that was closed prematurely, i.e., before the quota was taken. Excessive harvesting capacities in commercial mackerel fisheries and smaller sub-quotas for gears/geographical areas have increased the likelihood that premature closures may occur, especially when adverse weather conditions reduce harvest rates immediately preceding a projected closure date. The ability to reopen a commercial fishery would ensure the full economic benefit of commercial quotas without adversely affecting the resource. NMFS's existing authority to effect quota closures and the added authority to reopen would also apply to recreational fisheries if, in the future, the Councils take action to control recreational harvest by quotas in addition to, or as a substitute for, bag limits. As is the case with closures, reopenings would be accomplished through notification in the **Federal Register**.

Optimum Yield

The Councils propose to revise the definition of OY to conform with the proposed overfishing definitions and SPR targets. The South Atlantic Council's and Gulf Council's targets would be set at OYs of 40 and 30 percent static SPR, respectively. ABCs would be calculated based on each Council's chosen OY target.

Currently, the OY definition in the FMP states that the long-term OY goal for mackerels and cobia is MSY. The Councils believe that this definition may drive spawning stock levels toward the overfished level. They consider the newly proposed definition to be more risk-averse, i.e., revising and resetting OY targets at SPRs of 30 and 40 percent would decrease the risks of overfishing more than setting them at MSY.

Availability of and Comments on Amendment 8

Additional background and rationale for the measures discussed above are contained in Amendment 8, the availability of which was announced in the **Federal Register** on April 23, 1997 (62 FR 19733). Written comments on Amendment 8 are solicited and must be received by June 23, 1997. Comments that are received by June 23, 1997, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 8. Comments received after that date will not be considered in the approval/disapproval decision. All comments received on Amendment 8 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Additional Changes Proposed by NMFS

In accordance with the northern limit of the regulations on sea bass in the South Atlantic EEZ, NMFS proposes to clarify, at §§ 622.4(a)(2)(vi), 622.6(b)(1), and 622.40(b)(3)(i), that the permitting, marking, and construction requirements for the use of a sea bass pot apply in the EEZ between the latitudes of Cape Hatteras, NC, and Cape Canaveral, FL.

To clarify what constitutes commercial fishing for the purpose of obtaining a commercial vessel permit, NMFS proposes to replace the phrase ''sale of fish from the applicant's vessels,'' where it appears in § 622.4(a)(2), with the phrase ''harvest and first sale of fish.'' Literal application of the replaced language would preclude a crew member of a fishing vessel from using salary or shares from fishing to meet an earned income from fishing requirement for a permit if such crew member became a vessel owner or operator. Such application was not intended by the Councils. The revised language would, however, preclude a person from using the income from fish purchased and resold to meet an earned income from fishing or gross sales requirement for a permit.

A recent amendment to the Magnuson-Stevens Act defines the term ''charter fishing'' as ''fishing from a vessel carrying a passenger for hire * * * who is engaged in recreational fishing.'' To ensure compatibility with this newly defined term, NMFS proposes to revise the definition of ''charter vessel'' in § 622.4 and to substitute the words ''charter fishing'' for the words ''charter or headboat operations'' where they appear in § 622.4(a)(2)(v) and (vi). As newly defined, ''charter fishing'' encompasses operations of both charter vessels and headboats.

As noted above, the Councils propose to make explicit the authority of NMFS to reopen a commercial mackerel fishery that has been closed prematurely. NMFS recently approved similar action proposed by the Gulf Council in Amendment 14 to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico. The rationale for these actions generally applies to all fisheries in which there are quota closures. Accordingly, for standardization among fisheries, NMFS proposes to add the explicit authority to reopen the following fisheries in which there are provisions for quota closures, if they are prematurely closed: Gulf and South Atlantic allowable octocoral (50 CFR 622.42(b)(1)); and royal red shrimp in the Gulf (50 CFR 622.42(d)).

To conform with the proposed new definition of ''hook-and-line gear,''

NMFS proposes clarifying language where that phrase is used in connection with authorized or prohibited gears in the snapper-grouper fishery off the southern Atlantic states (50 CFR 622.35(e)(2)(i) and 622.41(d)(1) and (3)).

NMFS also proposes to make technical corrections to references in the codified text as follows: In the definition of ''Dealer'' at § 622.2, the reference would be revised to read ''§ 622.10''; in the description of the reef fish longline and buoy gear restricted area at § 622.34(c), the reference to figures 1 and 2 would be removed; in the description of the reef fish stressed area at § 622.34(g), the reference to figures 3 and 4 would be removed; and in the restrictions regarding purchase of South Atlantic snapper-grouper at § 622.45(d)(2), the reference would be revised to read ''§ 622.4(a)(2)(vi)''.

As discussed above, Amendment 8 proposes additional marking requirements for gillnets used for Atlantic group Spanish mackerel. Inclusion of that new requirement would necessitate restructuring the existing regulations at 50 CFR 622.6(b), (c), and (d). For ease of understanding and for clarity, this proposed rule restates the existing gear identification requirements for traps, pots, and their associated buoys without substantive change.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 8.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Councils prepared an IRFA, based on the RIR, that describes the impact this proposed rule, if adopted, would have on small entities. Based on the IRFA, NMFS has concluded that Amendment 8, if approved and implemented through final regulations, would have significant economic impacts on a substantial number of small entities. A summary of the IRFA's assessment of the significant impacts on small entities, as supplemented by NMFS where necessary, follows.

The Councils intend that the proposed management measures continue the recovery of the stocks, limit the introduction of new gear, and provide a more flexible and responsive regulatory system. Increasing entry of participants in the fishery has resulted in shorter seasons to fill quotas. Uncertainty of stock identification of migratory groups of king mackerel continues to complicate management of this species. While the proposed management measures relate to all eight major objectives of the FMP, the objectives to recover and stabilize the stocks, to provide for flexible management, to provide for management of the specific migratory groups, and to optimize the social and economic benefits of the coastal migratory pelagic fisheries are the most germane. The Magnuson-Stevens Act provides the legal basis for the rule.

Amendment 8 will affect most of the 3,819 vessels from Atlantic and Gulf states (1,722 and 2,097 vessels, respectively) that have permits to operate in mackerel fisheries in the EEZ. For Atlantic states, 1,093 vessels possess commercial permits, 393 possess charter/headboat permits, and 236 vessels possess both permits. For Gulf states, 1,266 vessels possess commercial permits, 613 possess charter/headboat permits, and 218 vessels possess both permits. All of the commercial fishing and charter/headboat businesses that would be affected by Amendment 8 are considered small entities for the purposes of the Regulatory Flexibility Act. There are no data that describe the precise average or range of operating costs or annual gross revenues. A substantial number of small entities are expected to be affected for purposes of the Regulatory Flexibility Act.

The Councils concluded that no single proposed measure in Amendment 8 would significantly affect revenues of the small entities expected to be impacted by the proposed rule. However, the Councils also concluded that the cumulative effect of the amendment's 21 proposed management measures (not including a number of proposed ''no action'' measures) could change annual revenues in excess of 5 percent. The RIR and associated IRFA contain an analysis, largely qualitative, of the economic impacts of the 21 proposed management measures and their rejected alternatives. Management measures that should result in the greatest revenue changes for small entities include the moratorium on new entrants, changes in income qualifications for commercial fishing permits, and changed commercial trip limits for Atlantic group king mackerel. Further, the proposed increase in the income requirement for obtaining a king or Spanish mackerel commercial permit may eliminate as many as 5 percent of the currently permitted vessels from participation in the mackerel fisheries. Whether these vessels would cease business operations entirely is not known, but switching to a higher reliance on alternative fisheries may significantly reduce their overall incomes and/or increase their costs of fishing.

The proposed management measures will not create any changed or increased compliance costs related to reporting and record keeping other than those resulting from the gear marking requirements. Refer to the discussion below concerning this rule's collection-of-information requirements that are subject to approval under the Paperwork Reduction Act (PRA). However, there will be increased compliance costs associated with the restrictions on the use of gillnets and the additional marking requirement for gillnets, each applicable to the harvest of Atlantic group Spanish mackerel in a portion of the EEZ off the east coast of Florida. These costs were not formally addressed in the RIR. The proposal to limit lengths of gillnets used for Spanish mackerel and to require special buoys marked with the owner's permit number on such gillnets used in the prescribed area will require small compliance costs to modify the gear so that it will be legal under the preferred alternative. Additionally, the management measures to limit the types of commercial gear in the fishery to a specified number of gear types will have a compliance cost to the extent that some fishermen may be currently using non-conforming gear and would have to undergo costs of switching to an alternative gear. There are no estimates available of the amount of the compliance costs related to the preferred gear measures. The operators will not have to acquire new skills to meet the additional requirements.

There are no existing Federal rules which may duplicate, overlap, or conflict with the proposed rule.

The Councils considered significant alternatives for most of the proposed management measures. The rejected alternative for the moratorium on new entrants was the status quo. It was rejected on the basis that new entrants would tend to contribute to an increase in overall effort. The result would be increased costs that would offset revenue increases expected from stock improvements and subsequent increases in the commercial quota. The proposed moratorium will result, based on the October 16, 1995, control date, in some 141 vessel owners becoming ineligible for renewal of their king mackerel permits. These individuals will, however, be eligible for new king mackerel permits through the permit

transfer measures of Amendment 8 and for Spanish mackerel permits.

Alternatives to the newly proposed permit requirement of a minimum of 25 percent of gross annual income or at least $10,000 in sales derived from commercial or for-hire business included the status quo of a single requirement of 10 percent of income from fishing and other, more restrictive requirements. The status quo has less of an effect on small businesses than the proposed alternative because an estimated 145 fishermen will lose their permits with the proposed change. This level of impact was deemed to be acceptable, because most of the 145 permit holders who will be disqualified are fishermen who are more correctly identified as recreational fishermen who sell their catch. The more restrictive alternatives would have mandated a larger dependence on fishing as a source of income and would have eliminated an unacceptably large number of historical commercial fishermen.

No alternatives were considered for the more restrictive trip limits for Atlantic migratory group king mackerel, with the exception of an alternative to have more restrictive trip limits in the Florida Keys. Even though the status quo was not considered, the proposed regulation would reduce overall revenues by restricting overall catches relative to the status quo, particularly in the area where a 500 pound daily limit is proposed. In this area, an estimated 24 percent of commercial king mackerel revenues will be foregone, with an unknown effect on the ability of certain fishermen to remain in the fishery. The Councils considered the negative effect on small business acceptable because the restriction could potentially lengthen the season while slowing catch rates and increasing seasonal prices.

Although not mentioned among the proposed measures that would significantly affect revenues of small entities, the proposal to limit gear to specified gear types was contrasted with the rejected alternative of maintaining the status quo. While the status quo would not entail additional compliance costs (in meeting new allowable gear specifications) and new gear innovation and development would not be possible, the Councils rejected the status quo as not offering resolution of the current enforcement problems in differentiating between legal and non-legal gear and not providing the opportunity to develop new, beneficial gears for the Mid-Atlantic and South Atlantic fisheries.

Other proposed measures include the identification of an additional problem of localized fishing, a continuation of regulations governing the at-sea transfer of Spanish mackerel, a rejection of dealer permits and a moratorium on new charter vessel permits, decisions to make no major changes in the management for cobia and dolphin, and other measures largely of a technical nature. Rejected alternatives were considered for all of these, but since most of the decisions involved maintaining the status quo, there are only minor effects on small entities from all these other proposals considered jointly.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB Control Number.

The proposed rule contains a new collection-of-information requirement subject to the PRA—namely, the requirement that the float line of a gillnet used or possessed in the EEZ off Florida north of 25°20.4' N. lat. be marked with distinctive floats bearing the official number of the vessel using or possessing it. This requirement has been submitted to OMB for approval. The public reporting burden for this new collection of information is estimated at 20 minutes per float.

This rule involves the collection of information on applications for commercial vessel permits. That collection is currently approved under OMB Control No. 0648-0205 and its public reporting burden is estimated at 20 minutes per response. This rule also involves the collection of information on fishing records of vessels permitted in the commercial king or Spanish mackerel fisheries. That collection is currently approved under OMB Control No. 0648-0016 and its public reporting burden is estimated at 15 minutes per response. Finally, this rule restates without significant change the collection of information for the marking of traps, pots, and associated buoys in the Caribbean, Gulf of Mexico, and South Atlantic EEZ. That collection is currently approved under OMB Control No. 0648–0305 and its public reporting burden is estimated at 7 minutes per trap, pot, or buoy. These reporting burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collection of information, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 17, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.1, footnote 2 to Table 1 is revised to read as follows:

§ 622.1 Purpose and scope.

* * * * *

Table 1.—FMPs Implemented Under Part 622

* * * * * * *

[2] Only king and Spanish mackerel and cobia are managed under the FMP in the Mid-Atlantic.

* * * * * * *

3. In § 622.2, in the definition of ''Dealer'', the reference ''§ 600.15'' is revised to read ''§ 600.10''; definitions of ''Automatic reel'', ''Bandit gear'', ''Handline'', ''Hook-and-line gear'', ''Long gillnet'', ''Longline'', ''Rod and reel'', ''Stab net'', and ''Trammel net'' are added in alphabetical order; and the definitions of ''Charter vessel'' and ''Run-around gillnet'' are revised to read as follows:

§ 622.2 Definitions.

* * * * *

Automatic reel means a reel that remains attached to a vessel when in use from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel electrically or hydraulically.

Bandit gear means a rod and reel that remain attached to a vessel when in use

from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel manually, electrically, or hydraulically.

* * * * *

Charter vessel means a vessel less than 100 gross tons (90.8 mt) that meets the requirements of the USCG to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under § 622.4(a)(2), is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

* * * * *

Handline means a line with attached hook(s) that is tended directly by hand.

* * * * *

Hook-and-line gear means automatic reel, bandit gear, buoy gear, handline, longline, and rod and reel.

* * * * *

Long gillnet means a gillnet that has a float line that is more than 1,000 yd (914 m) in length.

Longline means a line that is deployed horizontally to which gangions and hooks are attached. A longline may be a bottom longline, i.e., designed for use on the bottom, or a pelagic longline, i.e., designed for use off the bottom. The longline hauler may be manually, electrically, or hydraulically operated.

* * * * *

Rod and reel means a rod and reel unit that is not attached to a vessel, or, if attached, is readily removable, from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel manually, electrically, or hydraulically.

Run-around gillnet means a gillnet, other than a long gillnet, that, when used, encloses an area of water.

* * * * *

Stab net means a gillnet, other than a long gillnet, or trammel net whose weight line sinks to the bottom and submerges the float line.

* * * * *

Trammel net means two or more panels of netting, suspended vertically in the water by a common float line and a common weight line, with one panel having a larger mesh size than the other(s), to entrap fish in a pocket of netting.

* * * * *

4. In § 622.4, in paragraph (d), the reference ''§ 622.6(b)(1)(i)'' is revised to read ''§ 622.6(b)(1)(i)(B)''; paragraphs (a)(2)(iv) through (vi) and (g) are revised; and paragraphs (a)(2)(iii) and (q) are added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(iii) *King mackerel.* For a person aboard a vessel to be eligible for exemption from the bag limits and to fish under a quota for king mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, a commercial vessel permit for king mackerel must have been issued to the vessel and must be on board. To obtain or renew a commercial vessel permit for king mackerel valid through the end of the month that is 13 months after the date of publication of the final rule that contains this paragraph (a)(2)(iii), at least 10 percent of the applicant's earned income must have been derived from commercial fishing (i.e., harvest and first sale of fish) during one of the 3 calendar years preceding the application. To obtain or renew a commercial vessel permit for king mackerel valid after the end of the month that is 13 months after the date of publication of the final rule that contains this paragraph (a)(2)(iii), at least 25 percent of the applicant's earned income, or at least $10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application. See paragraph (q) of this section regarding a moratorium on commercial vessel permits for king mackerel, initial permits under the moratorium, transfers of permits during the moratorium, and limited exceptions to the earned income or gross sales requirement for a permit.

(iv) *Spanish mackerel.* For a person aboard a vessel to be eligible for exemption from the bag limits and to fish under a quota for Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, a commercial vessel permit for Spanish mackerel must have been issued to the vessel and must be on board. To obtain or renew a commercial vessel permit for Spanish mackerel valid through the end of the month that is 13 months after the date of publication of the final rule that contains this paragraph (a)(2)(iv), at least 10 percent of the applicant's earned income must have been derived from commercial fishing (i.e., harvest and first sale of fish) during one of the 3 calendar years preceding the application. To obtain or renew a commercial vessel permit for Spanish mackerel valid after the end of the month that is 13 months after the date of publication of the final rule that contains this paragraph (a)(2)(iv), at least 25 percent of the applicant's earned income, or at least $10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application.

(v) *Gulf reef fish.* For a person aboard a vessel to be eligible for exemption from the bag limits, to fish under a quota, or to sell Gulf reef fish in or from the Gulf EEZ, a commercial vessel permit for Gulf reef fish must have been issued to the vessel and must be on board. To obtain or renew a commercial vessel permit for Gulf reef fish, more than 50 percent of the applicant's earned income must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during either of the 2 calendar years preceding the application. See paragraph (m) of this section regarding a moratorium on commercial vessel permits for Gulf reef fish and limited exceptions to the earned income requirement for a permit.

(vi) *South Atlantic snapper-grouper.* For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ between 35°15.3' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), a commercial vessel permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. A vessel with longline gear and more than 200 lb (90.7 kilograms) of tilefish on board is considered to be in the directed fishery for tilefish. It is a rebuttable presumption that a fishing vessel with more than 200 lb of tilefish on board harvested such tilefish in the EEZ. To obtain or renew a commercial vessel permit for South Atlantic snapper-grouper, more than 50 percent of the applicant's earned income must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing, or gross sales of fish harvested from the owner's, operator's, corporation's, or partnership's vessels must have been greater than $20,000, during one of the 3 calendar years preceding the application.

* * * * *

(g) *Transfer.* A vessel permit or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in

paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, paragraph (n) of this section for a fish trap endorsement, paragraph (p) of this section for a red snapper endorsement, or paragraph (q) of this section for a king mackerel permit. A person who acquires a vessel, transferred permit or endorsement, or dealership who desires to conduct activities for which a permit or endorsement is required must apply for a permit or endorsement in accordance with the provisions of this section. If the acquired vessel or dealership is currently permitted, the application must be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers.

* * * * *

(q) *Moratorium on commercial vessel permits for king mackerel.* This paragraph (q) is effective through October 15, 2000.

(1) Effective on the date of publication of the final rule that contains this paragraph (q)(1), an initial commercial vessel permit for king mackerel will be issued only if the vessel owner was the owner of a vessel with a commercial vessel permit for king mackerel on or before October 16, 1995. A king mackerel permit for a vessel whose owner does not meet this moratorium criterion may be renewed only through the end of the month that is 13 months after the date of publication of the final rule that contains this paragraph (q)(1).

(2) To obtain a commercial vessel permit for king mackerel under the moratorium, an owner or operator of a vessel that does not have a king mackerel permit on the date of publication of the final rule that contains this paragraph (q)(2) must submit an application to the RD postmarked or hand delivered not later than 90 days after the date of publication of the final rule that contains this paragraph (q)(2). Other than applications for renewals of commercial vessel permits for king mackerel, no applications for commercial vessel permits for king mackerel will be accepted after the date that is 90 days after the date of publication of the final rule that contains this paragraph (q)(2). Application forms are available from the RD.

(3) An owner will not be issued initial commercial vessel permits for king mackerel under the moratorium in numbers exceeding the number of vessels permitted in the king mackerel fishery that he/she owned simultaneously on or before October 16, 1995. If a vessel with a commercial vessel permit for king mackerel on or before October 16, 1995, has been sold since that date, the owner on or before that date retains the right to the commercial vessel permit for king mackerel unless there is a written agreement that such right transfers to the new owner.

(4) An owner of a permitted vessel may transfer the commercial vessel permit for king mackerel issued under this moratorium to another vessel owned by the same entity.

(5) An owner whose percentage of earned income or gross sales qualified for the commercial vessel permit for king mackerel issued under the moratorium may transfer that permit to the owner of another vessel, or to the new owner when he or she transfers ownership of the permitted vessel. Such owner of another vessel, or new owner, may receive a commercial vessel permit for king mackerel for his or her vessel, and renew it through April 15 following the first full calendar year after obtaining it, without meeting the percentage of earned income or gross sales requirement of paragraph (a)(2)(iii) of this section. However, to further renew the commercial vessel permit, the owner of the other vessel, or new owner, must meet the earned income or gross sales requirement not later than the first full calendar year after the permit transfer takes place.

(6) An owner of a permitted vessel, the permit for which is based on an operator's earned income and, thus, is valid only when that person is the operator of the vessel, may transfer the permit to the income-qualifying operator when such operator becomes an owner of a vessel.

(7) An owner of a permitted vessel, the permit for which is based on an operator's earned income and, thus, is valid only when that person is the operator of the vessel, may have the operator qualification on the permit removed, and renew it without such qualification through April 15 following the first full calendar year after removing it, without meeting the earned income or gross sales requirement of paragraph (a)(2)(iii) of this section. However, to further renew the commercial vessel permit, the owner must meet the earned income or gross sales requirement not later than the first full calendar year after the operator qualification is removed. To have an operator qualification removed from a permit, the owner must return the original permit to the RD with an application for the changed permit.

(8) A commercial vessel permit for king mackerel that is not renewed or that is revoked will not be reissued. A permit is considered to be not renewed when an application for renewal is not received by the RD within 1 year of the expiration date of the permit.

5. In § 622.5, paragraph (a)(1)(i) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(1) * * *

(i) *Coastal migratory pelagic fish.* The owner or operator of a vessel that fishes for or lands coastal migratory pelagic fish for sale in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ or adjoining state waters, or whose vessel is issued a commercial permit for king or Spanish mackerel, as required under § 622.4(a)(2)(iii) or (iv), who is selected to report by the SRD, must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

* * * * *

6. In § 622.6, paragraphs (c) and (d) are removed and paragraph (b) is revised to read as follows:

§ 622.6 Vessel and gear identification.

* * * * *

(b) *Gear identification*—(1) *Traps/pots and associated buoys*—(i) *Traps or pots*—(A) *Caribbean EEZ.* A fish trap or spiny lobster trap used or possessed in the Caribbean EEZ must display the official number specified for the vessel by Puerto Rico or the U.S. Virgin Islands so as to be easily identified.

(B) *Gulf and South Atlantic EEZ.* A fish trap used or possessed in the Gulf EEZ and a sea bass pot used or possessed in the South Atlantic EEZ between 35°15.3' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), or a fish trap or sea bass pot on board a vessel with a commercial permit for Gulf reef fish or South Atlantic snapper-grouper, must have a valid identification tag issued by the RD attached. A golden crab trap used or possessed in the South Atlantic EEZ or on board a vessel with a commercial permit for golden crab must have the commercial vessel permit number permanently affixed so as to be easily distinguished, located, and identified; an identification tag issued by the RD may be used for this purpose but is not required.

(ii) *Associated buoys.* A buoy that is attached to a trap or pot must display the assigned number and color code so as to be easily distinguished, located, and identified as follows:

(A) *Caribbean EEZ*. Each buoy must display the official number and color code specified for the vessel by Puerto Rico or the U.S. Virgin Islands, whichever is applicable.

(B) *Gulf and South Atlantic EEZ*. Each buoy must display the number and color code assigned by the RD. In the Gulf EEZ, a buoy must be attached to each trap, or each end trap if traps are connected by a line. In the South Atlantic EEZ, buoys are not required to be used, but, if used, each buoy must display the number and color code. However, no color code is required on a buoy attached to a golden crab trap.

(iii) *Presumption of ownership*. A Caribbean spiny lobster trap, a fish trap, a golden crab trap, or a sea bass pot in the EEZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to such traps and pots that are lost or sold if the owner reports the loss or sale within 15 days to the RD.

(iv) *Unmarked traps, pots, or buoys*. An unmarked Caribbean spiny lobster trap, a fish trap, a golden crab trap, a sea bass pot, or a buoy deployed in the EEZ where such trap, pot, or buoy is required to be marked is illegal and may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer.

(2) *Gillnet buoys*. On board a vessel with a valid Spanish mackerel permit that is fishing for Spanish mackerel in, or that possesses Spanish mackerel in or from, the South Atlantic EEZ off Florida north of 25°20.4' N. lat., which is a line directly east from the Dade/Monroe County, FL, boundary, the float line of each gillnet possessed, including any net in use, must have a maximum of nine distinctive floats, i.e., different from the usual net buoys, spaced uniformly at a distance of 100 yd (91.44 m) or less. Each such distinctive float must bear the official number of the vessel.

§ 622.31 [Amended]

7. In § 622.31, paragraph (d) is removed and paragraphs (e) through (k) are redesignated as paragraphs (d) through (j) respectively.

8. In § 622.32, paragraph (c)(1) is revised to read as follows:

§ 622.32 Prohibited and limited-harvest species.

* * * * *

(c) * * *

(1) *Cobia*. No person may possess more than two cobia per day in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, regardless of the number of trips or duration of a trip.

* * * * *

§ 622.34 [Amended]

9. In § 622.34, in the last sentence of paragraph (c), the phrase ''and shown in Figures 1 and 2'' is removed and in paragraph (g) introductory text, the phrase ''and shown in Figures 3 and 4'' is removed.

10. In § 622.35, paragraph (e)(2)(i) is revised to read as follows:

§ 622.35 South Atlantic EEZ seasonal and/or area closures.

* * * * *

(e) * * *

(2) * * *

(i) In SMZs specified in paragraphs (e)(1)(i) through (xviii) and (e)(1)(xxii) through (xxix) of this section, the use of a gillnet or a trawl is prohibited, and fishing may be conducted only with handline, rod and reel, and spearfishing gear.

* * * * *

11. In § 622.37, paragraph (c)(1) is revised to read as follows:

§ 622.37 Minimum sizes.

* * * * *

(c) * * *

(1) Cobia in the Gulf, Mid-Atlantic, or South Atlantic—33 inches (83.8 cm), fork length.

* * * * *

12. In § 622.38, paragraph (a) is revised and paragraph (h) is added to read as follows:

§ 622.38 Landing fish intact.

* * * * *

(a) The following must be maintained with head and fins intact: Cobia, king mackerel, and Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, except as specified for king mackerel in paragraph (g) of this section; South Atlantic snapper-grouper in or from the South Atlantic EEZ; yellowtail snapper in or from the Caribbean EEZ; and finfish in or from the Gulf EEZ, except as specified in paragraphs (c), (d), and (e) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition.

* * * * *

(h) A maximum of five cut-off (damaged) king mackerel may be possessed in the Gulf, Mid-Atlantic, or South Atlantic EEZ on, and offloaded ashore from, a vessel that is operating under a trip limit for king mackerel specified in § 622.44(a). Such cut-off (damaged) king mackerel are not counted against the trip limit and may not be sold or purchased.

13. In § 622.40, the first sentence of paragraph (b)(3)(i) introductory text is revised to read as follows:

§ 622.40 Limitation on traps and pots.

* * * * *

(b) * * *

(3) * * *

(i) A sea bass pot that is used or possessed in the South Atlantic EEZ between 35°15.3' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL) is required to have on at least one side, excluding top and bottom, a panel or door with an opening equal to or larger than the interior end of the trap's throat (funnel). * * *

* * * * *

14. In § 622.41, paragraphs (c), (d)(1), and (d)(3) are revised to read as follows:

§ 622.41 Species-specific limitations.

* * * * *

(c) *Coastal migratory pelagic fish*—(1) *Authorized gear*. Subject to the prohibitions on gear/methods specified in § 622.31, the following are the only fishing gears that may be used in the Gulf, Mid-Atlantic, and South Atlantic EEZ in directed fisheries for coastal migratory pelagic fish:

(i) King mackerel, Atlantic migratory group—

(A) North of 34°37.3' N. lat., the latitude of Cape Lookout Light, NC—all gear except a long gillnet.

(B) South of 34°37.3' N. lat.—automatic reel, bandit gear, handline, and rod and reel.

(ii) King mackerel, Gulf migratory group—hook-and-line gear and run-around gillnet.

(iii) Spanish mackerel, Atlantic migratory group—

(A) North of 34°37.3' N. lat., the latitude of Cape Lookout Light, NC—automatic reel, bandit gear, handline, rod and reel, cast net, run-around gillnet, stab net, and drift gillnet.

(B) South of 34°37.3' N. lat.—automatic reel, bandit gear, handline, rod and reel, cast net, run-around gillnet, and stab net.

(iv) Spanish mackerel, Gulf migratory group—all gear except long gillnet, drift gillnet, and purse seine.

(v) Cobia in the Mid-Atlantic and South Atlantic EEZ, dolphin in the South Atlantic EEZ, and little tunny in the South Atlantic EEZ south of 34°37.3' N. lat.—automatic reel, bandit gear, handline, rod and reel, and pelagic longline.

(vi) Cero in the South Atlantic EEZ and little tunny in the South Atlantic EEZ north of 34°37.3' N. lat.—all gear except a long gillnet.

(vii) Bluefish, cero, cobia, dolphin, and little tunny in the Gulf EEZ—all gear except a long gillnet.

(2) *Unauthorized gear.* The following possession limitations apply when fishing gears other than those specified in paragraph (c)(1) of this section are on board:

(i) *Long gillnets.* A vessel with a long gillnet on board in, or that has fished on a trip in, the Gulf, Mid-Atlantic, or South Atlantic EEZ may not have on board on that trip a coastal migratory pelagic fish.

(ii) *Drift gillnets.* A vessel with a drift gillnet on board in, or that has fished on a trip in, the Gulf EEZ may not have on board on that trip a king or Spanish mackerel.

(iii) *Other unauthorized gear.* Except as specified in paragraphs (c)(2)(iv) of this section, a vessel with other unauthorized gear on board in, or that has fished in, the EEZ where such gear is not authorized in paragraph (c)(1) of this section is limited to the bag limit for king and Spanish mackerel specified in § 622.39(c)(1)(ii) and to the limit on cobia specified in § 622.32(c)(1).

(iv) *Exception for king mackerel in the Gulf EEZ.* Paragraph (c)(2)(iii) of this section notwithstanding, a vessel in or from the Gulf EEZ that has a valid commercial permit for king mackerel is not limited on a trip to the bag limit for king mackerel when it has on board on that trip other unauthorized gear. Thus, with respect to king mackerel in or from the Gulf EEZ, a vessel that has a commercial permit for king mackerel may use no unauthorized gear in a directed fishery for king mackerel. If such a vessel has a long gillnet or a drift gillnet on board, no king mackerel may be possessed. If such a vessel has other unauthorized gear on board, the possession of king mackerel taken incidentally is not restricted. See also paragraph (c)(4) of this section regarding the purse seine incidental catch allowance of king mackerel.

(3) *Gillnets*—(i) *King mackerel.* The minimum allowable mesh size for a gillnet used to fish in the Gulf, Mid-Atlantic, or South Atlantic EEZ for king mackerel is 4.75 inches (12.1 cm), stretched mesh. A vessel in such EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 4.75 inches (12.1 cm), stretched mesh, may not possess on that trip an incidental catch of king mackerel that exceeds 10 percent, by number, of the total lawfully possessed Spanish mackerel on board.

(ii) *Spanish mackerel.* (A) The minimum allowable mesh size for a gillnet used to fish in the Gulf, Mid-Atlantic, or South Atlantic EEZ for Spanish mackerel is 3.5 inches (8.9 cm), stretched mesh. A vessel in such EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 3.5 inches (8.9 cm), stretched mesh, may not possess on that trip any Spanish mackerel.

(B) On board a vessel with a valid Spanish mackerel permit that is fishing for Spanish mackerel in, or that possesses Spanish mackerel in or from, the South Atlantic EEZ off Florida north of 25°20.4' N. lat., which is a line directly east from the Dade/Monroe County, FL, boundary—

(*1*) No person may fish with, set, place in the water, or have on board a gillnet with a float line longer than 800 yd (732 m).

(*2*) No person may fish with, set, or place in the water more than one gillnet at any one time.

(*3*) No more than two gillnets, including any net in use, may be possessed at any one time; provided, however, that if two gillnets, including any net in use, are possessed at any one time, they must have stretched mesh sizes that differ by at least .25 inch (.64 cm).

(*4*) No person may soak a gillnet for more than 1 hour. The soak period begins when the first mesh is placed in the water and ends either when the first mesh is retrieved back on board the vessel or the gathering of the gillnet is begun to facilitate retrieval on board the vessel, whichever occurs first; providing that, once the first mesh is retrieved or the gathering is begun, the retrieval is continuous until the gillnet is completely removed from the water.

(*5*) The float line of each gillnet possessed, including any net in use, must have the distinctive floats specified in § 622.6(b)(2).

(4) *Purse seine incidental catch allowance.* A vessel in the EEZ, or having fished in the EEZ, with a purse seine on board will not be considered as fishing, or having fished, for king or Spanish mackerel in violation of a prohibition of purse seines under paragraph (c)(2) of this section, in violation of the possession limits under paragraph (c)(2)(iii) of this section, or, in the case of king mackerel from the Atlantic migratory group, in violation of a closure effected in accordance with § 622.43(a), provided the king mackerel on board does not exceed 1 percent, or the Spanish mackerel on board does not exceed 10 percent, of all fish on board the vessel. Incidental catch will be calculated by number and/or weight of fish. Neither calculation may exceed the allowable percentage. Incidentally caught king or Spanish mackerel are counted toward the quotas provided for under § 622.42(c) and are subject to the prohibition of sale under § 622.43(a)(3)(iii).

(d) * * *

(1) *Authorized gear.* Subject to the gear restrictions specified in § 622.31, the following are the only gear types authorized in directed fishing for snapper-grouper in the South Atlantic EEZ: Bandit gear, bottom longline, buoy gear, handline, rod and reel, sea bass pot, and spearfishing gear.

* * * * *

(3) *Use of sink nets off North Carolina.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ off North Carolina on a trip with a sink net on board, may retain otherwise legal South Atlantic snapper-grouper taken on that trip with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(3), a sink net is a gillnet with stretched mesh measurements of 3 to 4.75 inches (7.6 to 12.1 cm) that is attached to the vessel when deployed.

* * * * *

15. In § 622.42, the first sentence of paragraph (c) introductory text is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(c) * * * King and Spanish mackerel quotas apply to persons who fish under commercial vessel permits for king or Spanish mackerel, as required under § 622.4(a)(2)(iii) or (iv). * * *

* * * * *

16. In § 622.43, paragraph (a)(3)(i) and (ii) are revised and paragraph (c) is added to read as follows:

§ 622.43 Closures.

(a) * * *

(3) * * *

(i) A person aboard a vessel for which a commercial permit for king or Spanish mackerel has been issued, as required under § 622.4(a)(2)(iii) or (iv), may not fish for king or Spanish mackerel in the EEZ or retain fish in or from the EEZ under a bag or possession limit specified in § 622.39(c) for the closed species, migratory group, zone, subzone, or gear, except as provided for under paragraph (a)(3)(ii) of this section.

(ii) A person aboard a vessel for which the permit indicates both charter vessel/headboat for coastal migratory pelagic fish and commercial king or Spanish mackerel may continue to retain fish under a bag and possession limit specified in § 622.39(c), provided the vessel is operating as a charter vessel or headboat.

* * * * *

(c) *Reopening.* When a fishery has been closed based on a projection of the quota specified in § 622.42 being reached and subsequent data indicate that the quota was not reached, the Assistant Administrator may file a notification to that effect with the Office of the Federal Register. Such notification may reopen the fishery to provide an opportunity for the quota to be reached.

17. In § 622.44, paragraphs (a)(2)(i) introductory text and (a)(2)(ii)(B) introductory text are revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(a) * * *

(2) * * *

(i) *Florida east coast subzone.* In the Florida east coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial permit for king mackerel has been issued, as required under § 622.4(a)(2)(iii)—

* * * * *

(ii) * * *

(B) *Hook-and-line gear.* In the Florida west coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel with a commercial permit for king mackerel, as required by § 622.4(a)(2)(iii), and operating under the hook-and-line gear quota in § 622.42(c)(1)(i)(A)(*2*)(*i*):

* * * * *

18. In § 622.45, in paragraph (d)(2), the reference ''§ 622.4(a)(2)(iv)'' is revised to read ''§ 622.4(a)(2)(vi)'' and paragraph (h) is added to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(h) *Cut-off (damaged) king mackerel.* A cut-off (damaged) king mackerel lawfully possessed or offloaded ashore, as specified in § 622.38(g), may not be sold or purchased.

19. In § 622.48, in paragraph (d)(1), the phrase ''reopening of a fishery prematurely closed'' is removed, and paragraph (c) is revised to read as follows:

§ 622.48 Adjustment of management measures.

* * * * *

(c) *Coastal migratory pelagic fish.* For cobia or for a migratory group of king or Spanish mackerel: MSY, overfishing level, TAC, quota (including a quota of zero), bag limit (including a bag limit of zero), minimum size limit, vessel trip limits, closed seasons or areas, gear restrictions (ranging from regulation to complete prohibition), reallocation of the commercial/recreational allocation of Atlantic group Spanish mackerel, and permit requirements.

* * * * *

§§ 622.4 and 622.44 [Amended]

20. The words ''and Spanish'' are removed in the following places:

(a) In § 622.4, in the first sentence of paragraph (a)(2)(ii), in the heading of paragraph (o), in the first sentence of paragraph (o)(1), and in the second and third sentences of paragraph (o)(2).

(b) In § 622.44, in paragraph (a)(2)(ii)(A)(*2*)(*i*).

§ 622.44 [Amended]

21. The words ''king and'' are removed in § 622.44(b)(1)(i) and (b)(1)(ii) introductory text.

[FR Doc. 97–16360 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 120
Monday, June 23, 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

National Agricultural Research, Extension, Education, and Economics Advisory board; Notice of Stakeholder Listening Session

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of stakeholder listening session.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463), the United States Department of Agriculture, the National Agricultural Research, Extension, Education, and Economics Advisory Board announces a stakeholder ''listening session'' in the North Central Region on priority setting and performance assessment for agricultural research, education, and economics. This meeting is scheduled in conjunction with the Joint meeting of the North Central Regional Association of State Agricultural Experiment Station Directors and the Council on Agricultural Research, Extension and Teaching (CARET).

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, Education, and Economics Advisory Board (referred to hereafter as the Advisory Board) will hear views from university senior officials and other stakeholder interest groups on research priorities and USDA's performance planning, as part of an ongoing effort to obtain input from diverse stakeholder interest groups on critical issues in food and agriculture. The Advisory Board Chair, Executive Director, and several Advisory Board members will represent the Board at this ''listening session.''

Approximately 50 individuals are expected to participate in the ''listening session,'' which will be held at the Ramada University Hotel and Conference Center, Columbus, Ohio, on July 17, 1997, from 8:30 a.m. to 12 noon. Panelists from the North Central Region will present statements to the Advisory Board on national priorities for agricultural research, education, extension, and economics, and on measures for assessing performance and outcomes of Federally-funded research and education.

Statements by these stakeholders will be based, in part, on the draft Research, Education, and Economics (REE) Strategic Plan for the mission area and the draft REE and Cooperative State Research, Education, and Extension Service (CSREES) Performance Plans.

Comments presented at this North Central Region ''listening session'' will be carefully considered by the 30-member Advisory Board as they develop final recommendations to the Under Secretary for Research, Education, and Economics on the USDA Strategic and Performance Plans, prior to USDA's submission of the plans and budget to the Office of Management and Budget (by September 30, 1997).

Dates: July 17, 1997, 8:30 a.m.–noon.

Place: Ramada University Hotel and Conference Center, Columbus, Ohio.

Type of Meeting: Open to the public.

Comments: The public may file written comments before or after the ''listening session'' with the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board Office, Room 3918 South, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684.

Done at Washington, DC, this 12th day of June 1997.

Catherine E. Woteki,

Acting Under Secretary, Research, Education, and Economics.

[FR Doc. 97–16372 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Revenue Assurance

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 the insurance of corn and soybeans in select states and counties under the Revenue Assurance plan of insurance. This notice is intended to inform eligible producers and the private insurance industry of the availability of the Revenue Assurance plan of insurance 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 Revenue Assurance, originally submitted by Farm Bureau Mutual Insurance Company.

The Revenue Assurance program has been approved for reinsurance and premium subsidy, including subsidy for administrative and operating expenses. Revenue Assurance is designed to protect a producer's loss of revenue resulting from low prices, low yields, or a combination of both. The Revenue Assurance policy provides coverage on basic units, optional units, enterprise units, or whole-farm units as selected by the producer.

The Revenue Assurance program is available for corn and soybeans in all counties of Iowa beginning with the 1997 crop year.

Upon a written request, FCIC will provide the Revenue Assurance underwriting rules, rate factors and forms for corn and soybeans. FCIC will also make available the terms and conditions of the Revenue Assurance reinsurance agreement. Requests for such information should be sent to Timothy Hoffmann, at the above stated address.

FCIC herewith gives notice of the availability of the Revenue Assurance program of insurance for use by private

sector insurance companies for the 1997 crop year.

Notice: The terms and provisions for the Revenue Assurance program of insurance are as follows:

Revenue Assurance Insurance Policy

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions 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 any way 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 among the Basic Provisions, these Crop Provisions, and the Special Provisions, the Special Provisions will control these Crop Provisions and the Basic Provisions, and these Crop Provisions will control the Basic Provisions.

Basic Provisions—Terms and Conditions

1. Definitions

As used in this policy these terms are defined as follows:

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.

Acreage report—A report required by section 7 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.

Acreage reporting date—The date (contained in the Special Provisions) by which you are required to submit your acreage report.

Act—The Federal Crop Insurance Act, as amended, 7 U.S.C. 1501 *et seq.*

Another use, notice of—The written notice required when you wish to put acreage to another use (see section 15).

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.

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.

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.

Cancellation date—The calendar date specified in section 3(b) on which the policy will automatically renew unless canceled in writing by either you or us.

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 15).

Consent—Approval in writing by us allowing you to take a specific action.

Contract—(also see ''Policy'') A contract for insurance between you and us consisting of the accepted Application, these Basic Provisions, the Crop Provisions, and the Special Provisions.

Contract change date—The calendar date by which we make any contract (policy) changes available for inspection in the agent's office (see section 5).

County—The political subdivision of a state shown on your accepted application, including land in a field that extends into an adjoining county when the county boundary is not readily discernible.

Coverage level percent (CLP)—The percent determined by dividing the selected per-acre revenue guarantee (see section 1 of the Crop Provisions) by the expected per-acre revenue (see section 1 of the Crop Provisions) rounded to hundredths. The maximum allowable coverage level percent is 75 and the minimum allowable is 65. This coverage level percent is expressed in decimal form (.xxxx) to compute the per-acre revenue guarantee for all units and is expressed as a percent (xx.xx) to compute the premium subsidy factor.

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 12).

Crop provisions—The part of the policy that contains the specific provisions of insurance for each insured crop.

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.

Damage—Injury, deterioration, or loss of production of the insured crop due to insured or uninsured causes.

Damage, notice of—A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been physically damaged to the extent that a loss is probable (see section 15).

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.

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 14).

End of insurance period, date of—The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 12).

FSA—The Farm Service Agency of the United States Department of Agriculture (formerly the Agricultural Stabilization and Conservation Service), or a successor agency.

FSA Farm Serial Number—The number assigned to the farm by the FSA County Committee.

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'' section 1).

Insured crop—The crop defined under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

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 15).

MPCI—Multiple peril crop insurance program, a program of insurance offered under the Act and implemented in 7 CFR part 400.

Negligence—The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

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.

Policy—(also see ''Contract'') A contract for insurance between you and us consisting of the accepted Application, these Basic Provisions, the Crop Provisions, and the Special Provisions.

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, and time to crop maturity, that replanting to 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.

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.

Premium calculator—The computer software for the crop year which shows coverage levels, premium rates, practices, acreage, and other related information regarding Revenue Assurance in the county.

Production report—A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 4). 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.

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 10).

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 samples are further defined in the crop provisions.

Revenue guarantee—The guaranteed dollar amount on an insured unit. (See section 2 of the Crop Provisions.)

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.

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.

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 11(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.

Special Provisions—The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

State—The state shown on your accepted application.

Summary of coverage—Our statement to you, based upon your acreage report, by unit, specifying the insured crop and the Revenue Guarantee.

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).

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.

Unit:

(a) *Basic unit*—A basic unit is established in accordance with section 2 (a).

(b) *Optional unit*—An optional unit is established from basic units in accordance with section 2(b).

(c) *Enterprise unit*—An enterprise unit is established from basic units. An enterprise unit consists of all insurable acreage of corn *or* soybeans in the county in which you have a share on the date coverage begins for the crop year.

(d) *Whole-farm unit*—A whole-farm unit is established from enterprise units. A whole-farm unit is all insurable acreage of corn *and* soybeans in the county in which you have a share on the date coverage begins for the crop year.

2. Unit Structure

(a) Basic 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 ''Share'' section 1).

(b) Optional unit—Unless limited by the Special Provisions, a basic unit may be divided into optional units if, for each optional unit you meet all the conditions of this section. All optional units must be reflected on the acreage report for each crop year. There is a premium surcharge for optional units. The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your Revenue Guarantee;

(2) You must plant the crop in a manner that results in a clear and discernible break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of

stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production for each unit must be kept separate until after loss adjustment is completed; and

(4) Each optional unit must meet one or more of the following criteria as applicable:

(A) Optional Units by Section, Section Equivalent, or FSA Farm Serial Number: Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands as the equivalent of sections for unit purposes. In areas which have not been surveyed using the systems identified above or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA farm serial number.

(B) Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices: In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA farm serial number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your Revenue Guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all requirements of this section are met.

(5) 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.

(6) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and all the optional units are combined, the premium paid for the purpose of electing optional units will be refunded to you.

(c) Enterprise unit—Selecting an enterprise unit entitles you to receive a discount on your basic unit premium.

(d) Whole-farm unit—Selecting a whole-farm unit entitles you to receive a discount on your enterprise unit premium.

(e) Exclusivity Between Units—If you select whole-farm unit coverage then you cannot select any other unit structure. You may select enterprise coverage for one crop and enterprise coverage for the other crop *or* basic and/or optional unit coverage for the other crop.

3. Life of Policy, Cancellation, and Termination

(a) This policy will be in effect for the 1997 and 1998 crop years only. After acceptance of the application, you may not cancel this policy in the initial crop year. For the 1998 crop year, the policy will continue in force 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 and termination date of March 15.

(c) All policies issued by us under the authority of the Act will terminate as of the coincidental or next termination date 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 this paragraph 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) You are not eligible to participate in the Revenue Assurance program if you are identified in the Non-Standard Classification system.

(f) If you execute a High Risk Land Exclusion Option for a Revenue Assurance 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 Revenue Assurance 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.

4. Insurance Coverage

(a) For each crop year, the revenue per acre will be determined for each insured unit as shown on your summary of coverage. The information necessary to determine those amounts will be contained in the premium calculator.

(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) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 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.

(d) We may revise your Revenue Guarantee for any farm unit, and revise any indemnity paid based on that Revenue Guarantee, if we find that your

production report under section 4(c) above:

(1) is not supported by written verifiable records; or

(2) fails to accurately report actual production.

5. Contract Changes

We may change the coverage under this policy from year to year. Your crop insurance agent will have changes in policy provisions, premium rate structures, and program dates by December 31. 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.

6. 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.

7. 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) quarter section, section, township, and range for each line item in each unit;

(3) your share at the time coverage begins;

(4) the practice;

(5) the type; and

(6) 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 Revenue Guarantee on the unit will be reduced proportionately. In the event that acreage is under-reported, all production from insurable acreage for the unit, whether or not reported as insurable, will be considered production 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.

8. 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.

(b) Any amount due us will be deducted from any replant payment or indemnity due you under the provisions of this policy.

(c) The annual premium is determined by multiplying the number of insured acres on each unit times the applicable per acre premium, times any applicable discount factor for enterprise unit coverage or whole-farm unit coverage, or any applicable surcharge factor for optional unit coverage, times the premium subsidy factor.

(1) See section 3 of the Crop Provisions for the applicable discount or surcharge factors.

(2) The per acre premium for a basic unit is calculated by the premium calculator. The premium subsidy factor depends upon the coverage level. The premium subsidy factor is given by the following equation: premium subsidy factor = $1 - (2.965 - (.0574 \times CLP) + (.00028 \times CLP^2))$. CLP is expressed as a percent (xx.xx) in this formula. The premium subsidy will not exceed that which is available under a comparable MPCI policy.

9. 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 revenue guarantees 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

(6) used for wildlife protection or management.

10. 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;

(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 United States Department of Agriculture if we notify you of that restriction prior to the sales closing date.

11. Share Insured

(a) You may only insure your share (see definition of share in section 1).

(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.

12. Insurance Period

Coverage begins 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.

13. 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.

14. 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). The 20 acres or 20 percent requirement is to be applied for each crop in a whole farm unit.

(b) No replanting payment will be made on acreage:

(1) on which our appraisal establishes that revenue will exceed 90 percent of the Revenue Guarantee, set by the Crop Provisions, divided by your share;

(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).

15. Duties in the Event of Damage or Loss

Your Duties:

(a) In case of damage to any insured crop or loss of revenue 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), by unit, for each insured crop;

(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 expected revenue loss not later than 45 days after the date the county harvest price is published if your production multiplied by the county harvest price is less than the revenue guarantee.

(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 (see Crop Provisions) during the insurance period.

(f) All notices required in this section 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 the FCIC to determine production to count.

16. 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.

17. Crops as Payment

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

18. 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 Federal Crop Insurance Corporation must be resolved pursuant to 7 CFR part 11.

19. 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.

(e) This policy will be considered a continuation of any prior MPCI policy for actual production history purposes under 7 CFR part 400, subpart G. You need not resubmit production reports provided under the former policy.

20. 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 this section 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 this section, the amount of loss will be the reduction in revenue of the insured crop on the unit involved determined pursuant this policy.

21. 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.

22. 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 this section 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, if any (see section 22(d)), 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.

23. Legal Action Against Us

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

24. Payment and Interest Limitations

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) 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.

25. 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 Federal Crop Insurance Corporation policy or 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

Revenue Assurance—Corn and Soybean Crop Provisions

This is a pilot risk management program. This risk management tool will be reinsured under the authority provided by the Federal Crop Insurance Act as amended.

1. Definitions

County harvest price—The price used to value production to count. It is the simple average of the daily posted county prices as published by USDA for each county. For corn, the county harvest price is the average of the daily posted county prices for corn in November of the crop year. For soybeans, the county harvest price is the average of the daily posted county prices for soybeans in October. The county harvest price will be calculated by FCIC by November 5 for soybeans and December 5 for corn.

Expected per-acre revenue—The approved APH yield times the projected county price.

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 unit revenue guarantee.

Good farming practices—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 expected per-acre revenue, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

Harvest—Combining, threshing, or picking the insured crop for grain.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated unit revenue guarantee on the irrigated acreage planted to the insured crop.

Late planted—Acreage planted to the insured crop during the late planting period.

Late planting period—The period that begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

Maximum per-acre revenue guarantee—The expected per-acre revenue times the coverage level percent (.7500).

Minimum per-acre revenue guarantee—The expected per-acre revenue times the coverage level percent (.6500).

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. The crop must initially be planted in rows to be considered planted. Corn must be planted in rows far enough apart to permit mechanical cultivation. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions.

Prevented planting—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Prevented planting guarantee—The prevented planting guarantee for such acreage will be that percentage of the unit revenue guarantee for timely planted acres as set forth in section 11(d).

Projected county price—The price used to determine the unit revenue guarantee. Projected county prices represent our best projections—before planting—of the county harvest prices for corn and soybeans (see section 1). The first step in making these projections is to calculate the simple average of the final closing daily settlement prices in February on the Chicago Board of Trade (CBOT) December corn futures contract and November soybean futures contract for the current crop year. Projected county prices are found by subtracting county-specific adjustment factors from these average February CBOT prices. County adjustment factors reflect the historical difference between county harvest prices and CBOT futures prices in the harvest month. The county adjustment factors are known and fixed in January before planting. For corn, the county adjustment factor is the historical difference between county harvest prices for corn and the simple average of the final daily settlement prices in

November on the CBOT December corn futures contract. For soybeans, the county adjustment factor is the historical difference between county harvest prices for soybeans and the simple average of the final daily settlement prices in October on the November soybeans futures contract. The projected county prices will be calculated by FCIC by March 5 of the current crop year. The projected county prices for corn and soybeans in Pottawattamie County are the simple averages of the respective projected county prices for East and West Pottawattamie.

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.

Selected per-acre revenue guarantee—The per-acre dollar amount of revenue protection you select. This amount of revenue protection cannot be less than the minimum per-acre revenue guarantee nor more than the maximum per-acre revenue guarantee.

Silage—A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Unit revenue guarantee—The selected per-acre revenue guarantee, times the number of insured acres on the unit, times your share.

2. Revenue Guarantee

The unit revenue guarantee is determined using the following procedures for the different types of units. All information needed to calculate the applicable unit revenue guarantee is obtained from the premium calculator.

(a) Basic and optional unit revenue guarantee: A unit revenue guarantee (see section 1) is computed for each basic and optional unit. The coverage level (see section 1 of the Basic Provisions) for each crop unit must be the same.

(b) Enterprise unit revenue guarantee: For a corn enterprise unit, total the revenue guarantees for corn as if basic units and /or optional units had been selected in a county. For a soybean enterprise unit, total the revenue guarantees for soybeans as if basic and/or optional units had been selected in a county.

(c) Whole-farm unit revenue guarantee: Total the revenue guarantees for both corn and soybeans as if enterprise units had been selected in a county. Only one coverage level (see section 1 of the Basic Provisions) can be selected for the whole-farm unit.

3. Annual Premium

The annual premium on a unit is determined using the following procedures for the different types of units. All information needed to calculate per-acre premiums are obtained from the premium calculator. The annual premium you pay equals the annual premium, times the premium subsidy factor (see section 8(c)(2) of the Basic Provisions).

(a) Basic units: The per-acre premium on a basic unit is found using the premium calculator. The annual premium for a basic unit equals the per-acre premium, times the number of insured acres on the unit, times your share.

(b) Optional units: The per-acre premium for an optional unit equals the premium from the premium calculator, times an optional unit surcharge factor. The optional unit surcharge factor equals 1.22 for corn and 1.30 for soybeans. The annual premium for an optional unit equals the per-acre premium for the optional unit, times the number of insured acres on the optional unit, times your share.

(c) Enterprise units: The annual premium for a corn enterprise unit is found by totaling the annual premiums for corn as if basic and/or optional units had been selected in a county, and then multiplying the total by the corn enterprise discount factor. The annual premium for a soybean enterprise unit is found by totaling the annual premiums for soybeans as if basic and/or optional units had been selected in a county, and then multiplying the total by the soybean enterprise discount factor. The corn and soybean enterprise discount factors vary with the number of legally defined sections on which the basic units reside. The enterprise unit discount factors are:

Number of sections	Corn discount factor	Soybeans discount factor
1	1.00	1.00
2	0.85	0.76
3	0.81	0.69
4	0.79	0.65
5	0.775	0.61
6	0.76	0.59
7	0.75	0.58
8	0.745	0.57
9 or more	0.74	0.56

(d) Whole-farm units: The annual premium on a whole-farm unit equals the sum of the annual premiums for corn and soybeans as if enterprise units had been selected in a county, times the whole-farm discount factor. The whole-farm discount factor varies with the ratio of the total number of planted corn acres to the total number of planted corn acres and planted soybean acres in a county, rounded to the nearest tenth. The whole-farm unit discount factors are:

Ratio of planted corn acres to planted corn acres plus planted soybean acres	Whole-farm discount factor
0.0	1.00
0.1	0.92
0.2	0.86
0.3	0.82
0.4	0.80
0.5	0.80
0.6	0.82
0.7	0.85
0.8	0.89
0.9	0.94
1.0	1.00

4. Insured Crop

(a) Corn—In accordance with section 9 (Insured Crop) of the Basic Provisions, the crop insured will be corn for which premiums are provided by the premium calculator:

(1) In which you have a share;

(2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area;

(3) That is not (unless allowed by the Special Provisions):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume; and

(4) That is planted for harvest as grain.

(b) In addition to the provisions of section 4(a), the corn crop insured will be all corn that is yellow dent or white corn, including mixed yellow and white, waxy, high-lysine corn, high-oil corn blends containing mixtures of at least ninety percent high yielding yellow dent female plants with high-oil male pollinator plants, commercial varieties of high-protein hybrids, and excluding:

(1) High-amylose, high-oil except as defined in section 4(b), flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn.

(2) A variety of corn adapted for silage use when the corn is reported for insurance as grain.

(c) Soybeans—In accordance with section 9 (Insured Crop) of the Basic Provisions, the crop insured will be the soybean crop you elect to insure for which premiums are provided by the premium calculator:

(1) In which you have a share;

(2) That are adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area; and

(3) That are not:

(i) Interplanted with another crop; and

(ii) Planted into an established grass or legume; and

(4) That are planted for harvest as beans.

5. Insurable Acreage

In addition to the provisions of section 10 (Insurable Acreage) of the Basic Provisions, any acreage of the insured crop damaged before the final planting date, to the extent that the remaining stand will not produce at least 90 percent of an amount equal to the unit revenue guarantee divided by your share on the unit must be replanted unless we agree that replanting is not practical (see section 1). The price used to determine if 90 percent of the unit revenue guarantee can be achieved is the projected county price.

6. Insurance Period

In accordance with the provisions under section 12 (Insurance Period) of the Basic Provisions, the calendar date for the end of the insurance period is the December 10 immediately following planting.

7. Causes of Loss

Insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Failure of the irrigation water supply, if applicable, due to an unavoidable cause of loss occurring within the insurance period; or

(h) A decline in the county harvest price below the projected county price.

8. Replanting Payments

(a) In accordance with section 14 (Replanting Payment) of the Basic Provisions, a replanting payment is allowed if the insured crop(s) on a unit was damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the unit revenue guarantee divided by your share on the unit and it is practical to replant (see section 1).

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the unit revenue guarantee divided by the number of insured acres on the unit or, for corn, an amount found by multiplying 8 bushels, times projected county price, times your share, or for soybeans, an amount equal to 3 bushels for soybeans, times projected county price, times your share.

(c) When more than one person insures the same crop on a share basis, a replanting payment based on the total shares insured by us may be made to the insured person who incurs the total cost of replanting. Payment will be made in this manner only if an agreement exists between the insured persons which:

(1) Requires one person to incur the entire cost of replanting; or

(2) Gives the right to all replanting payments to one person

(d) When the insured crop is replanted using a practice that is uninsurable as an original planting, the unit revenue guarantee will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

9. Duties in the Event of Damage or Loss

In accordance with the requirements of section 15 (Duties in the Event of Damage or Loss) 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 extend the entire length of each field, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest is completed.

10. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided: or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim using the following procedures:

(1) Basic and Optional units: We will settle your claim on each basic or optional unit by:

(i) Multiplying the applicable county harvest price times the production to count on each unit (see section 10(c–e) below), times your share; and

(ii) Subtracting the result of section 10(b)(1)(i) from each unit revenue guarantee.

If the result of section 10(b)(1)(ii) is greater than zero, an indemnity equal to the result of section 10(b)(1)(ii) will be paid to you. If the result of section 10(b)(1)(ii) is less than or equal to zero, no indemnity will be paid.

(2) Enterprise units: We will settle your claim on an enterprise unit as follows:

(i) Multiplying the applicable crop county harvest price, times applicable crop production to count as if basic and/or optional units had been selected in a county, times your share;

(ii) Totaling the results of section 10(b)(2)(i); and

(iii) Subtracting the result of section 10(b)(2)(ii) from the enterprise unit revenue guarantee.

If the result of section 10(b)(2)(iii) is greater than zero, an indemnity equal to the result of section 10(b)(2)(iii) will be paid to you. If the result of section 10(b)(2)(iii) is less than or equal to zero, no indemnity will be paid. Under enterprise coverage you may not be eligible for an indemnity even if one of your basic units has a loss of revenue.

(3) Whole-farm units: We will settle your claim on a whole-farm unit as follows:

(i) For all corn in a county and for all soybeans in a county, multiply the applicable crop county harvest price, times applicable crop production to count as if enterprise units had been selected in a county, times your share;

(ii) Total the results of section 10(b)(3)(i) for all (corn *and* soybeans); and

(iii) Subtract the result of section 10(b)(3)(ii) from the whole-farm unit revenue guarantee.

If the result of section 10(b)(3)(iii) is greater than zero, an indemnity equal to the result of section 10(b)(3)(iii) will be paid to you. If the result of section 10(b)(3)(iii) is less than or equal to zero, no indemnity will be paid. Under whole-farm coverage you may not be eligible for an indemnity even if one (or more) of your basic units has a revenue loss.

(c) The total production to count in bushels from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the selected per-acre revenue guarantee (approved yield, times the coverage level, times the

projected county price) will be used for such acreage:

(A) That 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 10(d)); and

(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 agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or 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.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature crop production (excluding silage type or corn insured or harvested as silage) may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percent age point of moisture in excess of:

(i) Fifteen percent for corn (If moisture exceeds 30 percent, production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent; and

(ii) Thirteen percent for soybeans.

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:

(A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor; or

(B) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;

(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 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) The crop grain production that is eligible for quality adjustment, as specified in sections 10(d) (2) and (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.

11. Late Planting and Prevented Planting

(a) Insurance will be provided for acreage planted to the insured crop during the late planting period (see section 11(c)), and acreage you were prevented from planting (see section 11(d)). These coverages provide reduced amounts of protection. The reduced guarantees will be combined with the unit revenue guarantee for timely planted acreage. 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 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 unit revenue guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the unit revenue guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the unit revenue guarantee for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the unit revenue guarantee for timely planted acreage by:

(i) Fifty percent and multiply the result by the 50 acres you were prevented from planting if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(ii) Twenty-five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop.

The total of the three calculations will be the unit revenue guarantee for the unit. Your premium will be based on the result of multiplying the applicable per-acre premium 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 acreage planted to the insured crop after the final planting date but on or before 25 days after the final planting date, the unit revenue guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent for the first through the tenth day; and

(ii) Two percent for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 7 (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 for the insured crop; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting the insured crop (see section 1) you may elect:

(i) To plant the insured crop during the late planting period. The unit revenue guarantee for such acreage will be determined in accordance with section 11(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 unit revenue guarantee for such acreage will be 50 percent of the unit revenue guarantee for timely planted acres. For example, if your unit revenue guarantee for timely planted acreage is $100 per acre, your prevented planting unit revenue guarantee would be $50 per acre ($100 multiplied by 0.50). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 10(b) through 10(e).

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting unit revenue guarantee will be provided for such acreage if the substitute crop is planted on or before the tenth day following the final planting date for the insured crop; or

(B) A unit revenue guarantee equal to 25 percent of the unit revenue guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the tenth day following the 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. You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premiums. 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 an amount equal to the unit revenue guarantee divided by your share.

(3) In addition to the provisions of section 12 (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 corn for the 1997 crop year, prevented planting coverage will begin on the 1997 sales closing date for corn in the county. If the crop coverage remains in effect for the 1998 crop year (is not terminated or canceled during or after the 1997 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 1998 crop year began on the 1997 sales closing date.

(4) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage 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 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). The 20 acres or 20 percent requirement is to be applied for each crop in a whole farm unit;

(B) For which the premium calculator does not designate a premium;

(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 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 as specified in section 11(a)(3)(i), or a substitute crop allowed in section 11(a)(3)(ii)), 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 timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of 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 7 (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 the purpose of determining acreage eligible for a prevented planting unit revenue 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.

Signed in Washington, D.C. on June 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Spruce Ecosystem Recovery Project, Dixie National Forest, Iron and Kane Counties, Utah

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) for the Forest Service to implement several proposals within the Spruce Ecosystem Recovery Project area, on the Cedar City Ranger District, Dixie National Forest. These proposals include: (1) Commercial salvage, sanitation and density management timber harvest, and associated road construction/closures; (2) commercial and non-commercial regeneration treatments of aspen forests; (3) the establishment of defensible fire suppression zones; and, (4) management ignited prescribed fire. Multiple decisions may be issued upon completion of the analysis; however, the cumulative effects of all the proposed actions will be disclosed in the EIS. The purpose of these proposals is to initiate actions that would improve forest health and diversity, accelerate reforestation, and meet woody debris objectives within the project area. The project area is located approximately 15 miles east of Cedar City, Utah. The project would be implemented in accordance with direction in the Land and Resource Management Plan (LRMP, 1986) for the Dixie National Forest.

In addition to the management activities proposed to be implemented, an amendment to the LRMP is being proposed. This amendment is necessary in order to make the LRMP conform to the Regional Guide. The amendment is described below under Supplementary Information.

The agency gives notice that the environmental analysis process is underway. During the analysis process, an issue surfaced that warranted disclosure of effects under an EIS. This issue is the high degree of interest associated with the potential to alter the undeveloped character of a portion of the project area due to proposed road construction and vegetable management treatments.

Interested and potentially affected persons, along with local, state, and other federal agencies, are invited to participate in, and contribute to, the environmental analysis. The Dixie National Forest invites written input regarding issues specific to the proposed action.

DATES: Written comments to be considered in the preparation of the Draft Environmental Impact Statement (DEIS) should be submitted by July, 1997, which is at least 30 days following the publication of this notice in the **Federal Register.** The DEIS is expected to be available for review by August, 1997. The Record of Decision and Final Environmental Impact Statement are expected to be available by October, 1996.

ADDRESSES: Submit written comments to: District Ranger, Cedar City Ranger District, 82 North 100 East, P.O. Box 627, Cedar City, Utah 84721–0627; FAX: (801) 865–3791; E-mail: Brunswick__Nancy/r4__dixie@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Phillip G. Eisenhauer, Project Environmental Coordinator, by mail at 82 North 100 East, P.O. Box 627, Cedar City, Utah 84721–0627; or by phone at (801) 865–3700; FAX: (801) 865–3791; E-mail: Brunswick__Nancy/r4__dixie@fs.fed.us.

SUPPLEMENTARY INFORMATION: The proposed projects are located in an analysis area of about 48,274 acres of National Forest System (NFS) lands. Approximately 24,926 acres of the project area are forested and 13,348 acres are non-forest. The proposed commercial conifer treatment areas were recently or are currently infested with spruce beetle (*Dendroctonus rufipennis*). Spruce beetle populations are at epidemic levels; they have killed thousands of spruce trees, on approximately 7,400 acres on the Cedar City Ranger District. In some sites where spruce was the dominant overstory, few live trees remain. Because spruce beetle populations have been expanding since the early 1990's, an additional 15,000 acres of spruce forest are at risk of beetle infestation.

The purpose of the project is to salvage the dead and dying Engelmann spruce and subalpine fir trees to recover wood products that would otherwise be lost, while still meeting desired resource objectives for standing dead and down tree material. Also, spruce dominated stands that are classified as moderate risk to spruce beetle infestation would be treated by commercial and non-commercial sanitation treatments to alter the forest conditions that contribute to this risk. These stands were previously thinned with an even aged silvicultural system to a residual basal area of about 130 square feet. Reducing the risk in these stands would provide the best opportunity to maintain a green, forested condition as well as maintain important resource values associated with maintaining spruce forests, such as old growth, wildlife habitat, and scenic quality near vistas and along scenic highway corridors.

More specifically, sanitation treatments would involve the removal of uninfested conifer trees of varying sizes in order to alter forest densities, species composition, and size class. Currently, stands in the moderate risk class contain about 130 square feet of basal area per

acre. These treatments would involve reducing the overall stand basal area per acre (all species) to 100 square feet or less. This will reduce risk of future infestation by bark beetles.

Rehabilitation of areas heavily impacted by bark beetle mortality through the completion of natural and artificial regeneration activities would occur as needed. An estimated 585 acres will be artificially regenerated. Reforestation is essential to providing for the most rapid progression toward the desired future condition for forest cover in the project area.

In addition to commercial and non-commercial treatments, and related rehabilitation treatments, wildland fuel reduction treatments are proposed in areas where fuel loadings exceed levels necessary to meet desired fire suppression objectives. Treatments proposed include management ignited prescribed fire and the establishment of Defensible Fire Suppression (DFS) Zones. Both treatments are intended to reduce the risk of catastrophic fire, especially in wildland-urban interface areas.

The use of prescribed fire would occur within two areas in the project area. One area is located in the Center Creek drainage and the other in the Hancock Peak Roadless Inventory Area. The purpose of the reintroduction of fire is to reduce loadings, to create diversity in the landscape vegetation, and reduce the risk of catastrophic fire.

DFS Zones would be established along the perimeter of the Meadow Lake subdivision. Where fuel conditions in this location currently meet the desired conditions, no treatments would occur. DFS Zones are created by implementing fuel ladder (vertical continuity of fuels from ground level to the forest crowns) and fuel loading reduction treatments; that is, thinning all species of vegetation in order to reduce the probability of crown fires carrying through these Zones. The treatments would include the use of commercial and non-commercial tree removal, chipping, hand and machine piling and burning of piles; and broadcast burning of fuels. The DFS Zones would be between 100 to 300 feet wide depending upon the vegetation, fire occurrence, and topography, and would be located entirely on NFS lands. It is estimated that the number of acres proposed for establishment of DFS Zones would not exceed 50 acres.

Regeneration treatment of aspen forests is also included in this proposal. Treatments would include both commercial harvest and non-commercial site preparation (i.e.; cut and burn, broadcast burn). About 8,176 acres of forest are dominated by aspen in the project area. Most are being converted to conifers by natural succession and the lack of fire in the ecosystem. Most vegetation management treatments would lead to an increase in the abundance of aspen, which is the desired goal for resource values identified in the project area (i.e.; wildlife habitat improvement, vegetation diversity, and visual variety and color in the landscape). Up to 1,000 acres would be regenerated over the next five-year period.

Vegetation management treatments involving salvage/sanitation, density management, aspen regeneration, prescribed fire, and establishment of DFS Zones would occur on National Forest lands located within portions of Sections 28–33 of Township(T) 35 South(S), Range(R) 8 West(W); Sections 3–17, 20–24, 26–35 of T.36 S., R8 W.; Sections 3–10, 15–21, 30–32 of T.37 S., R.8. W.; Sections 1, 2, 11–14, 23–26, 35–36 of T.37 S., R.8½ W.; Sections 1–6, 8–15, 24–25 and 36 of T.36 S., R.9 W.; Sections 10–16, 22–27, 35–36 of T.37 S., R.9 W.; Salt Lake City (SLC) Meridian, Iron County, UT; Sections 1–2 of T.38 S., R.9 W.; and Sections 5–6 of T.38 S., R.8W., SLC Meridian, Kane County, UT.

The transportation system required to access commercial harvest areas is largely in place. However, to access all identified moderate to high risk stands, about five miles of temporary and specified road construction would be required. The specified road construction is proposed to occur in an area having undeveloped character.

All newly constructed temporary roads would be obliterated upon completion of the project, and any new permanent or systems road would be physically closed. In addition, approximately eight miles or existing roads that would be used or are located within treatment areas would be closed upon completion of project activities to meet the desired condition for other resources.

In addition to the vegetation management treatments, and related activities, and amendment to the Dixie National Forest Land and Resource Management Plan is being proposed.

Size of Created Openings

Proposed changes to DNF–LRMP Management Direction and Standards and Guidelines:

a. The following changes are proposed to general direction E03, 06, and 07, section 6(a), (b) and (c) found on page IV–40 of the DNF–LRMP:

''6. The maximum size of openings created by the application of clearcut even-aged silvicultural treatments will be 40 acres regardless of forest cover type. A proposal for larger openings created by the application of clearcut even-aged silvicultural treatment are subject to a 60-day public review and require approval by the Regional Forester as specified in the Regional Guide of 1984. Exceptions to this are:

(a) Larger openings which are the result of natural catastrophic events such as fire, insect or disease attach, and windstorm. These larger openings may be commercially salvaged in blocks larger than 60 acres without requirement for 60-day public review and approval by the Regional Forester. This does not preclude public notification and participation requirements as outlined under the National Environmental Policy Act (NEPA).

(b) The area does not meet the definition of a created opening.

b. In addition to this change under the general direction of the DNF–LRMP at page IV–40, the proposed E03, 06, and 07, section 6 (a) and (b) just defined is proposed to be added to each specific Management Area direction, where applicable.

The proposed actions would implement management direction, contribute to meeting the goals and objectives identified in the DNF–LRMP, and move the project area toward the desired condition. This project EIS would be tiered to the Dixie National Forest LRMP EIS (1986), which provides goals, objectives, standards and guidelines for the various activities and land allocations on the Forest.

Based upon the responses to the public scoping effort conducted in April, 1997, the issues that have been identified include: the effects of activities on the undeveloped character of areas within the project area; the effects of the activities on the economic livelihood of local communities (Brian Head Town); the effects of an increase/decrease in access in the area; and, the effects on the Hancock Peak Roadless Area.

Tentative alternatives to the proposed action include: (1) No action (the project would not take place, but current management would continue); (2) no harvest activities associated with road construction within the undeveloped areas and no prescribed fire treatment within the focus area in Center Creek; and, (3) no treatments within the Hancock Peak Roadless Area.

As lead agency, the Forest Service would analyze and document direct, indirect, and cumulative environmental effects for a range of alternatives. Each alternative would include mitigation measures and monitoring requirements.

Hugh C. Thompson, Forest Supervisor, Dixie National Forest, is the responsible official. He can be reached by mail at 82 North 100 East, P.O. Box 580, Cedar City, Utah, 84720–0580.

The Forest Service is seeking comments from individuals, organizations, and local, state, and Federal agencies who may be interested in or affected by the proposed action. Scoping notices have been sent to potentially affected persons and those currently on the Dixie National Forest mailing list that have expressed interest in timber management proposals, proposals relating to wildlife habitat modifications and Forest Plan amendments. Other interested individuals, organizations, or agencies may have their names added to the mailing list for this project at any time by submitting a request to: Phillip G. Eisenhauer, Project Environmental Coordinator, 82 North 100 East, P.O. Box 627, Cedar City, UT 84720–0627.

The analysis area includes both National Forest System lands and private lands. Proposed treatments would occur only on National Forest system lands. No federal or local permits, licenses or entitlements would be needed.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the DEIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. City of Angoon v. Hodel, (9th Circuit, 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334. 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at the time it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns about the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: June 13, 1997.

Hugh C. Thompson,

Forest Supervisor, Dixie National Forest.

[FR Doc. 97–16260 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

I–90 Land Exchange, Wenatchee National Forest, Kittitas County, WA; Mt. Baker-Snoqualmie National Forest, King and Pierce Counties, WA; and Gifford Pinchot National Forest, Cowlitz, Lewis, and Skamania Counties, WA

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: On April 28, 1997, a notice of intent to prepare an environmental impact statement (EIS) for the I–90 Land Exchange with the Plum Creek Lumber Company, Limited Partnership, was published in the **Federal Register** (62 FR 22906). This notice announced the responsible official as Judith E. Levin, Director of Recreation, Lands, and Mineral Resources, Pacific Northwest Region. The responsibility for this Land Exchange EIS and decision has been delegated to the Forest Supervisors of the Wenatchee, Mt. Baker-Snoqualmie, and Gifford Pinchot National Forests.

FOR FURTHER INFORMATION CONTACT: Steve Johnston, Assistant Land Staff Officer, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, phone 509–664–2789.

Dated: June 16, 1997.

Cathrine L. Beaty,

Acting Regional Forester.

[FR Doc. 97–16305 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Delegation of Authority to Regional Director of Recreation, Lands, and Mineral Resource, Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of delegation of authority.

SUMMARY: The Regional Forester of the Pacific Northwest Region of the Forest Service has delegated authority to the Regional Director of Recreation, Lands, and Mineral Resources to issue all easements under authority of the Federal Land Policy and Management Act of October 21, 1976, as amended (43 U.S.C. 1761). The delegation is being issued in a Regional Supplement to the Forest Service Manual 2700, Special Use Management, Section 2704, Responsibility.

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Questions about the exercise of this delegation may be addressed to Jim Galaba, Special Uses Manager, Pacific Northwest Region, USDA, Forest Service, 333 S.W. First Street, Portland, Oregon 97208, phone 503–808–2458.

Dated: June 16, 1997.

Cathrine L. Beaty,

Acting Regional Forester.

[FR Doc. 97–16306 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Alabama

AGENCY: Natural Resource Conservation Service (NRCS) in Alabama, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Alabama for review and comment.

SUMMARY: It is the intention of NRC in Alabama to issue conservation practice standard, Well Decommissioning (Code 351) Section IV of the FOTG.

DATES: Comments will be received on or before July 23, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Ronnie D. Murphy, State Conservationist, Natural Resources Conservation Service (NRCS), 3381

Skyway Drive, P.O. Box 311, Auburn, AL 36830. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Alabama will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Alabama regarding disposition of those comments and a final determination on change will be made.

Ray Donaldson,

Assistant State Conservation, Natural Resources Conservation Service, Auburn, Alabama.

[FR Doc. 97–16152 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Florida

AGENCY: Natural Resources Conservation Service (NRCS) in Florida, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Florida for review and comment.

SUMMARY: It is the intention of NRCS in Florida to issue the following revised conservation practice standards for Florida: Prescribed Grazing, (Code 528A), Fence, (Code 382); Critical Area Planting, (Code 342); Nutrient Management, (Code 590); Riparian Forest Buffer, (Code 391); Pond, (Code 378); Irrigation System, Trickle (Code 441); and Waste Storage Facility (Code 313) in Section IV of the FOTG.

DATES: Comments will be received for a 30-day period commencing with the date of this publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to T. Niles Glasgow, State Conservationist, Natural Resources Conservation Service (NRCS), P.O. Box 141510, Gainesville, Florida 32614–1510. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Florida will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Florida regarding disposition of those comments and a final determination of change will be made.

Dated: June 12, 1997.

R.A. Balduzzi,

Acting State Conservationist, Natural Resources Conservation Service, Gainesville, Florida.

[FR Doc. 97–16146 Filed 6–20–97; 8:45 am]

BILLING CODE 7205–64834–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Nevada

AGENCY: Natural Resources Conservation Service (NRCS) in Nevada, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG for the NRCS in Nevada for review and comment.

SUMMARY: It is the intention of NRCS in Nevada to issue revised conservation practice standards and specifications for Forest Harvest Trails and Landings (Code 655); Forest Stand Improvement (Code 666); Forest Site Preparation (Code 490); Tree/Shrub Establishment (Code 612); Tree/Shrub Pruning (Code 660); and Windbreak/Shelterbelt Establishment (Code 380) in Section IV of the FOTG.

DATES: Comments will be received on or before July 23, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to William D. Goddard, State Conservationist, Natural Resources Conservation Service (NRCS, 5301 Longley Lane, Bldg F, STE 201, Reno, NV 89511. Copies of the practice standards and specifications will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Nevada will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Nevada regarding disposition of those comments and a final determination of change will be made.

John R. Capurro

State Resource Conservationist, Natural Resources Conservation Service, Reno, Nevada.

[FR Doc. 97–16363 Filed 6–20–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Quarterly Financial Reports (QFR).

Form Number(s): QFR–101(MG), QFR–101A(MG), QFR–102(TR), QFR–103(NB).

Agency Approval Number: 0607–0432.

Type of Request: Revision of a currently approved collection.

Burden: 79,524 hours.

Number of Respondents: 13,450.

Avg. Hours Per Response: 2.034 hours.

Needs and Uses: The QFR program is a principal economic indicator that also provides financial data essential to calculation of key government measures of national economic performance. The QFR program provides timely, accurate data on business financial conditions for gauging quarterly performance of the nonregulated, domestic corporate sector for use by government and private-sector organizations and individuals. Primary users of QFR data are governmental organizations charged with economic policymaking responsibilities. Other data users include foreign countries, universities, financial analysts, unions, trade associations, public libraries, banking institutions, and U.S. and foreign corporations.

The Bureau of the Census requests approval to revise three of four data collection forms it uses in its Quarterly

Financial Report (QFR) Program. QFR Forms QFR–101(MG)—long form, QFR–102(TR)—long form, and QFR–101A(MG)—short form are being revised. Form QFR–103(NB)—Nature of Business Report will not be revised. The purpose of these revisions is to bring the data collection forms up-to-date from an accounting and financial statement presentation viewpoint and to provide more meaningful data to users. These forms have not been substantially revised since their introduction in 1973.

Affected Public: Business or other for-profit.

Frequency: Quarterly (QFR–101, 101A and 102); Annually (QFR–103).

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 91.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 17, 1997.

Madeleine Clayton,

Management Analyst, Office of Management and Organization.

[FR Doc. 97–16312 Filed 6–20–97; 8:45 am

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Defense Priorities and Allocations Systems

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 12, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Bureau of Export Administration (BXA), Department of Commerce, Room 6877, 14th and Constitution Avenue, NW., Washington, DC 20230 (telephone no. (202)482–3673).

SUPPLEMENTARY INFORMATION:

I. Abstract

The record keeping requirement is necessary for administration and enforcement of delegated authority under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*) and the Selective Service Act of 1948 (50 U.S.C. App. 468). Any person who receives a priority rated order under the implementing DPAS regulation (15 CFR part 700) must retain records for at least 3 years.

II. Method of Collection

Records retention.

III. Data

OMB Number: 0694–0053.

Form Number: N/A.

Type of Review: Regular Submission.

Affected Public: Businesses and other for-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 17,500.

Estimated Time Per Response: 1 minute.

Estimated Total Annual Burden Hours: 11,667 hours.

Estimated Total Annual Cost: $0 for respondents—no equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(C) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 18, 1997.

W. Dan Haigler,

Chief, Management Control Division, Office of Management and Organization.

[FR Doc. 97–16365 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–DT–U

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 49–97]

Foreign-Trade Zone 3, San Francisco, CA; Application for Foreign-Trade Subzone Status; Chevron U.S.A. Inc.; (Oil Refinery Complex); Richmond, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the San Francisco Port Commission, grantee of FTZ 3, requesting special-purpose subzone status for the oil refinery complex of Chevron U.S.A. Inc., located in Richmond, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 12, 1997.

The refinery complex (240,000 BPD, 1,460 employees) is located on a 2,900-acre site at 841 Chevron Way, in Richmond (Contra Costa County), California, some 25 miles northeast of San Francisco. The refinery is used to produce fuels and petrochemical feedstocks. Fuel products include gasoline, jet fuel, distillates, naphthas and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products include methane, ethane, propane, propylene, butane, petroleum coke, sulfur and carbon black oil. Some 11 percent of the crude oil (92 percent of inputs), and some motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (duty-free) by admitting incoming foreign crude oil and natural gas condensate in non-privileged foreign status. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. The application indicates that the savings

from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 22, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 8, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 250 Montgomery Street, 14th Floor, San Francisco, California 94104

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: June 12, 1997.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 97–16276 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 47–97]

Foreign-Trade Zone 205—Ventura County, CA; (Port Hueneme Customs Port of Entry); Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Board of Harbor Commissioners, Oxnard Harbor District, (also known as the Port of Hueneme), grantee of FTZ 205, requesting authority to expand its zone at sites in Port Hueneme and Oxnard, California, within the Port Hueneme Customs port of entry. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 4, 1997.

FTZ 205 was approved on October 28, 1994 (Board Order 714, 59 F.R. 55420, 11/7/94). The zone project currently consists of the following sites: *Site 1* (738 acres, 2 parcels)—Port of Hueneme commercial terminal complex (61 acres), 333 Ponoma Street, Port Hueneme, and an adjacent area (677 acres) designated for commercial use within the 1,615-acre U.S. Naval Construction Battalion Center; *Site 2* (47 acres—2 parcels within the South Oxnard Industrial Park):—a parcel (BMW tract—21 acres), 5650 Arcturus Avenue, Oxnard, and a parcel (Wallenius Lines/North America tract—26 acres), located at 5601 Edison Drive, Oxnard; *Site 3* (22 acres)—Terminal Freezers facility, 908 E. 3rd Street, Oxnard; and, *Site 4* (10 acres)—5851 Arcturus Avenue, Oxnard.

The applicant is now requesting authority to expand two existing sites (Site 1 and Site 2) as follows: *Site 1*—add a contiguous parcel (33 acres) located at the former Naval Civil Engineering Laboratory, Port of Hueneme commercial terminal complex, Port Hueneme; and, *Site 2*—add a contiguous parcel (32 acres) located within the South Oxnard Industrial Park, adjacent to the Wallenius Lines' (Wallenius Holdings) tract, 5601 Edison Drive, Oxnard. The proposed changes would increase Sites 1 and 2 to 771 acres and 79 acres respectively. The area proposed to be included in Site 1 was recently deeded to the applicant by the U.S. Navy and is the only Oxnard Harbor District-owned land in the seaport terminal area that is not within the zone. The area proposed to be included in Site 2 is owned by Pacific Vehicle Processors, Inc., a wholly owned subsidiary of Wallenius Holdings, Inc., which is a wholly owned subsidiary of Wallenius Lines. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 22, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 8, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Administrative Offices, Port of Hueneme/Oxnard Harbor District, 333 Ponoma Street, Port Hueneme, CA 93041

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 6, 1997.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 97–16278 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 896]

Grant of Authority for Subzone Status

U.S. Department of Energy Strategic Petroleum Reserve (Crude Oil Storage); Jefferson County, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Foreign Trade Zone of Southeast Texas, Inc., grantee of Foreign-Trade Zone 116, for authority to establish special-purpose subzone status at the crude oil storage facility of the U.S. Department of Energy's Strategic Petroleum Reserve, Jefferson County, Texas, was filed by the Board on June 18, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 52–96, 61 FR 33094, 6–26–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the

crude oil storage facility of the U.S. Department of Energy's Strategic Petroleum Reserve, located in Jefferson County, Texas (Subzone 116D), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 10th day of June 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–16277 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 48–97]

Foreign-Trade Zone 167—Brown County, WI; Application for Subzone Status; Sargento Foods Inc., Plant (Cheese Processing); Plymouth, WI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Brown County, Wisconsin, grantee of FTZ 167, requesting special-purpose subzone status for export activity at the cheese processing plant of Sargento Foods Inc. (SFI), located in Plymouth, Wisconsin. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 10, 1997.

The SFI plant (300,000 sq.ft. on 60 acres) is located at 1 Persnickety Place, Plymouth (Sheboygan County), Wisconsin, approximately 70 miles north of Milwaukee. The facility (650 employees) is used to process cheese food products for export and the domestic market; however, FTZ procedures would be used only to process foreign-origin cheese for export. The processing activity would involve shredding, slicing, chunking, and packaging foreign, ex-quota cheese that would be reexported to foreign markets. None of the foreign, ex-quota cheese would be entered for U.S. consumption.

FTZ procedures would exempt SFI from quota requirements and Customs duty payments on the foreign cheese used in the export activity. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 22, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 8, 1997.).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, Room 596, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230–0002.

Dated: June 10, 1997.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 97–16275 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On June 11, 1997, Cinsa, S.A. de C.V. (''Cinsa'') and Esmaltaciones de Norte America, S.A. de C.V. (''ENSA'') filed a First Request for Panel Review with the U.S. Section on the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping determination made by the International Trade Administration in the eighth administrative review respecting Porcelain-on-Steel Cookware from Mexico. This determination was published in the **Federal Register** on May 12, 1997 (62 FR 25,908). The NAFTA Secretariat has assigned Case Number USA–97–1904–05 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The Panel review in this matter will be conducted in accordance with these Rules.

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on June 11, 1997, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is July 11, 1997);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is July 28, 1997); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: June 17, 1997.

James R. Holbein,

U.S. Secretary NAFTA Secretariat.

[FR Doc. 97–16339 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce.

ACTION: Notice of government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 95–050

Title: Fabrication of Embossed Diffractive Optics With Reusable Release Agent

Abstract: By this technique of chemically modifying the surface of a commercial master diffractive grating with a suitable release agent, replica gratings are inexpensively embossed onto float glass, ion diffused, polymer, semiconductor, and other types of optical waveguides.

NIST Docket Number: 96–029

Title: Cryogenic Current Comparator Based on Liquid Nitrogen Temperature Superconductors

Abstract: Electric currents maintained in precise integer ratio by a cryogenic current comparator (CCC) can be used to measure the ratio of two standard resistors or determine the value of one current by measuring a second of larger or smaller value. This CCC operates at 77 K in a liquid nitrogen bath and uses the magnetic shielding of high-temperature superconductor (HTS) materials. It measures a wide range of resistance and current ratios with an uncertainty of approximately 1 part in 100 million. Nonexclusive, royalty-free licenses are available for this technology.

NIST Docket Number: 96–043

Title: Precision Linear Positioning Post

Abstract: The invention is a positioning post and precision translation mechanism for use in optic experiments and other scientific and engineering research. The positioning post is a translation stage contained within a 12.7 mm diameter cylinder. One end of the cylinder will translate relative to the other with minimal rotation, backlash, and wobble. Several positioning posts may be used in series to provide multi-axis positioning.

Dated: June 17, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–16364 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of a jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce and Morton International, Inc. The Department of Commerce's ownership interest in this invention is available for non-exclusive licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

The invention available for non-exclusive licensing is:

NIST Docket No. 95–047

Title: Non-Contact Method and Apparatus for Inspection of Inertia Welds.

Description: An electromagnetic acoustic transducer (EMAT) provides a means of non-contact inspection to detect internal inertia weld defects and web defects in spool-shaped aluminum airbag inflator igniter canisters. The method is non-destructive, efficient, reliable, and readily implemented.

Dated: June 17, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–16369 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Vessel Monitoring and Communications Requirements

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 22, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to James J. Morgan, 562–980–4036.

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA is requesting emergency OMB review of new requirements needed for the implementation of an optional vessel monitoring system (VMS) in the crustacean fishery of the Western Pacific

Region. Action is requested by June 24, 1997. The proposed measures would allow vessels with a VMS to be within 50 nautical miles of the fishing grounds before the season opens and would require those vessels to only be 50 nautical miles away from the grounds when the fishery closes. Without these provisions, vessels must be at least 200 nautical miles away at those times. A VMS allows NOAA to electronically identify the location of a vessel. Because of the accuracy of the systems and the ability they give NOAA to enforce regulations, location restrictions can be relaxed.

NOAA is requesting emergency review of these requirements to allow them to be implemented in time for the beginning of the next fishing year, which starts on July 1. Delayed implementation would deny the benefits of the provisions until the end of the year. Since most vessels involved already have VMSs onboard because of participation in another fishery, implementation of the provisions can be almost immediate.

As emergency approvals under the PRA are for a very limited duration, this notice also requests public comments on a follow-up submission that will be made to OMB under standard review procedures.

Vessels fishing with a VMS will not be required to submit any information apart from activating their VMS, which can then be queried by NOAA.

II. Method of Collection

The vessel monitoring systems will electronically transmit location information to NOAA when queried.

III. Data

OMB Number: 0648–0307.

Form Number: None.

Type of Review: Emergency Submission.

Affected Public: Businesses (commercial fishermen).

Estimated Number of Respondents: 15.

Estimated Time Per Response: .033 seconds per response for vessels with a VMS already installed. For vessels needing to install a VMS, there would be a one-time 4 hour burden for installation of the equipment by NOAA, and an annual maintenance time of 2 hours per vessel.

Estimated Total Annual Burden Hours: 17.

Estimated Total Annual Cost to Public: $0 (NOAA installs the equipment to be used).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 17, 1997.

Wilson D. Haigler, Jr.,

Chief, Management Control Division, Office of Management and Organization.

[FR Doc. 97–16311 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061797A]

Environmental Impact Statement for the Proposed Marine Environmental Health Research Laboratory at Fort Johnson, Charleston, SC

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

ACTION: Notice of intent to prepare an Environmental Impact Statement; request for comments.

SUMMARY: NOAA, with the National Institute of Standards and Technology (NIST) as a cooperating agency, announces its intent to prepare an Environmental Impact Statement (EIS) to address construction of the proposed Marine Environmental Health Research Laboratory (MEHRL) at Fort Johnson, Charleston, SC and to conduct a public scoping meeting in conjunction with the South Carolina Department of Natural Resources (SCDNR).

DATES: Written comments on the intent to prepare an EIS will be accepted on or before July 25, 1997. Comments postmarked after that date will be considered to the extent practicable. A scoping meeting is scheduled as follows:

July 23, 1997, 7 p.m., South Carolina Department of Natural Resources, Marine Resources Division Auditorium, 217 Fort Johnson Road, Charleston, SC.

ADDRESSES: Written comments on suggested alternatives and/or potential impacts, or requests to speak at the public scoping meeting should be submitted to Donna Howard, U.S. Department of Commerce/NOAA, National Marine Fisheries Service, 219 Fort Johnson Rd., Charleston, SC 29412–9110 (803–762–8604).

SUPPLEMENTARY INFORMATION:

Background

NOAA will prepare an EIS pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, in accordance with the Council on Environmental Quality regulations for implementing NEPA (40 CFR Parts 1500–1508) and NOAA Administrative Order 216–6, and conduct a public scoping meeting in conjunction with the South Carolina Department of Natural Resources (SCDNR). The EIS will address construction of the proposed Marine Environmental Health Research Laboratory (MEHRL) at Fort Johnson, Charleston, SC. NOAA is preparing this EIS to focus on the potential for significant environmental impacts and to consider reasonable alternatives.

The MEHRL will establish state-of-the-art marine research capabilities for NOAA Fisheries, NIST, SCDNR, the Medical University of South Carolina (MUSC), and the University of Charleston (UC) at the Fort Johnson Marine Resources Center (FJMRC) at Charleston, SC. Research at MEHRL, will emphasize the multi-disciplinary and multi-institutional linkages focused on understanding the processes promoting coastal ecosystem health and the linking of these processes to fisheries and human health. The facility will promote a campus-like environment for researchers from participating institutions and their collaborators.

MEHRL will be a premier high-technology marine research center with programs that apply new scientific techniques to fisheries and marine resource management. Scientists will use new tools to assess the ecological health of the marine environment and the potential hazards of pollution on marine ecosystems. Scientists will also provide the information that can be used to address environmental problems and the means to evaluate the restoration of natural habitats. Research at MEHRL will emphasize multi-disciplinary approaches that link ecosystems with the health of both marine organisms and humans. The rapidly advancing field of marine

biotechnology holds great promise for improving the quality of the scientific information needed to manage living marine resources. MEHRL researchers will develop indicators to monitor the health of marine life. They will also explore impacts of environmental factors on reproduction, survival, and diseases of marine organisms. Research at MEHRL will greatly expand the information base required to manage fisheries. This new facility will emphasize the application of modern technology to manage coastal resources wisely and to rebuild sustainable fisheries and healthy coasts. This vision for MEHRL will be an important asset to address environmental issues and will play an integral role in accomplishing NOAA Fisheries strategic goals.

Research at MEHRL will include both environmental chemistry and environmental biology. These research areas will provide capabilities that can be utilized for multi-disciplinary research. The core research capabilities necessary to provide the proper support for multi-disciplinary environmental research include: A Nuclear Magnetic Resonance facility, cryogenic facilities, analytical clean laboratories, P2 biohazard laboratories, environmental controlled challenge laboratories, bioassay culture laboratories, incubator laboratories, culture laboratories, clean wet laboratories, etc. The nucleus of the facility will be state-of-the-art laboratories for environmental challenge research utilizing a range of seawater and temperature controls. The capacity to adequately handle hazardous materials with proper disposal and prevention of cross-contamination is a high priority. Equally important are the high-technology analytical laboratories with the capability to maintain the integrity and validity of the samples and to analyze samples safely with proper environmental protection for researchers working with hazardous materials.

MEHRL will be a unique contribution to the marine sciences in that it will provide not only a center of scientific and state-of-the-art equipment serving the Nation, as well as the East and Gulf Coasts, but represents a true breakthrough in institutional cooperation (federal, state, and academic) aimed at removing traditional jurisdictional barriers and improving overall research and development effectiveness.

A Web page has been established to inform the local community of the background information surrounding the MEHRL and to provide up-to-date information on the planning, design, and the building phases of the project. The Web page may be reached at the following address: *http://www.cofc.edu/grice/mehrl*

Project Description

The State of South Carolina has provided a lease of land up to 14 acres for the MEHRL (Phase I) and support facilities (Phase II). The MEHRL will be built on approximately eight acres within the Fort Johnson campus of the SCDNR in Charleston, SC. The NMFS Charleston Laboratory and satellite NIST facility is currently located on this campus in leased facilities. The UC and the MU.S.C. also have existing facilities on this campus.

The proposed MEHRL complex will be approximately 69,000 gross square ft and will accommodate approximately 90 scientists/staff. The goal for MEHRL is to be a multi-use facility with complimentary institutional partnership functions and activities. Thus, MEHRL will be staffed with researchers from the partner institutions. MEHRL should attract visiting scientists, students, post-doctoral researchers, and require minimal new staff positions. MEHRL will provide approximately 34,000 net square ft for environmental biology and chemistry research.

Phase II of the project consists of dormitory, dining facility, and visiting scientist housing. The dormitory will be approximately 8,250 square ft and the dining facility will be approximately 1,750 square ft. The dormitory will be adjacent to the dining hall since the residents will be the primary users of the facilities. The dormitory will be a quad of five to eight person living suites of 1,050 square ft. The dining facility will include a dining hall for informal dining for 10 to 15 people. There will be a residential style kitchen for the residents to prepare their own meals. The visiting scientist housing will be a high quality living arrangement to be used by researchers and their families for an extended period of time. The housing will be five 1,250 square ft townhouses. The unit will be self-contained and independent of other facilities. The townhouses will be located away from the dormitory, but will have a direct relation to each other in a campus atmosphere. Phase II is contingent upon funding and may not be developed immediately.

NOAA and SCDNR invite interested agencies, organizations, and the general public to submit written comments or suggestions concerning the scope of the issues to be addressed, alternatives to be analyzed, and the environmental impacts to be addressed in the EIS. The public also is invited to attend a scoping meeting in which oral comments and suggestions will be received (see DATES). Oral and written comments will be considered equally in preparation of the EIS. Those not desiring to submit comments or suggestions at this time, but who would like to receive a copy of the Draft EIS should write to Donna Howard (see **ADDRESSES**). When the Draft EIS is complete, its availability will be announced in the **Federal Register** and in the local news media, a public hearing will be held, and comments will be solicited.

Public Scoping Meeting

The public scoping meeting will be chaired by a NOAA representative but will not be conducted as an evidentiary hearing; speakers will not be cross-examined, although the chair and other NOAA and SCDNR representatives present may ask clarifying questions. To ensure that everyone has an adequate opportunity to speak, 5 minutes will be allotted for each speaker. Depending on the number of persons requesting to speak, the chair may allow more time for elected officials, or speakers representing multiple parties, or organizations. Persons wishing to speak on behalf of organizations should identify the organization. Persons wishing to speak may either notify Donna Howard in writing (see **ADDRESSES**) or register at the meeting. As time permits, individuals who have spoken subject to the 5–minute rule will be afforded additional speaking time. Written comments also will be accepted at the meeting.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Donna Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: June 17, 1997.

Bruce Morehead,

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

[FR Doc. 97–16371 Filed 6–20–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060497C]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting agenda revision.

SUMMARY: The agenda for the meetings of the Pacific Fishery Management Council (Council), which are scheduled for June 23–25, 1997, in Seattle, WA, was published on June 11, 1997. See **SUPPLEMENTARY INFORMATION** for revision to the meeting agenda.

ADDRESSES: The meetings will be held at the Red Lion Hotel-Seattle Airport, (Now known as Doubletree) 18740 Pacific Highway South, Seattle, WA 98188; telephone: (206) 246–8600.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Salmon Fishery Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The initial agenda was published on June 11, 1997 (62 FR 31792). The following revisions are to be made:

The Council has approved an emergency change to the salmon agenda of its June meeting. The salmon agenda is scheduled to occur on the afternoon of June 23, 1997, at the Red Lion Hotel Seattle Airport (now known as Doubletree), see **ADDRESSES**.

Current Agenda Item C.1., Statement of the Council Chair Concerning the 1997 Salmon Management Process, will be modified as follows:

C. Salmon Management

1. Review and Consideration of Estimation Issues Affecting the Season Structure and Resulting Allocation of the 1997 Commercial Salmon Fisheries off California and Oregon

a. Statement of Chair concerning 1997 Preseason

Process

b. Summary of Estimation and Season Structure Issues Raised by Pacific Coast Federation of Fishermen's Associations

c. Comments of the Salmon Advisory Subpanel, Salmon Technical Team, and Scientific and Statistical Committee

d. Public Comments

e. Council - ACTION (if necessary to correct season structure)

This emergency change to the Council agenda responds to concerns raised by California commercial fishery representatives with regard to the estimation and subsequent allocation of Klamath and Snake River fall chinook harvest impacts in the 1997 commercial fishery. The change in Agenda item C.1., from a discussion to an action item, allows the potential for modifying the commercial salmon fisheries off Oregon and California by emergency rule, if deemed necessary as a result of the Council's review in this matter. The potential changes in the commercial season proposed by the California representatives include reductions in closures south of Point San Pedro, along with possible minimum size limit increases, and offsetting closures in the commercial fisheries off Oregon, most likely in the area south of Cape Arago.

All other information previously published remains unchanged.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric W. Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: June 18, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–16403 Filed 6–18–97; 3:54 pm]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

June 17, 1997.

The Corporation for National and Community Service has submitted the following public information collection requests (IRS) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Copies of these individual ICRs with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Margaret McLaughlin, Director of Recruitment, Office of AmeriCorps Recruitment (202) 606–5000, ext. 269. Individual(s) who use a telecommunications device for the deaf (TTY/TDD) may call (202) 565–2799 between the hours of 9:00 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of information and Regulatory Affairs, Attn.: Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

a. 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;

b. Enhance the quality, utility and clarity of the information to be collected; and

C. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

AGENCY: Corporation for National and Community Service.

Title: The AmeriCorps Referral Card.

OMB Number: 3045–0004.

Frequency: 1 response per individual (optional collection).

Affected Public: Individuals and households.

Number of Respondents: 50,000.

Estimated Time Per Respondent: 0.05 hours (3 minutes)

Total Burden Hours: 2,500 hours.

Total Annualized capital/startup costs: $0

Total annual costs (operating/maintaining systems or purchasing services): $38,315.15.

Description: The AmeriCorps Referral card is used by the AmeriCorps Recruitment office of the Corporation for National and Community Service to assist AmeriCorps national service programs in identifying potential applicants who match their program needs.

Dated: June 17, 1996.

Margaret McLaughlin,

Director of Recruitment, Office of AmeriCorps Recruitment.

[FR Doc. 97–16321 Filed 6–20–97; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Funds To Operate AmeriCorps Programs in the District of Columbia

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (''Corporation'') announces the availability of $450,000 for grants to operate AmeriCorps programs in the District of Columbia.

DATES: All applications must be received by 3:30 Eastern Daylight Savings Time, July 24, 1997.

ADDRESSES: Applications must be submitted to the Corporation for National and Community Service, 1201 New York Avenue, N.W., Box ADC, Washington, D.C. 20525. Facsimiles will not be accepted.

FOR FURTHER INORMATION CONTACT: Interested organizations may request the AmeriCorps Application Guidelines for the District of Columbia from Bryson Coles at (202) 606–5000, ext. 254, or may obtain copies of these materials in person from the 8th floor receptionist of the Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C.

Questions about the AmeriCorps application process for the District of Columbia should be directed to Betty Platt, Corporation Program Officer, at (202) 606–5000, ext. 422 or Bruce Cline, Corporation Senior Program Officer, at ext. 440.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a Federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. In supporting service programs, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

AmeriCorps is a national service program that engages thousands of Americans on a full and part-time basis to help communities address their toughest challenges while earning support for college, graduate school, and job training. In general, all AmeriCorps programs must address educational, public safety, human, or environmental needs, and provide a direct and demonstrable benefit that is valued by the community in which the service is performed.

Although a wide variety of programs may be eligible to apply for and receive support from the Corporation, all AmeriCorps programs must meet certain minimum program requirements. The Corporation's requirements for AmeriCorps programs are provided in the Corporation's authorizing statute (42 U.S.C. 12501 *et seq.*), its implementing regulations (45 CFR part 2510 *et seq.*), and in the grant application guidelines. In addition to being thoroughly familiar with the statute and its implementing regulations, prospective applicants should read the application guidelines carefully because, in some cases, more specific information is provided there.

Eligible Applicants

Public agencies (including state agencies and other units of local government), public or private nonprofit organizations, Indian Tribes, and institutions of higher education may apply for these funds.

Under the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(4)) which engages in lobbying activities is not eligible to apply.

Estimated Number of Awards

The Corporation anticipates making two awards.

Period of Awards

Grants will be awarded for a period of twelve months and may be renewed contingent upon performance and the availability of appropriations.

Dated: June 18, 1997.

Barry W. Stevens,

Acting General Counsel.

[FR Doc. 97–16394 Filed 6–20–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–17]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–17, with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: June 17, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON DC 20301-2800

09 JUN 1997

In reply refer to:
I-04517/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-17, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services estimated to cost $307 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97-17

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Korea

(ii) Total Estimated Value:

Major Defense Equipment*	$246 million
Other	$ 61 million
TOTAL	$307 million

(iii) Description of Articles or Services Offered:
One thousand sixty-five STINGER RMP missiles less reprogrammable modules (STINGER RMP (-)), 213 weapon rounds, 213 gripstock control group guided missile launchers, Interrogator Friend or Foe, support equipment, spare and repair parts, publications and technical data, personnel training and training equipment, U.S. Government and contractor engineering and logistics personnel services, U.S. Government Quality Assurance Teams (QAT), and other related elements of logistics support.

(iv) Military Department: Army (JBB, YRS, BOW, and OFS)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 09 JUN 1997

as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea - STINGER-RMP Missile System

The Government of Korea has requested the purchase of 1,065 STINGER RMP missiles less reprogrammable modules (STINGER RMP (-)), 213 weapon rounds, 213 gripstock control group guided missile launchers, Interrogator Friend or Foe, support equipment, spare and repair parts, publications and technical data, personnel training and training equipment, U.S. Government and contractor engineering and logistics personnel services, U.S. Government Quality Assurance Teams (QAT), and other related elements of logistics support. The estimated cost is $307 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Northeast Asia.

This is the first sale of STINGER RMP (-) missiles to Korea, and it will enable the Korean Army to develop a defense capability with an ability to protect itself from unwarranted aggression from the air as well as enhance its interoperability with U.S. forces. Korea will have no difficulty absorbing these missiles into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Hughes Missile System Company, Tucson, Arizona. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this sale will require the assignment of several U.S. Government Quality Assurance Teams to Korea for two weeks to assist in the delivery and deployment of the missiles. There will be five U.S. Government personnel and two contractor representatives for one week intervals twice annually to participate in program management and technical reviews. Also, several U.S. Government personnel will be conducting training classes for two week intervals to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97-17

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The STINGER RMP missile system less reprogrammable module (STINGER RMP (-)), gripstock, hardware, software and documentation contain sensitive technology and are classified Confidential. The guidance section of the missile and tracking head trainer contain highly sensitive technology and are classified Confidential.

2. Missile system hardware and fire unit components contain sensitive/critical technologies. STINGER critical technology is primarily in the area of design and production know-how and not end-items. This sensitive/critical technology is inherent in the hybrid microcircuit assemblies, microprocessors, magnetic and amorphous metals, purification, firmware, printed circuit boards, laser range finder, dual detector assembly, detector filters, automatic text and associated computer software, optical coatings, ultraviolet sensors, semi-conductor detectors, infrared band sensors, equipment operating instructions, warhead components seeker assembly and the Identification Friend or Foe (IFF) system with Mode 4 capabilities.

3. Information on vulnerability to electronic countermeasures and counter-countermeasures, system performance capabilities and effectiveness, and test data are classified up to Secret.

4. Loss of this hardware and/or data could permit development of information leading to the exploitation of countermeasures. Therefore, if a technologically capable adversary were to obtain these devices, the missile system could be compromised through reverse engineering techniques which could defeat the weapon systems effectiveness.

5. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–16256 Filed 6–20–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–19]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–19, with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: June 17, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

11 JUN 1997

In reply refer to:
I-04521/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-19, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles and services estimated to cost $100 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 97-19

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Thailand

(ii) Total Estimated Value:

Major Defense Equipment*	$ 30 million
Other	$ 70 million
TOTAL	$100 million

(iii) Description of Articles or Services Offered:
One hundred seven excess M60A3 tanks with 105mm guns and Tank Thermal Sight (TTS) capability, overhaul and upgrade of the excess M60A3 tanks with TTS in CONUS, 107 .50 caliber and 7.62mm machine guns, engines with containers, radios, support equipment, publications, personnel training and training equipment, U.S. Government Quality Assurance Teams, spare and repair parts and other related program elements to ensure long-term weapon system supportability.

(iv) Military Department: Army (WDI)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 11 JUN 1997

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Thailand - M60A3 Tanks

The Government of Thailand has requested the purchase of 107 excess M60A3 tanks with 105mm guns and Tank Thermal Sight (TTS) capability, overhaul and upgrade of the excess M60A3 tanks with TTS in CONUS, 107 .50 caliber and 7.62mm machine guns, engines with containers, radios, support equipment, publications, personnel training and training equipment, U.S. Government Quality Assurance Teams, spare and repair parts and other related program elements to ensure long-term weapon system supportability. The estimated cost is $100 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Southeast Asia.

In addition to the 253 tanks previously procured from the U.S. Government (125 M60A3, 53 M60A1, and 75 M48A5), these M60A3 tanks, which will come from the U.S. Army excess inventory, will enhance Thailand's force modernization efforts and substantially improve the capability of its ground forces. Thailand will have no difficulty absorbing these tanks into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

There are no offset agreements proposed to be entered into in connection with this potential sale.

Several Quality Assurance Teams will be required in Thailand for short periods during the incremental delivery of the tanks.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97-19

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The Tank Thermal Sight hardware is not classified. The target acquisition range is classified Confidential because this information would enable a potential adversary to develop countermeasures and tactics. The vulnerability to countermeasures and counter-countermeasures are classified Secret.

2. Data relating to the specialized and highly sensitive engineering design information and manufacturing specifications, which if compromised could assist a potential adversary in the production of thermal devices, are not part of the sale.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–16257 Filed 6–20–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0079]

Submission for OMB Review; Comment Request Entitled Corporate Aircraft Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0079).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Corporate Aircraft Costs. A request for comments was published at 62 FR 18760, April 17, 1997. No comments were received.

DATES: *Comment Due Date:* July 23, 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: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0079 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jerry Olson, Office of Federal Acquisition Policy, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Government contractors that use company aircraft must maintain logs of flights containing specified information to ensure that costs are properly charged against Government contracts and that directly associated costs of unallowable activities are not charged to such contracts.

B. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *3,000;* hours per recordkeeper, *6;* and total recordkeeping burden hours, *18,000.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (VRS), Room 4037, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0079, Corporate Aircraft Costs, in all correspondence.

Dated: June 6, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–16319 Filed 6–20–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1997 Summer Study Task Force on DoD Responses to Transnational Threats

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board 1997 Summer Study Task Force on DoD Responses to Transnational Threats will meet in closed session on June 30—July 1, 1997 at the Institute for Defense Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will provide an assessment of the DoD posture and recommend actions to improve this posture. Specifically, review the legislation, executive orders, prior studies and current activities of the government, identify the variety of threats which should be addressed by the Department, assess the nation's vulnerability to these threats, examine the DoD capabilities for playing its proper role in response, identify available and potential technologies which may be applicable for enhancing the protection of US Armed Forces, and recommend actions by the Department to position itself properly for this set of problems.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: June 16, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–16255 Filed 6–20–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 22, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., 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, 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.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 17, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of the Under Secretary

Type of Review: New.

Title: Evaluation of the Eisenhower Professional Development Program: State and Local Activities.

Frequency: One time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 4,313.

Burden Hours: 3,817.

Abstract: The Planning and Evaluation Service is conducting a three-year study to examine the Eisenhower Professional Development Program and to report on the progress of the program with respect to a set of Performance Indicators established by the Department of Education. The evaluation will provide information on the types of professional development activities supported by the program, the effects of program participation on classroom teaching, and the quality of program planning and coordination. Clearance is sought for a National Profile, In-Depth Cases, and a Longitudinal Study of Teacher Change, to be conducted during the 1997–1998 school year. Respondents include teachers, educational administrators, and professional development providers.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: State Performance Report—Title I, Parts A & D, Elementary and Secondary Education Act (ESEA) as amended, Helping Disadvantaged Children Meet High Standards.

Frequency: Annually.

Affected Public: State, Local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 53.

Burden Hours: 49,302.

Abstract: Under Title I Parts A & D of ESEA, States and their LEAs are required to collect, disaggregate and report data on participation and performance. Under Section 1501(b), the Secretary may collect those data and, under Section 14201(d), the Secretary requires review of the use of Title I consolidated administrative funds.

[FR Doc. 97–16280 Filed 6–20–97; 8:45 am]

BILLING CODE 4000–01–P

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 23, 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, S.W., 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 17, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of the Under Secretary

Type of Review: New.

Title: Even Start Performance Information Reporting System.

Frequency: Annually.

Affected Public: Individuals and households; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 127,368.

Burden Hours: 395,881.

Abstract: The Even Start Performance Information Reporting System involves the refinement and maintenance of a data collection system, collection and analysis of descriptive and outcome data from all Even Start grantees, training of local Even Start project directors in data collection and technical assistance to them, and preparation of annual reports.

Office of Postsecondary Education

Title: Lender's Application for Payment of Insurance Claim, ED Form 1207.

Frequency: On occasion

Affected Public: Businesses or other for-profit; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 6,202.
Burden Hours: 2,604.

Abstract: The ED Form 1207—Lender's Application for Payment of Insurance Claim—is completed for each borrower for whom the lender is filing a Federal claim. Lenders must file for payment within 90 days of the default, depending on the type of claim filed.

[FR Doc. 97–16279 Filed 6–20–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

DATES AND TIMES: Monday, July 21, 1997:

6:00 p.m.–6:30 p.m. (Public Comment Session)
6:30 p.m.–7:00 p.m. (Joint Subcommittee Meeting)
7:00 p.m.–9:00 p.m. (Subcommittee Meetings)

Tuesday, July 22, 1997: 8:30 a.m.–4:00 p.m.

ADDRESSES: University of South Carolina—Aiken, Business and Education Building, 171 University Parkway, Aiken, South Carolina.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Public Accountability Specialist, Environmental Restoration and Solid Waste Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802 (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Monday, July 21, 1997

6:00 p.m. Public comment session (5-minute rule)
6:30 p.m. Joint subcommittee meeting
7:00 p.m. Subcommittee meetings
9:00 p.m. Adjourn

Tuesday, July 22, 1997

8:30 a.m. Approval of minutes, agency updates (~15 minutes)
Public comment session (5-minute rule) (~15 minutes)
Risk management & future use subcommittee report (~1½ hours)
Nuclear materials management subcommittee report (~1 hour)
12:00 p.m. Lunch
1:00 p.m. Environmental restoration and waste management subcommittee report (~1½ hours)
Administrative subcommittee report (~15 minutes)—Includes potential by-laws amendment
Spent fuel forum update (~10 minutes)
National Dialogue discussion (~30 minutes)
Outreach subcommittee report (~15 minutes)
Public comment session (5-minute rule) (~15 minutes)
4:00 p.m. Adjourn

If necessary, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, July 21, 1997.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC, on June 18, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–16385 Filed 6–20–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Thursday, July 10, 1997: 9:00 a.m.—5:00 p.m. Friday, July 11, 1997: 8:30 a.m.—3:00 p.m.

ADDRESSES: Redpath Hotel, 515 West Sprague, Spokane, Washington, Ph: (800) 814–5698.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The Hanford Advisory Board will receive information on and discuss issues related to: Environmental Management's Accelerated Cleanup Plans, FY 99 Integrated Priority List and Project Baseline Summaries, Board Advice Summary, the Tri-Party Agreement (TPA) Change Package for Reactors on the River, the TPA Change Package for K Basins/Spent Fuel, the Tank Waste Remediation System, 100-N Area Decommissioning, the Integrated Safety Management System, and the Columbia River Comprehensive Impact Assessment. The Board will receive updates on these major issues of concern from various Subcommittees including the Health, Safety and Waste Management; Environmental Restoration; and Dollars and Sense Committees. Discussions will also be held on Board perspectives for consideration by committees, and the Board's approach for review and drafting advice by committees.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the

address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 376–9628.

Issued at Washington, DC on June 18, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–16386 Filed 6–20–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Wildlife Mitigation Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: Bonneville Power Administration (BPA) has decided to adopt a set of prescriptions (goals, strategies, and procedural requirements) that apply to future BPA-funded wildlife mitigation projects. Various sources—including Indian tribes, state agencies, property owners, private conservation groups, or other Federal agencies—propose wildlife mitigation projects to the Northwest Power Planning Council (Council) for BPA funding. Following independent scientific and public reviews, Council then selects projects to recommend for BPA funding. BPA adopts this set of prescriptions to standardize the planning and implementation of individual wildlife mitigation projects. This decision is based on consideration of potential environmental impacts evaluated in BPA's Wildlife Mitigation Program Final Environmental Impact Statement (DOE/EIS–0246) published March 20, 1997, and filed with the Environmental Protection Agency (EPA) the week of March 24, 1997 (EPA Notice of Availability published April 4, 1997, 62 FR 65, 16154).

ADDRESSES: Copies of the ROD and Environmental Impact Statement may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION CONTACT: Thomas C. McKinney, Bonneville Power Administration, P.O. Box 3621 (EC–4), Portland, Oregon, 97208–3621, phone number (503) 230–4749, fax number (503) 230–5699.

Issued in Portland, Oregon, on June 4, 1997.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 97–16397 Filed 6–20–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–165–004]

Alabama-Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1997.

Take notice that on June 12, 1997, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective June 1, 1997:

1st Substitute Fourth Revised Sheet No. 101
1st Substitute First Sheet No. 101A

Alabama-Tennessee states that the tariff sheets are filed to comply with the Commission's directives in its May 30, 1997 order, 79 FERC ¶61,281 (1997), issued in the captioned proceeding.

Alabama-Tennessee states that copies of the filing were served on all affected entities.

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 Procedure. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by 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 and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16262 Filed 6–20–97; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–88–005]

Alabama-Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1997.

Take notice that on June 12, 1997, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective May 21, 1997:

3rd Substitute Third Revised Sheet No. 101
2nd Revised Sheet No. 101A

Alabama-Tennessee states that the tariff sheets are filed to comply with the Commission's directories in its May 30, 1997 order, 79 FERC ¶ 61,281 (1997), issued in the captioned proceeding.

Alabama-Tennessee states that copies of the filing were served on all affected entities.

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 Procedure. All such protests should 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 and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16295 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2564–000]

American Ref-Fuel Company of Delaware County, L.P.; Notice of Issuance of Order

June 17, 1997.

American Ref-Fuel Company of Delaware County, L.P. (American) submitted for filing a notice of succession in ownership requesting redesignation of Delaware Resource Management, Inc.'s rate schedules to American. American also requested waiver of various Commission regulations. In particular, American requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by American.

On June 2, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by American should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, American is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of American's issuances of securities or assumptions of liability.

Notice if hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 1, 1997.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16301 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–355–001]

CNG Transmission Corporation; Notice of Compliance Tariff Filing

June 17, 1997.

Take notice that on June 12, 1997, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, to be effective June 1, 1997:

Substitute Original Sheet No. 208
Substitute Original Sheet No. 209
Substitute Original Sheet No. 210
Substitute Original Sheet No. 446

CNG states that the purpose of this filing is to further revise and clarify CNG's tariff as directed by the Commission in its May 28 Order, to implement mainline pooling service in compliance with certain business practice standards of the Gas Industry Standards Board (GISB).

CNG states that copies of its filing have been mailed to the parties to the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Section 3895.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16267 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11163]

Consolidated Hydro New Hampshire, Inc.; Notice of Public Conference

June 17, 1997.

In response to a request by Consolidated Hydro New Hampshire, Inc. (applicant), FERC staff will attend a meeting on the questions raised by the applicant regarding the economic analysis in the Final Environmental Assessment of the South Berwick hydroelectric project. The meeting is scheduled for July 1, 1997, from 10:30 a.m. until 5:00 p.m. in Conference Room A, located on the eleventh floor of 1 Congress Street, Boston, MA.

This meeting is neither a hearing nor a settlement conference. It will provide an opportunity for the applicant and the Commission staff to raise questions and exchange information concerning the staff's economic analysis. Interested parties are also welcome to attend and participate in the meeting.

Anyone wishing to comment in writing on the meeting must do so no later than July 15, 1997. Comments should be addressed to: Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Reference should be clearly made to: the South Berwick hydroelectric project (Project No. 11163).

For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16293 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–1238–000]

CSW Power Marketing, Inc.; Notice of Issuance of Order

June 18, 1997.

CSW Power Marketing, Inc. (CSW Power), an affiliate of the registered public utility holding company, Central and South West Corporation, filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, CSW Power requested that the Commission grant blanket approval under 18 CFR Part 34 of all future

issuances of securities and assumptions of liabilities by CSW Power. On June 11, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Based Rates, (Order), in the above-docketed proceeding.

The Commission's June 11, 1997 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by CSW Power should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, CSW Power is hereby authorized to issue securities and to assume obligations and liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of CSW Power, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of CSW Power's issuances of securities or assumptions of liabilities. * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 11, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16376 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–342–001]

Kern River Gas Transmission Company; Notice of Compliance Filing

June 17, 1997.

Take notice that on June 12, 1997, Kern River Gas Transmission (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets with a proposed effective date of June 1, 1997:

Fourth Revised Sheet No. 93
Second Revised Sheet No. 94
Substitute Original Sheet No. 94–A

Kern River states that the purpose of this filing is to comply with the Commission's May 28, 1997 Order Accepting, Suspending, and Rejecting Tariff Sheets Subject to Conditions in Docket No. RP97–342–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16266 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–339–001]

KO Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1997.

Take notice that on June 12, 1997, KO Transmission Company (KO Transmission) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the revised tariff sheets listed in Appendix A to the filing to comply with the GISB Standards in Order No. 587. KO Transmission proposes an effective date of June 1, 1997 for the revised tariff sheets.

KO Transmission states that the revised tariff sheets reflect changes to comply with a May 28, 1997 Letter Order in this docket.

KO Transmission states that copies of this filing were served to all of its customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make any Protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16265 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–572–000]

Koch Gateway Pipeline Company; Notice of Request under Blanket Authorization

June 17, 1997.

Take notice that on June 11, 1997, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP97–572–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate a 2-inch tap to serve Precoat Metals Inc. (Precoat), an end user, under its blanket certificate issued in Docket No. CP82–430–000,[1] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Koch proposes to install the new delivery point on its existing transmission line, designated as TPL 302–20 in Hinds County, Mississippi to satisfy Precoat's request for natural gas service. Koch further states that the volumes proposed to be delivered to Precoat will be pursuant to Koch's blanket transportation certificate authorized in FERC Docket No. CP88–6–000.[2]

Koch further states it will construct and operate the proposed facilities in compliance with 18 CFR, Part 157, Subpart F, and that the proposed activities will not affect Koch's ability to serve its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the

[1] *See*, 20 FERC ¶ 62,416 (1982).

[2] *See*, 42 FERC ¶ 62,027 (1988).

Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity 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. 97–16287 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–014]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1997.

Take notice that on June 11, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet in to be effective June 10, 1997:

Ninth Revised Sheet No. 29

Koch states that the proposed changes to this tariff sheet reflects a recently negotiated rate transaction between Koch and Phibro.

Koch also states that this filing has been served upon all parties on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16294 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–393–000]

Koch Gateway Pipeline Company; Notice of Filing

June 17, 1997.

Take notice that on June 12, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing its report of the net revenues attributable to the operation of its cash-in/cash-out program.

Koch states that this filing reflects its annual report of the net revenues attributable to the operation of its cash-in/cash-out program used to resolve transportation imbalances. The report shows a negative cumulative position that will continue to be carried forward and applied to the next cash-in/cash-out reporting period as provided in Koch's tariff, section 20.1(D) of the General Terms and Conditions.

Koch states that copies of the filing are being served upon each affected customer, state commission, and other interested parties.

Any person desiring to be heard or to protest this 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 motions or protests must be filed as provided by section 154.210 of the Commission's rules and regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16297 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–394–000]

Koch Gateway Pipeline Company; Notice of Filing

June 17, 1997.

Take notice that on June 12, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing its report of the net revenues attributable to the operation of its cash-in/cash-out program.

Koch states that this filing reflects its report of the net revenues attributable to the operation of its cash-in/cash-out program for the first quarter of 1997. Koch's cash-in/cash-out report shows a negative cumulative position that will continue to be carried forward and applied to the next cash-in/cash-out reporting period as provided Koch's tariff, section 20.1(D) of the General Terms and Conditions.

Koch states that copies of the filing has served copies of this filing upon each affected customer, state commission, and other interested parties.

Any person desiring to be heard or to protest this 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 motions or protests must be filed as provided by section 154.210 of the Commission's rules and regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16298 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–2517–000 and ER97–2518–000]

XENERGY, Inc., New York State Electric & Gas Corporation; Notice of Issuance of Order

June 17, 1997.

New York State Electric & Gas Corporation (NYSEG) and its power marketer affiliate, XENERGY, Inc., (XENERGY) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorization. In particular, XENERGY requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by XENERGY.

On June 9, 1997, the Commission issued an Order Accepting Proposed Market-Based Rates and Cost-Based Rates (as Modified) for Filing (Order), in the above-docketed proceedings.

The Commission's June 9, 1997 Order granted XENERGY the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by XENERGY should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, XENERGY is hereby authorized, pursuant to section 204 of the FPA, to issue securities and assume obligations and liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of XENERGY, compatible with the public interest, and reasonable necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of XENERGY's issuance of securities or assumptions of liabilities * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 9, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16302 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–U–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–566–000]

NorAm Transmission Company; Notice of Request Under Blanket Authorization

June 17, 1997.

Take notice that on June 10, 1997, NorAm Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP97–566–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to operate certain facilities in Louisiana as jurisdictional, under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, NGT requests authority to operate a 2-inch meter station on NGT's Line H in Union Parish, Louisiana, under Subpart G of Part 284 of the Commission's Regulations. NGT explains that this meter station will be constructed in June, 1977, under Section 311 of the Natural Gas Policy Act and Subpart B of Part 284 of the Commission's Regulations to upgrade an existing 1-inch, I-shape, meter station for ARKLA, a distribution division of NorAm Energy Corp. ARKLA requested that the facilities be upgraded to handle an increase in volumes. NGT states that the estimated volumes to be delivered through these facilities are approximately 4,870 MMBtu annually and 840 MMBtu on a peak day. NGT says that the cost of the facilities to be installed is $11,163 and that $8,786 will be reimbursed by ARKLA.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205) a protest to the request. If no protest is filed within the time allowed therefor, 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. 97–16284 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–567–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

June 17, 1997.

Take notice that on June 10, 1997, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP97–567–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for authorization to operate and abandon certain facilities in Arkansas, under NGT's blanket certificate issued in Docket No.CP82–384–000 and CP82–384–001 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.

NGT proposes to abandon Line KM–60, composed of approximately 1,162 feet of 4 and 6-inch pipe, and a 2-inch meter station in Section 32, Township 18 South, Range 15 West, Union County, Arkansas. NGT currently delivers gas through this meter station to Great Lakes Chemical Corporation (Great Lakes), and for safety purposes, will sell the line to Great Lakes and then abandon and junk the existing deteriorated meter station. These facilities are located on property belonging to Great Lakes. The estimated cost of the abandoned facilities is $14,864. NGT proposes to operate an existing 4-inch, L-shape, turbine check meter on Line KT–9 to continue providing service to the Great Lakes plant and the estimated cost for the new facilities is $29,057.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity 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. 97–16285 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–574–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

June 17, 1997.

Take notice that on June 12, 1997, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP97–574–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate certain facilities in Arkansas to deliver gas to ARKLA, a distribution division of NorAm Energy Corp. (ARKLA), under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, 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.

NGT specifically proposes to operate an existing 1-inch rural delivery tap on NGT's Line JM–23 in West Memphis, Crittenden County, Arkansas to provide service to ARKLA. NGT states that ARKLA plans to connect a rural extension distribution line to NGT's existing tap to serve customers other than the right-of-way grantor. NGT states that the estimated volumes to be delivered through the facilities are 1,108 MMBtu annually and 10 MMBtu on a peak day. NGT states that ARKLA will furnish all materials to connect its rural extension line to NGT's existing tap. NGT estimates its total cost will be approximately $400, of which ARKLA will reimburse NGT $275.

NGT states that it will transport gas to ARKLA and provide service under its tariff, that the volumes delivered are within ARKLA's certificated entitlement and NGT's tariff does not prohibit the addition of new delivery points. NGT also states that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity 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. 97–16288 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–372–001]

Northern Natural Gas Company; Notice of Compliance Filing

June 17, 1997.

Take notice that on June 12, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to be effective July 1, 1997:

Substitute 35 Revised Sheet No. 50
Substitute 35 Revised Sheet No. 51

Northern states that the filing is made to correct the filing dated May 29, 1997 that revised the current GSR–RA surcharge which is designed to recover price differentials associated with unassigned Reverse Auction (RA) Contracts and applicable carrying charges. Therefore, Northern has filed the Substitute Thirty-Fifth Revised Sheet No.'s 50 and 51 to revise the GSR–RA surcharge, effective July 1, 1997.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16268 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–180–004]

Northwest Pipeline Corporation; Notice of Compliance Filing

June 17, 1997.

Take notice that on June 12, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing a revised Statement J.

Northwest states that this filing is made in compliance with the Commission's May 29, 1997 order in Docket No. RP97–180–001, et al. requiring Northwest to file a revised Statement J in the above-referenced docket. The Statement J compares Northwest's revenues under both monthly rates and daily rates to the cost of service underlying Northwest's current rates.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16263 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1431–000 and ER97–1432–000]

PEC Energy Marketing, Inc. and DePere Energy Marketing, Inc.; Notice of Issuance of Order

June 18, 1997.

PEC Energy Marketing, Inc. and DePere Energy Marketing, Inc. (collectively, Applicants) are power marketing affiliates of GPU, Inc., a public utility holding company. The Applicants filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, Applicants requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Applicants. On June 12, 1997, the Commission issued an Order Conditionally Accepting for Filing Proposed Market-Base Rates (Order), in the above-docketed proceedings.

The Commission's June 12, 1997 Order granted the request for blanket approval under part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, Applicants are hereby authorized, pursuant to section 204 of the FPA, to issue securities and assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Applicants' issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 14, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16377 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2374–000]

Quark Power L.L.C.; Notice of Issuance of Order

June 17, 1997.

Quark Power L.L.C. (Quark) submitted for filing with the Commission a rate schedule under which Quark will engage in wholesale electronic power and energy transactions as a marketer. Quark also requested waiver of various Commission regulations. In particular, Quark requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Quark.

On June 6, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Quark should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Quark is authorized to issue securities and assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Quark's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 7, 1997. Copies of the full text of the order are available for the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16300 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–1371–006]

Southern Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

June 17, 1997.

Take notice that on June 12, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's letter order issued on May 28, 1997, in this docket, to become effective June 1, 1997:

First Revised Twenty-Sixth Revised Sheet No. 14
First Substitute Thirteenth Revised Sheet No. 14a
First Revised Twenty-Sixth Revised Sheet No. 16
First Substitute Thirteenth Revised Sheet No. 16a
First Substitute Fourth Revised Sheet No. 20
First Substitute Second Revised Sheet No. 20a

Southern states that by letter order dated May 28, 1997, the Commission accepted Southern's April 7, 1997 proposal to comply with Order No. 587, subject to Southern filing revised tariff sheets to state, in dollars and cents, the rates derived from the application of Gas Industry Standard Board (GISB) standard 5.3.22, Version 1.1. Southern states that the revised Tariff sheets submitted above comply with the May 28, 1997 order.

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. 97–16296 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 460–009]

City of Tacoma, WA; Notice Establishing Comment Period for Complaint and Motion for Interim License Conditions

June 17, 1997.

On June 3, 1997, the Skokomish Indian Tribe filed a document entitled ''Complaint for Violation of an Annual License, Petition for Declaratory Order, and Motion To Establish Interim License Conditions and Other Relief.'' The tribe requests, pursuant to 18 CFR 385.206, 385.107, and 385.212 of the Commission's regulations, that the Commission find the City of Tacoma to be in violation of its annual license for the Cushman Hydroelectric Project No. 460.[1] The Tribe also requests that the Commission impose interim conditions on that annual license pending a final decision on Tacoma's application for a new license for the project.

Pursuant to Rule 213(d) of the Commission's regulations, answers to motions are due within 15 days after filing, and answers to complaints are due within 30 days after filing or, if noticed, after publication of notice in the **Federal Register**, unless otherwise ordered.[2] In general, the Commission's policy is to publish notice in the **Federal Register** of complaints against hydroelectric licensees.[3] Because the Tribe's complaint and motion are filed together and address related issues, the Commission has determined that they should be considered together and that a single comment period should be established for them, as provided in this notice.

The Commission has also determined that, because the Tribe's complaint concerns Tacoma's compliance with the terms and conditions of its annual license and the possible need for interim conditions pending relicensing, they are not properly part of the ongoing relicensing proceeding, but rather, constitute a separate proceeding involving only the Tribe, as complainant, and Tacoma, as licensee. Accordingly, any other interested entities that wish to participate in this proceeding, including parties to the Cushman relicensing proceeding, must file a motion to intervene.

Any person may file an answer, comments, protest, or a motion to intervene with respect to the Tribe's complaint and motion in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.213, and 385.214. In determining the appropriate action to take with respect to the complaint and motion, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any answers, comments, protests, or motions to intervene must be received no later than July 25, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16290 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Although styled as both a complaint and a petition for a declaratory order, the Tribe's request is, in essence, a complaint, because the petition simply seeks a declaratory order finding Tacoma in violation of its annual license.

[2] 18 CFR 385.213(d). *See also* 18 CFR 385.202.

[3] 18 CFR 2.1(a)(1)(iii)(J).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–395–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 17, 1997

Take notice that on June 12, 1997, Texas Eastern Transmission Corporation (Texas Eastern), tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 552, with a proposed effective date of July 1, 1997.

Texas Eastern states that the purpose of this filing is to modify Section 9.3 of the General Terms and Conditions (GT&C) of Texas Eastern's Tariff to provide for a service to replace an exchange service provided by Koch Gateway Gas Pipeline Company (Koch), under Texas Eastern's Original Volume No. 2 FERC Gas Tariff, Rate Schedule X–131. Texas Eastern states that it will enter into firm and interruptible transportation agreements with PanEnergy Louisiana Intrastate Company (PELICO) to replace the Koch exchange service.

Texas Eastern also states that at this time it does not propose to change its rates to recover the costs of transportation service from PELICO, but reserves its right under the Natural Gas Act to seek to recover such costs in a subsequent rate proceeding.

Texas Eastern states that copies of the filing were served on all firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest this 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 motions or protests must be filed in as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16299 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–569–000]

Texas Gas Transmission Corporation; Notice of Application

June 17, 1997.

Take notice that on June 11, 1997, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP97–569–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Energy Development Corporation (Energy Development) provided by Texas Gas under its Rate Schedule X–55 and authorized in Docket No. CP75–275, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas requests authorization to abandon the transportation service provided under its Rate Schedule X–55 for Energy Development and authorized in Docket No. CP75–275. Texas Gas states that under Docket No. CP75–275, Texas Gas was authorized to provide a transportation service for Energy Development pursuant to a Transportation Agreement dated February 28, 1975 (Transportation Agreement). Texas Gas states that service is no longer provided under the Transportation Agreement and the Transportation Agreement has been terminated by mutual agreement of the parties by letter dated June 5, 1996.

Any person desiring to be heard or to make any protest with reference to said application should on before July 8, 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 into 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 the jurisdiction conferred upon the Federal Energy Regulatory 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 herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are 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 Texas Gas to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16286 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–336–001]

Trailblazer Pipeline Company; Notice of Compliance Filing

June 17, 1997.

Take notice that on June 12, 1997, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective June 1, 1997.

Trailblazer stated that the purpose of the filing is to comply with the Commission's order issued on May 30, 1997 in Docket No. RP97–336–000. The filing also incorporated conforming tariff provisions previously approved at Docket Nos. RP97–54–001, et al.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the: (1) Tendered tariff sheets to become effective June 1, 1997, the effective date previously authorized in the Order; and (2) conforming tariff changes previously approved at Docket Nos. RP97–54–001, et al., to be incorporated in the present filing.

Trailblazer stated that copies of the filing have been served on its transportation customers, interested state commissions, and all parties set out on the official service list at Docket No. RP97–336.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.11 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.10 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. 97–16264 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–31–000]

Williams Natural Gas Company; Notice of Refund Report

June 17, 1997.

Take notice that on June 12, 1997, Williams Natural Gas Company (WNG) tendered for filing a refund report, pursuant to Commission order issued February 22, 1995 (February 22 order), in Docket No. RP95–124–000.

WNG states that the February 22 order directed each pipeline receiving a refund from GRI to credit such refunds pro rata to its eligible firm customers, and within 15 days of making these credits, file a refund report with the Commission. The attached refund report reflects refunds of $853,512 credited by WNG to its eligible firm customers on June 12, 1997.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard to protest this 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 Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protest must be filed on or before June 23, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16289 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Modification of Project Facilities

June 17, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Modification of project facilities.

b. Project No: 2545–059.

c. Date Filed: April 29, 1997.

d. Applicant: Washington Water Power.

e. Name of Project: Spokane River Project.

f. Location: Nine Mile Development, Spokane County, Washington.

g. Filed Pursuant to: 18 CFR § 4.200.

h. Applicant Contact: Mr. Steven A. Frey, Washington Water Power, 1411 East Mission, P.O. Box 3727, Spokane, WA 99220–3727, (509) 452–4084.

i. FERC Contact: John K. Novak, (202) 219–2828.

j. Comment Date: July 10, 1997.

k. Description of Application: Washington Water Power (licensee) request Commission approval to construct a sediment by-pass tunnel through the dam of the Nine Mile Development. Passing sediment through the proposed tunnel would decrease loading on the trash racks and abrasion of the turbine blades. Construction would require the removal of about 1500 cubic yards of sediment and rock from the reservoir. The tunnel through the dam would be 5 feet in diameter, 140 feet long and capable of passing 400 cubic feet per second.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, to Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''Comments'', ''Recommendations for Terms and Conditions'', ''Protest'', or ''Motion to Intervene'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16291 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendments of License

June 17, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Amendment of License.

b. Project No.: 5679–016.

c. Date Filed: 05/15/97.

d. Applicant: Toutant Hydropower, Inc.

e. Name of Project: Toutant Water Power Project.

f. Location: On the Quinebaug River, Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant Contract: Roland Toutant, Toutant Hydropower, Inc., 80 Bungay Hill Road, Woodstock, CT 06281, (860) 974–2099.

i. FERC Contract: Mohamad Fayyad, (202) 219–2665.

j. Comment Date: July 23, 1997.

k. Description of Amendment: The licensee is proposing to increase the generating capacity of the project by adding another generating station with an installed capacity of 234 kW. The proposed station is an existing non-operational facility, which is located in the Powhattan Mill building across the river from the project's powerhouse. Since the proposed generating station is an existing facility, the work involves performing repairs to equipment within the existing mill building and adding a new generator. With the proposed addition, the project would have two powerhouses, one on each bank of the river, for a total installed capacity of 634 kW.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters this title ''Comments'', ''Recommendations for Terms and Conditions'', ''Protest'', or ''Motion to Intervene'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16292 Filed 6–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

June 18, 1997.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: June 25, 1997, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note— Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 678th Meeting—June 25, 1997 Regular Meeting (10:00 A.M.)

CAH–1.
Omitted
CAH–2.
Docket# P–2334, 002, Western Massachusetts Electric Company
Other# SP–2334, 003, Western Massachusetts Electric Company
CAE–3.
Omitted
CAH–4.
Docket# P–10813, 032, City of Summersville, West Virginia
CAH–5.
Docket# P–11219, 012, Mayo Hydro Company
CAH–6.
Docket# P–4797, 050, Cogeneration, Inc.
CAH–7.
Docket# P–10536, 005, Public Utility District No. 1 of Okanogan County, Washington
CAH–8.
Docket# P–5, 021, The Montana Power Company and Confederated Salish and Kootenai Tribes of the Flathead Reservation

Consent Agenda—Electric

CAE–1.
Docket# ER97–2801, 000, Pacificorp
CAE–2.
Docket# ER97–2746, 000, Northeast Utilities Service Company Long Island Lighting v. Northeast Utilities Service Company
Other# S EL97–34, 000, Long Island Lighting v. Northeast Utilities Service Company
CAE–3.
Docket# ER97–2846, 000, Florida Power Corporation
CAE–4.
Docket# ER97–2869, 000, Central Hudson Enterprise Corporation
Other# S ER97–2872, 000, Central Hudson Gas & Electric Corporation
CAE–5.
Docket# ER97–2800, 000, Montaup Electric Company
CAE–6.
Omitted
CAE–7.
Omitted
CAE–8.
Docket# ER96–930, 000, Pennsylvania Power & Light Company
Other# S ER96–931, 000, Pennsylvania Power & Light Company
ER96–932, 000, Pennsylvania Power & Light Company
ER96–933, 000, Pennsylvania Power & Light Company
CAE–9.
Docket# OA96–141, 000, Rochester Gas and Electric Corporation
CAE–10.
Omitted
CAE–11.
Docket# EL95–11, 001, Indeck-Olean Limited Partnership
Other# S EL95–45, 001, Niagara Mohawk Power Corporation
QF90–154, 006, Indeck-Olean Limited Partnership
CAE–12.
Docket# EL96–35, 000, Northern Indiana Public Service Company

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP97–171, 004, ANR Pipeline Company
CAG–2.
Docket# RP97–224, 004, Sea Robin Pipeline Company
CAG–3.
Omitted
CAG–4.
Docket# RP97–382, 000, ANR Pipeline Company
CAG–5.
Docket# RP97–384, 000, Transcontinental Gas Pipe Line Corporation
CAG–6.
Omitted
CAG–7.
Docket# RP95–363, 006, El Paso Natural Gas Company
CAG–8.
Docket# RP97–18, 006, Transwestern Pipeline Company
CAG–9.
Docket# RP97–372, 000, Northern Natural Gas Company
CAG–10.
Docket# RP97–373, 000, Koch Gateway Pipeline Company
CAG–11.
Docket# RP97–374, 000, Northwest Pipeline Corporation
CAG–12.
Docket# RP97–375, 000, Wyoming Interstate Company, Ltd.
CAG–13.
Docket# RP97–377, 000, Williston Basin Interstate Pipeline Company
CAG–14.
Docket# RP97–378, 000, Northern Natural Gas Company
CAG–15.
Docket# RP97–380, 000, Pacific Gas Transmission Company
CAG–16.
Omitted
CAG–17.
Docket# TM97–3–49, 000, Williston Basin Interstate Pipeline Company
CAG–18.
Omitted
CAG–19.
Omitted
CAG–20.
Docket# RP97–379, 000, Panhandle Eastern Pipe Line Company
CAG–21.
Docket# RP95–196, 005, Columbia Gas Transmission Corporation
Other#s RP95–392, 003, UGI Utilities, Inc. V. Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation
CAG–22.
Docket# RP97–60, 004, Tennessee Gas Pipeline Company
CAG–23.
Docket# RP97–164, 002, Texas-Ohio Pipeline, Inc.
CAG–24.
Docket# RP97–183, 003, Texas Gas Transmission Corporation
CAG–25.
Docket# RP97–183, 004, Texas Gas Transmission Corporation
CAG–26.
Docket# RP97–295, 001, Gasdel Pipeline System, Inc.
CAG–27.
Docket# RP97–312, 001, Transcontinental Gas Pipe Line Corporation
Other#s RP97–71, 005, Transcontinental Gas Pipe Line Corporation
CAG–28.
Docket# RP97–363, 000, Egan Hub Partners, L.P.
CAG–29.
Docket# RP96–272, 001, Northern Natural Gas Company
CAG–30.
Omitted
CAG–31.
Docket# RP97–43, 000, Koch Gateway Pipeline Company
CAG–32.
Docket# RP97–57, 002, Noram Gas Transmission Company
CAG–33.
Docket# RP97–93, 003, Young Gas Storage Company, Ltd.
Other#s RP97–93, 004, Young Gas Storage Company, Ltd.
CAG–34.
Docket# RP97–115, 001, Koch Gateway Pipeline Company
CAG–35.
Docket# RP97–368, 000, Northwest Alaskan Pipeline Company
CAG–36.
Docket# RP96–283, 003, Columbia Gulf Transmission Company
CAG–37.
Docket# RP97–149, 001, Gas Research Institute
CAG–38.
Docket# RP97–60, 005, Tennessee Gas Pipeline Company
Other#s RP97–60, 003, Tennessee Gas Pipeline Company
CAG–39.
Docket# RP97–61, 006, Noram Gas Transmission Company
CAG–40.
Docket# RP96–346, 003, Southern Natural Gas Company
CAG–41.

Docket# RP97–275, 003, Northern Natural Gas Company
Other#s RP97–275, 004, Northern Natural Gas Company
CAG–42.
Omitted
CAG–43.
Docket# RP97–64, 001, Natural Gas Pipe Line Company of America
CAG–44.
Docket# CP96–10, 002, Transwestern Pipeline Company
Other#s CP96–60, 001, Northwest Pipeline Corporation
CAG–45.
Docket# CP96–79, 001, Texas Gas Transmission Corporation
CAG–46.
Omitted
CAG–47.
Docket# CP96–655, 000, Destin Pipeline Company, L.L.C.
Other#s CP96–655, 001, Destin Pipeline Company, L.L.C.
CP96–656, 000, Destin Pipeline Company, L.L.C.
CP96–656, 001, Destin Pipeline Company, L.L.C.
CP96–657, 000, Destin Pipeline Company, L.L.C.
CP96–657, 001, Destin Pipeline Company, L.L.C.
CP97–291, 000, Southern Natural Gas Company and Destin Pipeline Company, L.L.C.
CAG–48.
Docket# CP97–533, 000, Chevron U.S.A. Inc., Venice Gathering Company and Venice Gathering System, L.L.C., et al.
Other#s CP97–534, 000, Chevron U.S.A. Inc., Venice Gathering Company and Venice Gathering System, L.L.C., et al.
CP97–535, 000, Chevron U.S.A. Inc., Venice Gathering Company and Venice Gathering System, L.L.C. et al.
CAG–49.
Docket# CP97–3, 000, Northern States Power Company (Wisconsin) and Wisconsin Electric Power Company
CAG–50.
Docket# CP97–4, 000, Northern States Power Company (Minnesota) and Northern Power Wisconsin Corporation
CAG–51.
Docket# CP97–58, 000, Columbia Gas Transmission Corporation
CAG–52.
Docket# CP97–328, 000, Transcontinental Gas Pipe Line Corporation
CAG–53.
Docket# CP97–119, 000, Dauphin Island Gathering System
Other#s CP97–300, 000, Dauphin Island Gathering Partners
CP97–301, 000, Dauphin Island Gathering Partners
CP97–302, 000, Dauphin Island Gathering Partners
RP97–371, 000, Dauphin Island Gathering Partners
CAG–54.
Docket# CP96–164, 000, Tennessee Gas Pipeline Company
Other#s CP96–254, 000, Distrigas of Massachusetts Corporation
CAG–55.
Docket# CP96–687, 000, Iroquois Gas Transmission System, L.P.
CAG–56.
Docket# CP97–324, 000, Vermont Gas Systems, Inc.

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket# EC97–20, 000, Destec Energy, Inc. and NGC Corporation Order on Merger Application.
E–2.
Docket# EC97–5, 000, Ohio Edison Company and Pennsylvania Power Company, et al.
Other#s ER97–412, 000, First Energy System/Ohio Edison Company
ER97–413, 000, Ohio Edison Company and Pennsylvania Power Company, et al. Order on Merger Application, Open Access Tariff and Joint Dispatch Agreement.
E–3.
Docket# EC97–35, 000, New England Power Pool. Order on Independent System Operator Agreement and Disposition of Facilities.
E–4.
Docket# EC97–12, 000, San Diego Gas & Electric Company and Enova Energy, Inc.
Other#s EL97–15, 001, Enova Corporation and Pacific Enterprises
EL97–21, 000, Southern California Edison Company v. San Diego Gas & Electric Co., Enova Energy, NC. and Ensource Corp. Order on Disposition of Facilities and Complaint.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Reserved

Lois D. Cashell,

Secretary.

[FR Doc. 97–16539 Filed 6–19–97; 2:28 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00214; FRL–5722–7]

Toxic Substances Control Act Section 8(a) Preliminary Assessment Information Rule; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection described below. The ICR is a continuing ICR entitled ''Toxic Substances Control Act (TSCA) Section 8(a) Preliminary Assessment Information Rule (PAIR),'' EPA ICR No. 0586.08, OMB No. 2070–0054, which relates to reporting requirements found at 40 CFR part 712. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before August 22, 1997.

ADDRESSES: Submit three copies of all written comments to: TSCA Document Receipts (7407), Room NE–G99, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–7099. All comments should be identified by administrative record number AR180 and ICR number 0586.08. This ICR is available for public review at, and copies may be requested from, the docket address and phone number listed above.

Comments and data may also be submitted electronically by following the instructions under Unit III. of this document. No CBI should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: 202–554–0551, e-mail: TSCA–Hotline@epamail.epa.gov. For technical information contact Frank Kover, Chief, Chemical Information and Testing Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–8130, Fax: 202–260–1096, e-mail: kover.frank@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of this document and the ICR are available from the EPA home page at the Environmental Sub-Set entry for this document under

''Regulations'' (http:// www.epa.gov/ fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item 4051 for a copy of the ICR.

I. Background

Entities potentially affected by this action are persons who manufacture or import chemical substances, mixtures, or categories. For the collection of information addressed in this notice, EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collections

EPA is seeking comments on the following Information Collection Request.

Title: Toxic Substances Control Act (TSCA) Section 8(a) Preliminary Assessment Information Rule (PAIR), EPA ICR No. 0586.08, OMB No. 2070-0054. Expires November 30, 1997.

Abstract: TSCA section 8(a) authorizes EPA to promulgate rules under which manufacturers, importers, and processors of chemical substances and mixtures must maintain records and submit reports to EPA.

EPA has promulgated the Preliminary Assessment Information Rule (PAIR) under TSCA section 8(a). EPA uses PAIR to collect information to identify, assess, and manage human health and environmental risks from chemical substances, mixtures, and categories. PAIR requires chemical manufacturers and importers to complete a standardized reporting form to help evaluate the potential for adverse human health and environmental effects caused by the manufacture or importation of identified chemical substances, mixtures, or categories. Chemicals identified by EPA or any other federal agency, for which a justifiable information need for production, use, or exposure-related data can be satisfied by the use of the PAIR are proper subjects for TSCA section 8(a) PAIR rulemaking. In most instances the information that EPA receives from a PAIR report is sufficient to satisfy the information need in question.

Responses to the collection of information are mandatory (see 40 CFR part 712). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 3,489 hours per year with an annual cost of $233,404. These totals are based on an average burden of approximately 29.6 hours per response for an estimated 48 respondents making one or more responses annually. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Record

A record has been established for this action under docket number ''OPPTS-00214'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at: oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: June 10, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–16359 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5845–9]

Agency Information Collection Activities Under OMB Review; 40 CFR Part 60, Standards of Performance for New Stationary Sources; New Residential Wood Heaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) described below has been forwarded to the Office of Management and Budget (OMB) for review and approval: New source Performance Standards for New Residential Wood Heaters (Subpart AAA), OMB Control Number 2060–0161, expiration date: 8/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 23, 1997.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1176–05.

SUPPLEMENTARY INFORMATION:

Title: 40 CFR 60.530 thru 60.539(b), New source Performance Standards for New Residential Wood Heaters (Subpart AAA), OMB Control No. 2060–0161, EPA ICR No. 1176–05, expiring 8/31/97. This is an extension of a currently approved collection.

Abstract: Information is supplied to the Agency under the applicable rule by

emission testing laboratories, manufacturers and commercial owners (e.g., distributors, retailers).

The information supplied by manufacturers to the Agency is used: (1) To ensure that the best demonstrated technology (BDT) is being used to reduce emissions from wood heaters, (2) to ensure that the wood heater tested for certification purposes is in compliance with the applicable emission standards, (3) to provide evidence that production-line wood heaters have emission performance characteristics similar to tested models and (4) to provide assurance of continued compliance.

Manufacturers submit a notification to the Agency stating the dates of certification testing, perform the certification testing at an accredited laboratory, supply detailed component drawings including manufacturing tolerances to the Agency, reapply for certification every five years, seal/store each tested model and maintain all necessary certification test records.

Most recordkeeping and reporting provisions of the rule consists of emissions-related data and other information not considered confidential. However, the confidentiality of certain information obtained by the Agency is safeguarded according to Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976: amended by 43 FR 3999, September 8, 1978; 43 FR 42251, September 20, 1987; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 12/2/96 (61 FR 63840).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.47 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers/Sellers of new Residential Wood Heaters.

Estimated Number of Respondents: 54.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 7,653 hours.

Estimated Total Annualized Cost Burden: $1,347,984.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1176–05 and OMB Control No. 2060.0161 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW., Washington, DC 20503.

Dated: June 18, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–16349 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–42064B; FRL–5717–3]

Department of Energy Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Approve Amended Certification Plan.

SUMMARY: On October 7, 1988, EPA announced approval of the Department of Energy (DOE) plan for the certification of pesticide applicators. The DOE plan only provided for certification of employees of the Bonneville Power Administration. The DOE has submitted a revision to their pesticide applicator certification plan. While continuing to cover only employees of the Bonneville Power Administration, the revised plan would add a wood treatment category and require recertification every year. The present plan contains only a right-of-way category, which would be retained, and requires recertification at 3–year intervals. Notice is hereby given of the intention of EPA to grant approval of the newly revised DOE plan.

DATES: Written comments should be submitted on or before August 7, 1997.

ADDRESSES: The Agency invites interested persons to submit written comments on this Notice. Comments identified by the docket control number OPP–42064B should be submitted in triplicate by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5805, from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Comments and data may also be submitted electronically by following the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Copies of the DOE revised plan are available for viewing at the following locations during normal business hours:

1. U.S. Environmental Protection Agency, Office of Pesticide Programs, Crystal Mall #2, 1921 Jefferson Davis Highway, Rm. 1121, Arlington, VA 22202. Contact: John R. MacDonald, (703) 305–7370.

2. U.S. Department of Energy, Bonneville Power Administration, 905 Northeast Eleventh, Stop EP-5, Fifth Floor, Portland, OR 97232. Contact: James Meyer, (503) 230–5038.

3. Select U.S. Department of Energy installations. Contact James Meyer at aforementioned location for list of locations.

FOR FURTHER INFORMATION CONTACT: By mail: John R. MacDonald, (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1121, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: (703) 305–7370.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of October 7, 1988 (53 FR 39518), notice was published announcing the final approval of a DOE pesticide applicator certification plan, which only addressed the Bonneville Power Administration.

The DOE is revising its certification plan to require recertification every year and add a wood treatment category. The present plan requires recertification every 3 years. Certification and recertification will continue to be by written examinination. The current right-of-way category will remain in the revised plan. This revised plan has been submitted to EPA for approval. The DOE estimates that there will be 100 applicators certified in the new wood treatment category. There are presently approximately 150 applicators certified in the right-of-way category, whose certification will remain unaffected by this action. EPA finds that the revised DOE certification plan fully meets the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and the regulations at 40 CFR part 171. Therefore, EPA announces its intention to approve the revised DOE certification plan. Interested persons are invited to submit written comments on EPA's intention to approve the revised DOE certification plan.

II. Public Docket

The official record for this document, as well as the public version, has been established for this document under docket control number ''OPP–42064B'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–42064B. Electronic comments on this action may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: June 16, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–16356 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30407A; FRL–5724–8]

Ecogen Incorporation; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Lepinox Bioinsecticide, Lepinox G Bioinsecticide, and Lepinox WDG Bioinsecticide, containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8291; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of April 17, 1996 (61 FR 16781; FRL–5362–2), which announced that Ecogen Inc., 2005 Cabot Blvd. West, P.O. Box 3023, Longhorne, PA 19047–3023, had submitted applications to register the pesticide products Crystar Technical, Crystar G, and Crystar WDG (EPA File Symbols 55638–GL, 55638–GA, and 55638–GT), containing the new active ingredient *Bacillus thuringiensis* subspecies *kurstaki* strain EG 7826 lepidopteran active toxin at 50, 2, and 15 percent respectively, an active ingredient not included in any previously registered products.

The applications were approved on December 16, 1996, for the products listed below:

1. Lepinox Bioinsecticide (formerly Crystar Technical) for the manufacture of bioinsecticide end-use products; for application to vegetables and cole crops, herbs, spices, ornamentals, and other crops (EPA Registration Number 55638–35).
2. Lepinox G Bioinsecticide (formerly Crystar G) for the control of lepidopterous pests EPA Registration Number 55638–36).
3. Lepinox WDG Bioinsecticide (formerly Crystar WDG) for the control of lepidopterous pests (EPA Registration Number 55638–37).

The Agency has considered all required data on risks associated with the proposed use of *Bacillus thuringiensis* subspecies *kurstaki* strain EG 7826 lepidopteran active toxin, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of *Bacillus thuringiensis* subspecies *kurstaki* strain EG 7826 lepidopteran active toxin when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in an EPA Pesticide Fact Sheet on *Bacillus thuringiensis* subspecies *kurstaki* strain EG 7826 lepidopteran active toxin.

A copy of these fact sheets, which provide a summary description of the pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703-305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C.

20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 10, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–16357 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–745; FRL–5722–8]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–745, must be received on or before July 23, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–305–5697, e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number PF–745 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number PF–745 and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 13, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Monsanto Company

PP 6F4620

EPA has received a pesticide petition (PP 6F4620) from the Monsanto Company, 700 14th St., NW., Suite 1100, Washington, DC 20005 pursuant to section 408(d) of FFDCA, as amended, 21 U.S.C. 346a(d), by the Food Quality Protection Act of 1996 (Pub. L. 104–170, 110 Stat. 1489) proposing to amend 40 CFR 180.479 by establishing tolerance for residues of the herbicide, halosulfuron-methyl: (methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbon-ylaminosul-fonyl-3-chloro-1-methyl-1H-pyrazole-4-carbo-xylate), in or on the raw agricultural commodity sugarcane, cane at 0.05 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficieny of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The proposed analytical method for determining residues is by gas chromatography with an electron-capture detection.

The following is a summary of the information submitted to EPA to support the establishment, under section 408(b)(2)(D) of the amended FFDCA, of a tolerance for halosulfuron-methyl in sugarcane. Halosulfuron-methyl is a selective herbicide for the control of annual broadleaf weeds and nutsedge in field corn, milo, turf,

sugarcane, sweet corn/popcorn and other crops which is effective at low use rates. It may be applied pre-emergent, pre-plant incorporated, or postemergent in field corn. Single or sequential postemergence application rates are effective in milo, turf, and sugarcane.

A. Plant Metabolism and Analytical Method

The metabolism of halosulfuron-methyl as well as the nature of the residues is adequately understood for purposes of the tolerances. Metabolism depends on the mode of application. Preemergent applications result in rapid soil degradation of halosulfuron-methyl followed by crop uptake of the resulting pyrazole moiety. The pyrimidine ring binds tightly to soil and is eventually converted to carbon dioxide by microbial degradation. In postemergent applications, little metabolism and translocation take place resulting in unmetabolized parent compound as the major residue on the directly treated foliar surfaces. Very low levels of residues are found in the grain. In the sugarcane residue study, no residues at or above the limit of quantitation of 0.05 parts per million (ppm) were observed even from samples obtained when the exaggerated rate (>10x) was applied.

An adequate analytical method, gas chromatography with an electron-capture detector, is available for enforcement purposes with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The field corn and grain sorghum (milo) enforcement methodology has been submitted to the Food and Drug Administration for publication in the *Pesticide Analytical Manual, Vol. II* (PAM II). This method underwent independent laboratory validation and validation at the Beltsville laboratory. The Analytical Chemistry section of the EPA concluded that the method is adequate for enforcement. Analytical method is also available for analyzing meat by-products which also underwent successful independent laboratory and Beltsville laboratory validations.

B. Toxicological Profile of Halosulfuron-methyl

The toxicological data has been deemed complete by EPA. Data considered in support of the tolerance include:

1. Acute toxicological studies placing the technical-grade halosulfuron in Toxicity Category III.

2. A 90-day feeding study in rats resulted in a lowest-observed-effect-level (LOEL) of 497 milligrams/kilograms/day (mg/kg/day) in males and 640 mg/kg/day in females, and a no-observed-effect-level (NOEL) of 116 mg/kg/day in males and 147 mg/kg/day in females.

3. A 21-day dermal toxicity study in rats resulted in a NOEL of 100 mg/kg/day in males and greater than 1,000 mg/kg/day in females. The only treatment-related effect was a decrease in body weight gain of the 1,000 mg/kg/day group in males.

4. A 1-year chronic oral study in dogs resulted in a LOEL of 40 mg/kg/day based on decreased weight gain and a NOEL of 10 mg/kg/day for systemic toxicity.

5. A 78-week carcinogenicity study was performed on mice. Males in the 971.6 mg/kg/day group had decreased body weight gains and an increased incidence of microconcretion/mineralization in the testis and epididymis. No treatment-related effects were noted in females. Based on these results, a LOEL of 971.9 mg/kg/day was established in males and NOEL's of 410 mg/kg/day in males and 1,214.6 mg/kg/day in females were established. The study showed no evidence of carcinogenicity.

6. A combined chronic toxicity/carcinogenicity study in rats resulted in a LOEL of 225.2 mg/kg/day in males and 138.6 mg/kg/day in females based on decreased body weight gains, and a NOEL of 108.3 mg/kg/day in males and 56.3 mg/kg/day in females. The study showed no evidence of carcinogenicity.

7. A developmental toxicity study in rats resulted in a developmental LOEL of 750 mg/kg/day, based on decreases in mean litter size and fetal body weight, and increases in resorptions, resorptions/dam, post-implantation loss and in fetal and litter incidences of soft tissue and skeletal variations, and a developmental NOEL of 250 mg/kg/day. Maternal LOEL was 750 mg/kg/day based on increased incidence of clinical observations, reduced body weight gains, and reduced food consumption and food efficiency. The maternal NOEL was 250 mg/kg/day.

8. A developmental toxicity study in rabbits resulted in a developmental LOEL of 150 mg/kg/day, based on decreased mean litter size and increases in resorptions, resorptions/dam and post-implantation loss, and a developmental NOEL of 50 mg/kg/day. The maternal LOEL was 150 mg/kg/day based on reduced body weight gain and reduced food consumption and food efficiency. The maternal NOEL was 50 mg/kg/day.

9. A dietary two-generation reproduction study in rats resulted in parental toxicity at 223.2 mg/kg/day in males and 261.4 mg/kg/day in females in the form of decreased body weights, decreased body weight gains, and reduced food consumption during the premating period. Very slight effects were noted in body weight of the offspring at this dose. This effect was considered to be developmental toxicity (developmental delay) rather than a reproductive effect. No effects were noted on reproductive or other developmental toxicity parameters. The systemic/developmental toxicity LOEL was 223.2 mg/kg/day in males and 261.4 mg/kg/day in females; the systemic/developmental toxicity NOEL was 50.4 mg/kg/day in males and 58.7 mg/kg/day in females. The reproductive LOEL was greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females; the reproductive NOEL was equal to or greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females.

10. Bacterial/mammalian microsomal mutagenicity assays were performed and found not to be mutagenic.

11. Two mutagenicity studies were performed to test gene mutation and found to produce no chromosomal aberrations or gene mutations in cultured Chinese hamster ovary cells.

12. An *in vivo* mouse micronucleus assay did not cause a significant increase in the frequency of micronucleated polychromatic erythrocytes in bone marrow cells.

13. A mutagenicity study was performed on rats and found not to induce unscheduled DNA synthesis in primary rat hepatocytes.

14. A metabolism study in rats resulted in the administered dose being absorbed rapidly and incompletely. Most of the test article was eliminated by urine and feces within 72 hours, and appeared to be independent of dose and sex.

Threshold Effects

Chronic effects. Based on the complete and reliable toxicity data base, EPA has adopted a Reference Dose (RfD) value of 0.1 mg/kg body weight/day based on a NOEL of 10.0 mg/kg body weight/day from a one-year dog feeding study and an uncertainty factor of 100. EPA has concluded that the toxicity of the metabolite is lower compared to the parent compound and is not a residue of concern (see metabolite toxicity section below).

Acute effects. EPA has determined that the appropriate NOEL to use to assess safety in acute exposure is 50 mg/kg body weight/day from a developmental toxicity study in rabbits. EPA has concluded that the subpopulation of concern for this endpoint are females older than 13 years old.

Non-threshold Effects

Carcinogenicity. EPA's Office of Pesticide Programs' Health Effects Division's Carcinogenicity Peer Review Committee (CPRC) has classified halosulfuron-methyl in Group E (evidence of noncarcinogenicity for humans) under the Agency's ''Guidelines for Carcinogen Risk Assessment'' published in the **Federal Register** of September 24, 1986 (51 FR 33992). In its evaluation, CPRC gave consideration to body weight gain changes and changes in hematological and blood chemistry parameters in the 1-year feeding study in dogs. Hence, there are no non-threshold effects associated with the compound and cancer risk assessment is not appropriate.

Metabolite toxicity. The following toxicology studies were conducted with the metabolite, 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid (3-CSA). Based on the toxicological data of the 3-CSA metabolite, EPA has concluded that it appears to be of lower toxicity compared to the parent compound and that it should not be included in the tolerance expression. The residue of concern is the parent compound only.

(1) A 90-day rat feeding study resulted in a LOEL in males of >20,000 ppm and a NOEL of ≥20,000 ppm (1,400 mg/kg/day). In females, the LEL is 10,000 ppm (772.8 mg/kg/day) based on decreased body weight gains and a NOEL of 1,000 ppm (75.8 mg/kg/day).

(2) A developmental toxicity resulted in a LOEL for maternal toxicity of >1,000 mg/kg/day based on the absence of systemic toxicity, a NOEL of ≥1,000 mg/kg/day. The developmental LOEL is >1,000 mg/kg/day and the NOEL is ≥1,000 mg/kg/day.

(3) The microbial reverse gene mutation did not produce any mutagenic effect while the mammalian cell gene mutation/chinese hamster ovary cells showed no clear evidence of mutagenic effect in the Chinese hamster ovary cells.

(4) The mouse micronucleus assay did not show any clastogenic or aneugenic effect.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure from food under the proposed tolerances, Monsanto has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from established tolerances, viz.; tolerances in or on the following raw agricultural commodities, field corn, grain at 0.1 ppm; field corn, forage at 0.3 ppm; field corn, fodder at 1.5 ppm; grain sorghum (milo) grain at 0.1 ppm; grain sorghum (milo) forage at 0.1 ppm; grain sorghum (milo) fodder/stover at 0.1 ppm; and meat and meat byproducts (cattle, goats, hogs, horses, and sheep) at 0.1 ppm as well as proposed tolerances, viz.; on sugarcane and sweet corn/popcorn (included in another submission under PP 6F4661). Field corn forage and fodder as well as sorghum forage and fodder/stover are fed to animals, thus exposure of humans to residues from these commodities might result if such residues are transferred to meat, milk, poultry, or eggs. However, based on the results of a animal metabolism study and the amount of halosulfuron-methyl expected in animal feed, Monsanto has concluded that there is no reasonable expectation that residues of halosulfuron-methyl will exceed existing tolerances in meat. EPA has concluded that regulation of animal commodities and poultry products are not required.

TMRC is obtained by multiplying the tolerance levels for each commodity by consumption data which estimates the amount of crops and related food stuff consumed by the U.S. population and various population subgroups. In conducting this exposure assessment, Monsanto has made very conservative assumptions, e.g., 100% of all commodities will contain halosulfuron-methyl residues and those residues would be at the level of their respective tolerances. This results in a large overestimate of human exposure. Even with these conservative assumptions, the potential dietary exposure to halosulfuron from consumption of products for which it is currently labeled and proposed represents only 0.6% of the RfD for the general population.

2. *Dietary (drinking water) exposure*. There is no Maximum Contaminant Level (MCL) established for residues of halosulfuron-methyl nor is it listed for MCL development or monitoring in drinking water supplies under the Safe Drinking Water Act. It is not a target of EPA's National Survey of Wells for Pesticides. Monsanto is not aware of halosulfuron-methyl being detected in any wells, ponds, lakes, streams, etc. from its use in the United States. A Lifetime Health Advisory Level (HAL) calculated by EPA procedures may be used as a preliminary acceptable level in drinking water. The calculated level is 700 ppb assuming a 20% relative contribution from water which is high enough to provide ample margin of safety. In addition, EPA has concluded that potential levels of halosulfuron-methyl in soil and water do not appear to have toxicological effects on humans or animals. No effects were observed on a variety of animals at concentrations several orders of magnitude greater than would likely occur in soil, ground water, or surface water.

Based on the very low level of mammalian toxicity, lack of other toxicological concerns coupled with low use rates, Monsanto believes that there is reasonable certainty that no harm will result from dietary exposure to halosulfuron-methyl since dietary exposure to residues on food will use only a small fraction of the RfD and any contribution through drinking water is expected to be insignificant.

3. *Non-dietary exposure*. Halosulfuron-methyl is labeled for use on commercial and residential turf and other non-crop sites which could have minimal opportunity for exposure. The other uses which are agricultural including the proposed uses (sugarcane and sweet corn/popcorn) will not increase the non-occupational exposure appreciably, if at all. Any exposure to halosulfuron-methyl resulting from turf use will result from dermal exposure during application and will be limited because of low use rates. In the 21–day dermal study, no treatment related adverse effects were observed and the NOAEL was determined to be greater than the highest dose level tested, ≤1000 mg/kg. Halosulfuron-methyl is non-volatile with a vapor pressure of <1 x 10-7 mm Hg, hence, inhalation exposure during and after application will not add significantly to aggregate exposure. Based on the physical and chemical characteristics, low use rates, low acute toxicity and lack of other toxicological concerns, Monsanto believes that the risk posed by non-occupational exposure to halosulfuron-methyl is minimal.

D. Cumulative Effect

Halosulfuron-methyl belongs to the sulfonyl urea class of compounds. The mode of action of halosulfuron-methyl is the inhibition of the plant enzyme aceto lactase synthetase, which is essential for the production of required amino acid in the plant. Although other registered sulfonyl ureas may have similar herbicidal mode of action, there is no information available to suggest that these compounds exhibit a similar toxicity profile in the mammalian system that would be cumulative with halosulfuron-methyl. Thus, consideration of a common mechanism of toxicity is not appropriate at this time. Monsanto is considering only the potential risks of halosulfuron-methyl in its aggregate exposure assessment.

E. Determination of Safety for U.S. Population

1. *Chronic dietary exposure.* The Agency has concluded that the aggregate exposure to halosulfuron-methyl from the previously established tolerances is 0.00051 mg/kg of body weight/day for the general population utilizing 0.051% of the RfD. The exposure contribution from the proposed uses in sugarcane and sweetcorn/popcorn when combined with exposure from established tolerances is calculated to be 0.6% of the RfD over all U.S. population and considered to be minimal. EPA generally has no concern for exposures below 100 percent of the RfD for the U.S. population because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Toxicology data indicating low potential for mammalian toxicity and lack of other toxicity concerns plus the conservative assumptions used here support the conclusion that there is a ''reasonable certainty of no harm'' from aggregate exposure to halosulfuron-methyl residues from all anticipated dietary exposures and all other non-occupational exposures.

2. *Acute dietary exposure.* The detailed DRES acute exposure analysis conducted by EPA evaluates individual food consumption as reported by respondents in the USDA 77-78 Nationwide Food Consumption Survey (NFCS) and estimates the distribution of single day exposures through the diet for the US population and certain subgroups. Since the toxicological effect to which high end exposure is compared is developmental toxicity, EPA determined that the DRES subgroup of concern is females (13+ years) which approximates women of child-bearing age. The Margin of Exposure (MOE) is a measure of how closely the high end exposure comes to the NOEL, and is calculated as the ratio of the NOEL to the exposure (NOEL/exposure = MOE). For toxicological endpoints established based upon animal studies, the agency is generally not concerned unless the MOE is below 100. In this analysis, EPA used tolerance level residues to calculate the exposure of the highest exposed individual (females, 13+ year subgroup). High end exposure for this subgroup resulted in an MOE in excess of 30,000. EPA concluded that acute dietary exposure to halosulfuron-methyl does not represent a risk concern. Monsanto's calculation of the MOE which included proposed tolerances for sugarcane and sweet corn/popcorn was 24,732.

F. Safety Determination for Infants and Children

In assessing the potential for additional sensitivity of infants and children to residues of halosulfuron-methyl, Monsanto considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate the potential for adverse effects on the developing organism resulting from exposure during prenatal development to the female parent. Reproduction studies provide information relating to effects from exposure to the chemical on the reproductive capability of both (mating) parents and on systemic toxicity.

In a developmental toxicity study in the rat, the NOEL for both maternal and developmental toxicity was considered to be 250 mg/kg/day. In a developmental toxicity study in rabbits, a NOEL for both developmental and maternal toxicity was considered to be 50 mg/kg/day. A dietary two-generation reproduction study in rats resulted in parental toxicity at 223.2 mg/kg/day in males and 261.4 mg/kg/day in females in the form of decreased body weights, decreased body weight gains, and reduced food consumption during the premating period. Very slight effects were noted in body weight of the offspring at this dose. This effect was considered to be developmental toxicity (developmental delay) rather than a reproductive effect. No effects were noted on reproductive or other developmental toxicity parameters. The systemic/developmental toxicity NOEL was 50.4 mg/kg/day in males and 58.7 mg/kg/day in females. The reproductive NOEL was equal to or greater than 223.2 mg/kg/day in males and 261.4 mg/kg/day in females. In all cases, the reproductive and developmental NOELs were greater than the NOEL on which the RfD was based, thus allowing for an additional margin of safety and indicating that halosulfuron-methyl does not pose any increased risk to infants or children.

Chronic analysis. Using the conservative dietary exposure assumptions described above, EPA has established that the TMRC for the most exposed subgroups is 0.0012 mg/kg body weight/day for nonnursing infants (less than 1 year old) and 0.0010 mg/kg body weight/day for children (1 to 6 years old), and that this aggregate exposure to residues of halosulfuron-methyl utilizes only 1.17 and 1.01 percent of the RfD, respectively when existing tolerances are considered. Monsanto's analysis included contribution from sugarcane and sweet corn/popcorn exposures and the additional amount of the RfD utilized was minimal (1.7 and 1.3%), respectively.

FFDCA section 408 provides that EPA may apply an additional safety factor (up to 10) in the case of threshold effects for infants and children to account for pre- and post-natal toxicity and the completeness of the data base. Based on current toxicological data requirements, the data base relative to preand post-natal effects in children is complete. Further, the NOEL of 10 mg/kg/day from the 1-year feeding study in dogs, which was used to calculate the RfD (discussed above), is already lower than the NOELs from the reproductive and developmental studies with halosulfuron-methyl by a factor of at least 25- and 5-fold, respectively. Therefore, an additional safety factor is not warranted and an RfD of 0.1 mg/kg/day is appropriate for assessing aggregate risk to infants and children.

Therefore, based on complete and reliable toxicity data and the conservative exposure assessment, Monsanto concludes that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to halosulfuron-methyl residues.

G. Estrogenic Effects

No specific tests have been conducted with halosulfuron-methyl to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occuring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity tests, i.e., teratology and multi-generation reproduction studies, which would suggest that halosulfuron-methyl produces effects characteristic of the disruption of the estrogenic hormone.

H. International Tolerances

Maximum residue levels have not been established for residues of halosulfuron-methyl on corn, sorghum, sugarcane or sweet corn or any other food or feed crop by the Codex Alimentarius Commission.

PP 6F4661

EPA has received a pesticide petition (PP 6F4661) from the Monsanto Company, 700 14th St., NW., Suite 1100, Washington, DC 20005 pursuant to section 408(d) of FFDCA, as amended, 21 U.S.C. 346a(d), by FQPA (Pub. L. 104-170, 110 Stat. 1489) proposing to amend 40 CFR part 180.479 by establishing tolerance for residues of the herbicide, halosulfuron-

methyl: (methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate), in or on the raw agricultural commodity sweet corn, sweet corn (kernel plus cobs with husks removed) at 0.1 ppm, sweet corn forage at 0.5 ppm and sweet corn fodder/stover at 1.5 ppm and pop corn grain at 0.1 ppm and pop corn stover/fodder at 1.5 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficieny of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The proposed analytical method for determining residues is by gas chromatography with an electron-capture detection.

EPA, as mentioned above, is in the process of evaluating the petition. With one exception, the summary for PP 6F4661 is identical to the summary of PP 6F4620 as outlined above, therefore it is not restated. With regards to the exception, the sugarcane residues study discussed in the first paragraph, last sentence of Unit A of the PP 6F4620 summary was not included in the PP 6F4661 summary.

[FR Doc. 97–16355 Filed 6–20–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–5845–8]

Notice of Availability of Waste Minimization Software and Documents

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability for public comment of a draft software package and other draft documents pertaining to priorities for waste minimization.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of a beta-test version of a software package which will prioritize chemicals according to their persistence, bioaccumulation, toxicity, and quantity; a draft list of chemicals derived from the software and ranked according to persistence, bioaccumulation, and toxicity; and a crosswalk identifying which RCRA waste codes are likely to contain these chemicals. These materials have been prepared in order to assist hazardous waste generators, government agencies, technical assistance centers, and others involved in waste minimization in making progress towards the goals of EPA's 1994 Waste Minimization National Plan, which calls for a fifty percent reduction in the presence of the most persistent, bioaccumulative, and toxic chemicals in hazardous wastes by the year 2005.

DATES: Written comments will be received by August 7, 1997 to the addresses below.

ADDRESSES: Please send an original and two copies of comments, referencing docket number F–97–MPCA–FFFFF, to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–MPCA–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and 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 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 any regulatory docket at no charge. Additional copies cost $0.15/page.

Copies of the software package and the documents cited in this notice can be obtained by calling the RCRA/Superfund/CERCLA Hotline at (800) 424–9346, TDD (800) 553–7672 (hearing impaired), or (703) 412–9810 in the Washington, DC metropolitan area, from 9 a.m. until 6 p.m. Eastern time.

The software package and documents are also available in electronic format on the Internet, and can be obtained by accessing:

WWW: http://www.epa.gov/epaoswer/hazwaste/minimize.
FTP: ftp.epa/gov
Login: anonymous
Password: your Internet address

Files are located in /pub/gopher/OSWRCRA.

FOR FURTHER INFORMATION CONTACT: For general questions pertaining to waste minimization, specific aspects of this notice, or information on public meetings to discuss comments, contact the RCRA/Superfund/EPCRA Hotline at the telephone numbers cited above, or U.S. Environmental Protection Agency, Office of Solid Waste, Waste Minimization Branch, 401 M Street, SW., (5302W), Washington, DC 20460; telephone: (703) 308–8402, fax: (703) 308–8433.

SUPPLEMENTARY INFORMATION:

I. Background

In November 1994, EPA released the Waste Minimization National Plan (National Plan, WMNP). The National Plan focuses on reducing the generation and subsequent release to the environment of the most persistent, bioaccumulative, and toxic chemicals in hazardous wastes, and establishes three goals:

(1) To reduce, as a nation, the presence of the most persistent, bioaccumulative, and toxic chemicals in hazardous wastes by 25 percent by the year 2000 and by 50 percent by the year 2005.

(2) To avoid transferring these chemicals across environmental media.

(3) To ensure that these chemicals are reduced at their source whenever possible, or, when not possible, that they are recycled in an environmentally sound manner.

Persistent chemicals do not readily break down once they are released into the environment. Bioaccumulative chemicals tend to accumulate in plant and animal tissues. Toxic chemicals have the potential to harm ecological systems or adversely impact human health (e.g., can cause cancer, reproductive, and mutagenic health effects). These three characteristics of chemicals are considered important determinants of the human health and environmental risks associated with environmental releases, or potential releases, or chemicals. Chemicals that are persistent, bioaccumulative, and toxic, therefore, have the potential to accumulate in the environment and cause harm to human health and the environment, even when released in small amounts. The National Plan seeks a voluntary reduction of these chemicals in hazardous waste so as to reduce the potential for future harm to human health and the environment.

During development of the Waste Minimization National Plan, stakeholders indicated a need for assistance in setting waste minimization priorities, specifically, the need for a flexible screening tool to prioritize waste minimization activities. EPA committed in the National Plan to developing a software tool which would help establish waste minimization priorities based on the inherent hazard of chemicals based on characteristics of chemicals in wastes as generated, specifically on persistence, bioaccumulation, and toxicity characteristics of chemicals in hazardous wastes, as well as chemical quantity. EPA will also use the software tool to establish national waste minimization priorities by selecting certain chemicals and measuring national reductions in the presence of these chemicals in hazardous wastes.

Today's notice announces the availability of: (1) The Draft Waste Minimization Prioritization Tool, a software package which ranks chemicals according to persistence, bioaccumulation, and toxicity, and allows users to add chemical quantity data into the ranking process; (2) The Draft User's Guide and System Documentation; (3) The Draft Prioritized Chemical List, a list of chemicals that have gone through the persistence, bioaccumulation, and toxicity prioritization process and their relative rankings; and (4) The Draft Chemical/RCRA Waste Code Crosswalk, a crosswalk of RCRA hazardous waste codes and the chemicals they are likely to contain.

II. Waste Minimization Prioritization Tool

The Prioritization Tool is a Windows-based computer program that houses available persistence, bioaccumulation, and human and ecological toxicity data and provides a relative ranking of nearly 900 chemicals based on their persistence, bioaccumulation, and toxicity scores. The software also allows users to import their own data on chemical quantities for use in the scoring algorithm.

A. Scoring Aspects of the Prioritization Tool

The Waste Minimization Prioritization Tool was developed by modifying the Use Cluster Scoring System, which EPA's Office of Pollution Prevention and Toxics developed as a screening mechanism to rank the relative risk of chemicals that can substitute for one another within certain chemical and technology use categories (e.g., solvents that can be used for metal degreasing). EPA added a larger subset of chemicals found in hazardous wastes into the software's database and made other modifications to make the Use Cluster Scoring System more useful as a waste minimization prioritization tool.

The persistence, bioaccumulation, toxicity, and quantity scoring algorithm is the primary component of the Waste Minimization Prioritization Tool. The scoring algorithm assigns chemical-specific scores based on the chemicals' potential to pose risk to human health and aquatic ecosystems. The scoring algorithm is a screening tool and is not intended to be used as a substitute for detailed risk analysis. The Prioritization Tool provides a relative risk ranking of chemicals rather than an absolute measure of risk (i.e., it provides a chemical score or ranking that indicates potential concerns relative to other scored chemicals).

Four factors were used to develop the overall chemical score: Human toxicity (including cancer and non-cancer effects); human exposure potential (based on persistence and bioaccumulation potential); ecological toxicity (determined by aquatic toxicity); and ecological exposure potential (based on the same scores persistence and bioaccumulation potential scores as for human exposure potential). Sub-scores of 1 (lowest), 2, or 3 (highest) are assigned for each of the components based on an evaluation of chemical data and then summed to create an overall score ranging from 18 (highest) to 6 (lowest). For example, dioxin is assigned a score of 18 as follows:

2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin	Score
Human Health Risk Potential:	
Persistence	3
Bioaccumulation	3
Human Toxicity	3
Ecological Risk Potential:	
Persistence	3
Bioaccumulation	3
Aquatic Toxicity	3
Overall Score	18

The software also allows users to add chemical quantity data into the scoring algorithm. Because the software is flexible, a variety of types of chemical quantity data can be added, ranging from facility-level data to national data, depending on user needs.

Complete data sets (i.e., data sets for human toxicity, aquatic toxicity, persistence, and bioaccumulation potential) existed for nearly 900 chemicals, which were then ranked in the Waste Minimization Prioritization Tool. EPA used the Waste Minimization Prioritization Tool to generate a Draft Prioritized Chemical List, discussed below. The software also includes partial data sets for an additional 3800 chemicals.

B. Supplementary Information in the Prioritization Tool

The Waste Minimization Prioritization Tool also provides supplementary information relevant to risk-based decision-making, including information on which RCRA hazardous wastes are likely to contain the scored chemicals (i.e., Chemical-RCRA Waste Code Crosswalk), as well as whether the chemicals appear on other national environmental regulatory and non-regulatory lists of concern.

1. Draft Chemical/RCRA Waste Code Crosswalk

The Draft Chemical-RCRA Waste Code Crosswalk portion of the Waste Minimization Prioritization Tool links each of the nearly 600 RCRA hazardous waste codes with about 500 chemicals likely to be found in these wastes. The crosswalk feature in the Prioritization Tool can be used two different ways: To identify RCRA waste codes that are likely to contain a particular chemical, and to identify which chemicals are likely to be found in a particular RCRA waste code. EPA used background analysis for hazardous waste listing rulemakings, Land Disposal Restrictions rulemakings, and the proposed Hazardous Waste Identification Rule to identify linkages between the chemicals and RCRA hazardous wastes.

Hard-copy versions of the Draft Chemical/RCRA Waste Code Crosswalk can also be obtained through the addresses above.

2. Lists of Concern

Each chemical in the Waste Minimization Prioritization Tool is also cross-referenced with seventeen regulatory and non-regulatory lists, including the Clean Air Act Amendments Title III Hazardous Air Pollutants, the Clean Water Act section 307 Priority Pollutants, RCRA section 3001 Hazardous Wastes, Appendix VIII Hazardous Constituents and Appendix IX Ground Water Monitoring List, and RCRA P and U Wastes (261.33).

3. Draft Prioritized Chemical List

The list of chemicals with available persistence, bioaccumulation, and toxicity data and, therefore, able to be scored by the Waste Minimization Prioritization Tool is known as the Draft Prioritized Chemical List. The Draft Prioritized Chemical List is a relative ranking of the nearly nine hundred

chemicals based on the chemicals' persistence, bioaccumulation, and toxicity. EPA will draw from the chemicals on the Draft Prioritized Chemical List to create a *National Waste Minimization Measurement List,* which EPA will track nationally against the goals of the Waste Minimization National Plan and will report as part of Government Performance and Results Act reporting. The Prioritized Chemical List is included in the appendices of the documentation for the Waste Minimization Prioritization Tool. Additional hard copy versions of the Prioritized Chemical List can be obtained through the addresses above.

III. Topics for Public Comments

EPA is interested in getting public comment on the following topics and questions. Please separate any comments into these topic categories.

A. Technical Aspects of Waste Minimization Prioritization Tool Software

This includes comments on the substance of the software, including the underlying chemical data, the algorithms used for chemical scoring and ranking, and the basic functions and products provided by the software (i.e., the Chemical/RCRA Waste Code Crosswalk and the regulatory lists).

Questions

—Are there specific improvements that EPA could make to the chemical data and algorithms to improve the software's scientific foundation, keeping in mind the intended purpose of the software, the rationale for EPA's chemical screening approach, and the context for application of the software discussed in Chapter 1 of the WMPT User's Guide and System Documentation (e.g., to provide relative rankings of chemicals according to persistence, bioaccumulation, and toxicity and to select priority chemicals for national waste minimization activities?)

—Which functions and products provided by the software are most useful (e.g., scoring and ranking chemicals based on PBT; scoring and ranking chemicals, waste streams, facilities, and sectors based on PBT and chemical quantity; translating between chemicals and RCRA hazardous waste codes; and identifying regulatory and non-regulatory lists that chemicals appear on)? What additional functions and products should be provided by the software?

B. Presentation Aspects of Waste Minimization Prioritization Tool Software

This includes comments on the ease of use of the software and the presentation of the different screens in the software.

Questions

—How could the functions provided by the software be made easier to use and understand (e.g., editing/viewing scores and underlying data; importing chemical quantity data and conducting rankings based on PBT and quantity; and generating reports and printing/saving them)?

—How could the appearance of the menus and screens in the software be improved?

—What kinds of help information should be incorporated in the software? What kinds of technical support or training should EPA provide separate from the software (e.g., training courses, telephone hotline assistance, on-line assistance)?

—Does your organization have sufficient computer hardware and staff to operate and apply the software?

C. Waste Minimization Prioritization Tool User's Guide and System Documentation

This includes any comments related to the supporting written documentation for the software.

—What other information could be provided in the documentation to make it more useful in applying the software and understanding its scientific foundations? How could the written documentation be made easier to read and use?

D. Potential Applications of the Waste Minimization Prioritization Tool

—Related to the potential applications of the software that are discussed in Chapter 3 of the WMPT User's Guide and System Documentation (e.g., identifying source reduction priorities for waste streams at a facility level or priority chemicals for waste minimization outreach at a state level), how would your organization apply the software? How would results from the WMPT fit in with your current waste minimization and management priorities? What other specific applications would the software be useful for?

Dated: May 29, 1997.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 97–16353 Filed 6–20–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2205]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

June 19, 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, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to this petition must be filed July 8, 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 the time for filing oppositions has expired.

Subject: Amendment of the Commission's Rules to Relocate the Digital Electronic Message Service from the 18 GHz Band to the 24 GHz Band and to Allocate the 24GHz Band for Fixed Service. (ET Docket No. 97–99)

Number of Petitions Filed: 5.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16341 Filed 6–20–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-15834) published on page 32810 of the issue for Tuesday, June 17, 1997.

Under the Federal Reserve Bank of St. Louis heading, the entry for Cabot Bankshares, Inc., Cabotr, Arkansas, is revised to read as follows:

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, Little Rock, Arkansas, a *de novo* bank.

Comments on this application must be received by July 11, 1997.

Board of Governors of the Federal Reserve System, June 18, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16388 Filed 6–20–97; 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 18, 1997.

A. Federal Reserve Bank of Cleveland (Jeffrey Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Huntington Bancshares Incorporated, Columbus, Ohio; to merge with First Michigan Bancorporation, Holland, Michigan, and thereby indirectly acquire Superior Financial Corporation, Holland, Michigan; FMB-Sault Bank, Saulte Ste. Marie, Michigan; FMB-First Michigan Bank, Zeeland, Michigan; FMB-First Michigan Bank, Grand Rapids, Michigan; FMB-Lumberman's Bank, Muskegon, Michigan; FMB-Northwestern Bank, Boyne City, Michigan; FMB-State Savings Bank, Lowell, Michigan; FMB-Commercial Bank, Greenville, Michigan; FMB-Security Bank, Manistee, Michigan; FMB-Community Bank, Dowagiac, Michigan; FMB-Oceana Bank, Hart, Michigan; FMB-Reed City Bank, Reed City, Michigan; FMB-Maynard Allen Bank, Portland, Michigan; FMB-Old State Bank, Fremont, Michigan; and FMB-Arcadia Bank, Kalamazoo, Michigan.

In connection with this application, Applicant also has applied to acquire FMB-Trust, Holland, Michigan, and thereby engage in permissible trust company activities, pursuant to § 225.28(b)(5) of the Board's Regulation Y; and acquire FMB-Brokerage Services, Inc., Holland, Michigan, and thereby engage in agency transactional services for customer investments, pursuant to § 225.28(b)(7) of the Board's Regulation Y; and First Michigan Life Insurance Company, Holland, Michigan, and thereby engage in permissible insurance agency and underwriting activities, pursuant to § 225.28(b)(11) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. ABC Bancorp, Moultrie, Georgia; to merge with Irwin Bankcorp, Inc., Ocilla, Georgia, and thereby indirectly acquire Bank of Ocilla, Ocilla, Georgia.

2. Murfreesboro Bancorp, Inc., Murfreesboro, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Murfreesboro, Murfreesboro, Tennessee (in organization).

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. J&L Holdings Limited Partnership, and Plainview Holding Company, both of Pilger, Nebraska; to acquire 100 percent of the voting shares of American National Creighton Company, Creighton, Nebraska.

Board of Governors of the Federal Reserve System, June 18, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16389 Filed 6–20–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 8, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Norwest Corporation, Minneapolis, Minnesota, to engage *de novo* through its subsidiary, Revelation Mortgage Company of America, Washington, D.C.; in residential mortgage lending activities, pursuant to §§ 225.28(b)(1) and (b)(2) of the Board's Regulation Y. Revelation Mortgage Company of America would be a joint venture between Norwest Ventures, Inc., Des Moines, Iowa, and Revelation Mortgage Corporation, Memphis, Tennessee, a wholly-owned subsidiary of Revelation Corporation of America, Memphis, Tennessee.

Board of Governors of the Federal Reserve System, June 18, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16390 Filed 6–20–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 962–3041]

Abflex, U.S.A., Inc.; Martin Van Der Hoeven; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of

federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodies in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 22, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home page (for June 17, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, agreement to a proposed consent order from Kent & Spiegel Direct, Inc., and its officers, Marshal Kent and Peter Spiegel, and a proposed consent order from Abflex, U.S.A., Inc., and its officer, Martin Van Der Hoeven (collectively ''respondents'').

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements and take other appropriate action or make final the agreements' proposed orders.

The Commission's complaints against respondents allege that they deceptively advertised the ''Abflex'' and abdominal exercise primarily through an infomercial, over the internet, and through print advertisements. The Commission's complaints charge that respondents' advertising contained unsubstantiated weight loss success, rate of weight loss, and spot reduction representations. Specifically, the complaints allege that the respondents did not possess adequate substation for claims that: (1) The Abflex causes fast and significant weight loss; (2) Consumers lose at least ten pounds and five inches, or three to six inches, off their waistline within thirty days by using the Abflex for just three minutes a day; (3) The Abflex causes weight loss and fat reduction in specific, desired areas of the body; and (4) Testimonials from consumers appearing in the advertisments for the Abflex reflect the typical or ordinary experience of members of the public who use the product.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed orders would prohibit respondents from making any claim for the ''Abflex,'' for any exercise equipment, or for any weight-loss product: (1) About the number of pounds users can lose; (2) About the rate of speed at which users lose weight; (3) About the length of time users must use such product to achieve weight loss; (4) That such product causes fast and significant weight loss; (5) That such product causes a reduction in the size or shape of specific, desired areas of the body; (6) That such product causes a reduction in users' body size or shape, or body measurements; or (7) About the benefits, efficacy, or performance of such product in promoting weight loss, unless at the time of making them, they posses and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Part II of the proposed order addresses claims made through endorsements or testimonials. Under Part II, respondents may make such representations if they posses and rely upon competent and reliable scientific evidence that substantiates the representations; or respondents must disclosure either what the generally expected results would be for users of the advertised product, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

The remaining provisions of the proposed orders relate to respondent's obligations to make available to the Commission materials substantiating claims covered by the order; to notify the Commission of changes in the corporations' structure; to notify the Commission of changes in the individual's employment or business affiliations; to provide copies for the orders to certain personnel of the corporations; and to file compliance reports with the Commission. The orders also provide that the orders will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–16315 Filed 6–20–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3045]

Icon Health and Fitness, Inc.; IHF Holdings, Inc.; IHF Capital; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 22, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary,

Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Laura Fremont, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270. Jeffrey Klurfeld, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for June 17, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained form the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Icon Health and Fitness, Inc., IHF Capital, Inc., and IHF Holdings, Inc. (collectively ''respondents''), which market exercise equipment. All three companies are Delaware corporations.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint against respondents alleges that they deceptively advertised the ''Cross Walk Treadmill,'' a motorized treadmill. The Commission's complaint charges that respondents' advertising contained unsubstantiated calorie burn and weight loss representations. Specifically, the complaint alleges that the respondents did not possess adequate substantiation for the claim that users of the Cross Walk Treadmill will burn calories at a rate of up to 1,100 per hour under conditions of ordinary use. The complaint notes that respondents obtained the 1,100 calorie figure from a study that measured the rate of calorie burn of persons who had exercised to the point of exhaustion. The complaint alleges that such ''maximal exertion'' tests are not appropriate measures of the number of calories people can burn during ordinary exercise because they measure calorie burn at a level of exercise intensity that is unsustainable for more than an extremely short period of time. The Commission's complaint also charges that the respondents did not possess adequate substantiation for the claim that weight loss testimonials from consumers appearing in advertisements for the treadmill reflect the typical or ordinary experience of members of the public who use the product.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order would prohibit respondents from making any claim for the ''Cross Walk Treadmill,'' or for any other exercise equipment: (1) About the relative, comparative, or absolute rate at which users burn calories, or the number of calories users burn, through use of such product; (2) about the relative, comparative, or absolute weight loss users achieve through use of such product; (3) about the relative, comparative, or absolute amount of fat or fat calories users burn through use of such product; or (4) about the benefits, performance, or efficacy of any such product with respect to calorie burning, fat burning, or weight loss; unless, at the time such a claim is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claim.

Part II of the proposed order addresses claims made through endorsements or testimonials. Under Part II, respondents may make such representations if they possess and rely upon competent and reliable scientific evidence that substantiates the representations; or respondents must disclose either what the generally expected results would be for users of the advertised product, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve. The proposed order's treatment of testimonial claims is in accordance with the Commission's ''Guides Concerning Use of Endorsements and Testimonials in Advertising,'' 16 CFR 255.2(a).

The remaining provisions of the proposed order relate to respondents' obligation to make available to the Commission materials substantiating claims covered by the order; to notify the Commission of changes in the corporations' structure; to provide copies of the order to certain personnel of the corporations; and to file compliance reports with the Commission. The order also provides that the order will terminated after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–16316 Filed 6–20–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3041]

Kent & Spiegel Direct, Inc.; Marsha Kent; Peter Spiegel; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 22, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary,

Room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Kerry O'Brien, San Francisco Regional Office, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been field with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying compliant. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for June 17, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, agreements to a proposed consent order from Kent & Spiegel Direct, Inc., and its officers, Marsha Kent and Peter Spiegel, and a proposed consent order from Abflex, U.S.A., Inc., and its officer, Martin Van Der Hoeven (collectively ''respondents'').

The proposed consent orders have been place on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements and take other appropriate action or make final the agreements' proposed orders.

The Commission's complaints against respondents allege that they deceptively advertised the ''Abflex,'' an abdominal exercise device, primarily through an informercial, over the internet, and through print advertisements. The Commission's complaints charge that respondents' advertising contained unsubstantiated weight loss success, rate of weight loss, and spot reduction representation. Specifically, the complaints allege that the respondents did not possess adequate substantiation for claims that: (1) The Abflex causes fast and significant weight loss; (2) Consumers lose at least ten pounds and five inches, or three to six inches, off their waistline within thirty days by using the Abflex for just three minutes a day; (3) The Abflex causes weight loss and fat reduction in specific, desired areas of the body; and 4) Testimonials from consumers appearing in the advertisements for the Abflex reflect the typical or ordinary experience of members of the public who use the product.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the futures.

Part I of the proposed orders would prohibit respondents form making any claim for the ''Abflex,'' for any exercise equipment, or for any weight-loss product: (1) About the number of pounds users can lose; (2) About the rate or speed at which users lose weight; (3) About the length of time users must use such product to achieve weight loss; (4) That such product causes fast and significant weight loss; (5) That such product causes a reduction in the size or shape of specific, desired areas of the body; (6) That such product causes a reduction in users' body size or shape, or body measurements; or (7) About the benefits, efficacy, or performance of such product in promoting weight loss, unless at the time of making them, they posses and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Part II of the proposed orders address claims made through endorsements or testimonials. Under Part II, respondents may make such representations if they possess and rely upon competent and reliable scientific evidence that substantiates the representations; or respondents must disclose either what the generally expected results would be for users of the advertised product, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve.

The remaining provisions of the proposed orders relate to respondents' obligations to make available to the Commission materials substantiating claims covered by the order; to notify the Commission of changes in the corporations' structure; to notify the Commission of changes in the individuals' employment or business affiliations; to provide copies of the orders to certain personnel of the corporations; and to file compliance reports with the Commission. The orders also provide that the orders will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–16314 Filed 6–20–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3042]

Life Fitness; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Laura Fremont, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5270. Jeffrey Klurfeld, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the

above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis To Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for June 17, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from respondent Life Fitness (''respondent''), a New York general partnership that markets exercise equipment. Although not a respondent, Life Fitness' general partner, The Life Fitness Companies L.P., a Delaware limited partnership, has also agreed to be bound by the terms of the consent order.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint against respondent alleges that respondent deceptively advertised the Lifecycle exercise bicycle. The Commission's complaint charges that respondent's advertising contained unsubstantiated calorie burn representations. Specifically, the complaint alleges that the respondent did not possess adequate substantiation for the claim that users of the Lifecycle will burn calories at a rate of over 1,000 per hour under conditions of ordinary use. The complaint also charges that respondent's representation that its calorie burn claim was based on competent and reliable research is false.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order would prohibit Life Fitness and The Life Fitness Companies L.P. from making any claim for the ''Lifecycle,'' or for any other exercise equipment: (1) About the rate at which users burn calories, or the number of calories users burn, through use of such product; (2) about the weight loss or fat loss users achieve through use of such product; or (3) about the benefits, performance, or efficacy of such product with respect to calorie burning, fat burning, or weight loss; unless, at the time such a claim is made, the companies possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claim. Part II of the order prohibits the companies from misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test, study, or research relating to calorie burning, fat burning, or weight loss.

The remaining provisions of the proposed order relate to respondents' obligation to make available to the Commission materials substantiating claims covered by the order; to notify the Commission of changes in the companies' structure; to provide copies of the order to certain personnel of the companies; and to file compliance reports with the Commission. The order also provides that the order will terminate after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–16313 Filed 6–20–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–97–13]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Endometriosis and Exposure to Endocrine Disrupting Compounds—New—Exposure to endocrine disrupting compounds (determined by the concentration of these compounds and their metabolites in serum) may be associated with the incidence of endometriosis. Over two years, a case-control study will be conducted to compare serum levels of PCB's, pesticides, and dioxins in 50 women with newly diagnosed, laproscopically-confirmed endometriosis with serum levels in 50 women who are presumed free of endometriosis. Information on risk factors for endometriosis which may confound the association between endocrine disruptors and endometriosis will be obtained. These factors include demographics, smoking, and reproductive history. Information on potential sources of exposure to endocrine disrupting compounds (e.g.,

tampons and occupational or personal use of pesticides and herbicides) will also be obtained. The total cost to respondents is $ 0 .

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Women	100	1	.50	50
Total				50

2. (NIOSH) Occupational Asthma Identification Methods -0920–0350—Extension—Over the last decade, OCCUPATIONAL ASTHMA (OA) has emerged as the most prevalent occupational respiratory disease, resulting in morbidity, disability, diminished productivity, and rarely, death. Prevention of OA has become one of the most important goals for NIOSH. This project addresses these issues by examining the potential of different asthma screening approaches as surveillance tools when employed serially over time among workers at risk, and also characterizes the occurrence of and risk factors for occupational asthma in various high risk industries.

The primary objective of the study is to examine the potential of different asthma screening approaches as surveillance tools when employed serially over time among workers at risk. A second major objective is to characterize the occurrence of and risk factors for occupational asthma in several industries, specifically workers rearing insects for agricultural pest control, wood product workers using isocyanates, and other occupational groups with different exposure profiles.

A series of four groups of screening measures are applied to examine the potential of each measure in different situations. This includes a questionnaire (including an occupational history), lung function tests (shift spirometry, serial peak flow tests, airway responsiveness), inflammation and immunology tests (specific and nonspecific serum immunoglobulins, skin prick tests, nasal lavage for cellular and biochemical factors), and environmental measurements (gravimetric dusts, antigens, chemical vapors, viable organisms, endotoxins). Workers exposed to (1) high molecular weight sensitizing dusts, (insect particulate), (2) low molecular weight sensitizers, (methylene biphenyldiisocyanate, MDI), and (3) irritant but not sensitizing exposures, as well as a control group of unexposed workers, are followed for two years.

The results should be useful in improving tools for recognition, monitoring, and surveillance of OA. In addition, risk factors for OA will be further delineated, which will assist in targeting OA prevention strategies for agricultural and other workers. The total cost to respondents is $11,960.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Workers	299	2	2.0	1,196
Total				1,196

Dated: June 13, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC) .

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 780]

State Injury Intervention and Surveillance Program; Notice of Availability of Funds for Fiscal Year 1997

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1997 funds for a cooperative agreement program for State injury intervention and surveillance programs, focused in four topic areas: Prevention of Unintentional Injuries (bicycle helmet promotion (Part IA1), prevention of residential fire-related injuries (Part IA2)); Trauma Care Systems (Part IB); Emergency Department Injury Surveillance (Part IC); and Basic Injury Program Development (Part II).

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 to improve the quality of life. This announcement is related to the priority areas of Unintentional Injuries, Violent and Abusive Behavior, and Surveillance and Data Systems. (For ordering a copy of ''Healthy People 2000,'' see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Programmatic Assistance—Topic Specific Telephone Conferences

During the week of July 7–11, 1997, a series of five, one-hour each, topic-specific, programmatic assistance telephone conferences will be arranged by CDC program staff. To receive the exact date, time, and call-in information, please contact the appropriate CDC program individual (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section).

Authority

This program is authorized under sections 301, 317, 391, and 394A of the Public Health Service Act [42 U.S.C. 241, 247b, 280b, and 280b–3] as amended.

Smoke-Free Workplace

CDC strongly encourages all cooperative agreement recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are the official State public health agencies or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant (cooperative agreement), contract, loan, or any other form.

Availability of Funds

Approximately $3,290,000 is available in FY 1997 to fund up to nineteen new and competing continuation awards:

Parts IA1 and IA2

Approximately $1,750,000 is available to fund up to ten awards in the areas of: (1) Bicycle Helmet Promotion, and (2) Residential Fire Injury Prevention. It is expected that the average award will be $175,000, ranging from $150,000 to $185,000.

Part IB

Approximately $490,000 is available to fund up to two awards for Trauma Care System development. It is expected that the average award will be $245,000, ranging from $230,000 to $260,000.

Part IC

Approximately $750,000 is available to fund up to three awards for development and enhancement of Emergency Department Injury Surveillance Programs. It is expected that the average award will be $250,000, ranging from $225,000 to $275,000.

Part II

Approximately $300,000 is available to fund up to four awards for Basic Injury Program Development. It is expected that the average award will be $75,000, ranging from $70,000 to $80,000.

States applying for Unintentional Injury Prevention Programs (Parts IA1 and IA2) may apply for Bicycle Helmet Promotion (Part IA1) funding or Residential Fire Injury Prevention (Part IA2) funding, but not both.

States applying for Basic Injury Program Development (Part II) may not apply for any Part I topics.

Projects are expected to begin on or about September 30, 1997, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Note: At the request of the applicant, Federal personnel may be assigned in lieu of a portion of the financial assistance.

Funding Preferences: During the selection process, CDC will make every effort to ensure a balanced geographic distribution, including urban and rural States, for each topic area.

Use of Funds

Funds may be used for personnel services, supplies, equipment, travel, subcontracts, and services directly related to project activities. Project funds cannot be used to supplant other existing funds for planning, implementation or surveillance activities, for construction costs, or to lease or purchase buildings, office space, or vehicles.

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. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY1997 HHS Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. This new law, Section 503 of Pub. L. No. 104–208, provides as follows:

Sec. 503(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Pub. L. No. 104–208 (September 30, 1996).

Prohibition on Use of CDC Funds for Certain Gun Control Activities

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 specifies that: ''None of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control.''

Anti-Lobbying Act requirements prohibit lobbying Congress with appropriated Federal monies. Specifically, this Act prohibits the use of Federal funds for direct or indirect communications intended or designed to influence a Member of Congress with regard to specific Federal legislation. This prohibition includes the funding and assistance of public grassroots campaigns intended or designed to influence Members of Congress with regard to specific legislation or appropriation by Congress.

In addition to the restrictions in the Anti-Lobbying Act, CDC interprets the new language in the CDC's 1997 Appropriations Act to mean that CDC's funds may not be spent on political action or other activities designed to affect the passage of specific Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

Background and Definitions for Topic Areas

Part IA1: Bicycle Helmet Promotion

Bicycle riding is a popular American past time. An estimated 66.9 million Americans ride bicycles; indeed, about 29 percent of U.S. households have one or more bicyclists. Bicycle riding also has accompanying risks. Each year, an average of 879 persons die from injuries caused by bicycle crashes, and 592,000 persons are treated in emergency departments (EDs) for injuries from bicycling. Head injury is the most common cause of death and serious disability in bicycle-related crashes; head injuries are involved in about 60

percent of the deaths, and 30 percent of the bicycle-related ED visits. Many of these nonfatal head injuries produce lifelong disability from irreversible brain damage. Societal costs for bicycle-related head injuries exceed $2 billion annually.

American children, in particular, are avid bicyclists—an estimated 33 million children ride bicycles nearly 10 billion hours each year. Unfortunately, an average of 384 children die annually from bicycle crashes, and 450,000 more are treated in EDs for bicycle-riding related injuries.

Bicycle helmets are a proven intervention that reduce the risk of bicycle-related head injury by about 80 percent, yet bicycle helmets are not worn by most riders. Only 19 percent of adults and 15 percent of children use helmets all or most of the time while cycling. If all bicyclists wore helmets, from 335–393 deaths and 119,000–140,000 ED-treated head injuries could be prevented each year. Accordingly, a Healthy People 2000 goal is 50 percent bicycle helmet use by the Year 2000. To promote this goal, CDC has published recommendations that urged: (1) Helmets be worn by persons of all ages when bicycling, (2) riders wear helmets whenever or wherever they ride, (3) helmets should meet test standards, and (4) States and communities implement strategies to increase helmet use, including education and promotion, legislation, enforcement, and program evaluation.

For Bike Helmet Promotion Model Program and further background information, see the **WHERE TO OBTAIN ADDITIONAL INFORMATION** section.

Part IA2: Residential Fire Injury Prevention

In 1995, there were an estimated 414,000 home fires in the United States, which killed 3,640 individuals and injured an additional 18,650 people. Direct property damage caused by these fires exceeded $4.2 billion. In 1994, the monetary equivalent of all fire deaths and injuries, including deaths and injuries to fire fighters, was estimated at $14.8 billion.

Residential fire deaths occur disproportionately in the southeastern States. They also occur disproportionately during the winter months of December—February, a period during which more than one-third of home fires occur, compared to one-sixth in the summer months of June-August. Many subgroups within the population remain highly vulnerable to fire morbidity and mortality. The rate of death due to fire is higher among the poor, minorities, children under age 5, adults over age 65, low-income communities in remote rural areas or in poor urban communities, and among individuals living in manufactured homes built before 1976, when the U.S. Department of Housing and Urban Development construction safety standards became effective. Other risk factors for fire-related deaths include:

- Inoperative smoke detectors,
- Careless smoking,
- Abuse of alcohol or other drugs,
- Incorrect use of alternative heating sources including usage of devices inappropriate or insufficient for the space to be heated,
- Inadequate supervision of children,
- Insufficient fire safety education.

The majority of fire-related fatalities occur in fires that start at night while occupants are asleep, a time when effective detection and alerting systems are of special importance. Operable smoke detectors on every level provide the residents of a burning home with sufficient advance warning for escape from nearly all types of fires. If a fire occurs, homes with functional smoke detectors are half as likely to have a death occur as homes without smoke detectors. As a result, operable residential smoke detectors can be highly effective in preventing fire-related deaths. Accordingly, a Healthy People 2000 objective is the reduction of residential fire deaths to no more than 1.2 per 100,000 people by the Year 2000.

For Residential Fire Injury Prevention Programs the definition for high-risk target populations is a community or geographic area known to have: (1) A high prevalence of residential fire deaths, (2) a low prevalence of functional residential smoke detectors, (3) a composition of primarily low-income residents, or (4) a high proportion of rented residential units.

For Residential Fire Injury Prevention Model Program and further background information, see the **WHERE TO OBTAIN ADDITIONAL INFORMATION** section.

Part IB: Trauma Care System Development

A trauma care system (TCS) is an organized, hierarchical approach to trauma care in which the medical needs of individual trauma patients are optimally matched to the resources available in a defined geographic region. In a TCS, a lead agency categorizes hospitals on the basis of their trauma care capabilities, designated trauma centers provide 24 hour access to the highest level of care, and prehospital field protocols are used to triage injured patients to the most appropriate hospital. The finding that 30 percent to 35 percent of trauma patient deaths are preventable in conventional trauma care has mobilized support for TCS planning and implementation. Studies showing up to a 50 percent reduction in preventable trauma deaths when a TCS is implemented provide compelling evidence of TCS effectiveness.

Despite the proven effectiveness of TCSs, in 1993 only five States satisfied established criteria for a complete TCS, a modest increase from two States that met the criteria in 1988. Financial constraints are the major barrier to TCS implementation. Prohibitively high start-up costs and operating expenses deter emergency medical services (EMS) agencies from serving as the lead agencies for TCSs, and concerns about revenue loss impede greater TCS participation by acute care hospitals and trauma care professionals. Other impediments to TCS implementation include organizational and political barriers, among the most important of which is an increasingly competitive health care market that makes it difficult to establish integrated systems of care. Major planning, publicity, and educational efforts are needed to develop or enhance a TCS, along with ongoing coordination of prehospital and hospital services and continuous quality improvement efforts.

Baseline and follow-up studies of trauma incidence and outcomes are instrumental in planning, implementing, and evaluating a TCS. Among the most useful data sources are trauma registries, hospital discharge data, vital statistics, autopsy records, emergency medical services (EMS)run reports, and surveys that assess hospital trauma care capabilities. Among the most informative outcome studies are preventable trauma death audits using expert review panels, comparisons of expected and observed mortality using trauma registry data and predictive mathematical models, and studies of death rates among trauma patients based on their hospital discharge diagnoses and other data. A variety of approaches are used to evaluate structural aspects of TCSs and patient care processes before and after TCS implementation. Among the most informative of these studies are surveys that identify whether specific TCS components are in place and process indicators that focus on the timeliness and appropriateness of trauma care.

For Trauma Care System Model Program and further background information, see the **WHERE TO OBTAIN ADDITIONAL INFORMATION** section.

Part IC: Emergency Department Injury Surveillance

Public health professionals need adequate information to develop, implement, and evaluate prevention programs, and decision makers need adequate information to develop policies to prevent injuries. Public health surveillance of injuries should provide data to make sound policy decisions and to plan prevention strategies. Injury surveillance should: (1) Provide quantitative estimates of injury mortality, morbidity, and disability; (2) detect clusters of injury events; (3) identify risk factors for injury events; (4) stimulate more focused epidemiologic research; (5) help define costs associated with injuries; and (6) help determine the effectiveness of injury prevention and control programs.

Mortality Data

Relative to other sources, fatal injury data sources are the most well-developed, available and utilized. These include death certificates, medical examiner and coroner reports, the FBI's Supplemental Homicide Reports, child fatality review system reports, and the Fatal Accident and Reporting System (FARS) maintained by the National Highway Traffic Safety Administration. Death certificate data provide information about both causes and types of fatal injuries sustained. State and local programs should have the capacity to use their mortality data systems.

Morbidity Data

Fatal injuries represent only a small portion of the injury problem in the United States. The lack of adequate data on nonfatal injuries is a serious problem for injury prevention and control. Given the changing patterns of health care, hospitalized nonfatal injuries represent a smaller portion of the injury burden in the United States. Their usefulness to plan injury control programs is less clear. Because of this, the ED should be explored for nonfatal injury data. The development of standardized hospital emergency department based surveillance systems should provide useful data at State and local levels. These surveillance systems need to be relevant to local data needs (i.e., supporting local injury control efforts) and flexible enough to accommodate changing priorities (e.g., the need to estimate the risks and benefits of passenger airbags), and have standard case definitions and data elements so that data collected can be compared to those collected in other jurisdictions, including national samples.

Definitions for Emergency Department Injury Surveillance

The essential data elements for emergency departments are fully defined in CDC's ''Data Elements for Emergency Department Systems'', release 1.0. (For ordering a copy see the **WHERE TO OBTAIN ADDITIONAL INFORMATION** section.)

Surveillance is the ongoing, systematic collection, analysis, and interpretation of health data necessary for designing, implementing, and evaluating public health programs.

Hospital emergency departments are defined as facilities offering 24-hour emergency medical services affiliated with an acute care hospital of six or more beds.

Non-fatal injuries are defined as consistent with the International Classification of Disease (ICD) coding for injury (E800-E999) with the specific exclusion of adverse effects of medical care (E870–879) and of drugs (E930.0–949.9).

For Emergency Department Injury Surveillance Model Program and further background information, see the **WHERE TO OBTAIN ADDITIONAL INFORMATION** section.

Part II: Basic Injury Program Development

Injury is one of the leading causes of death and disability for all age groups. It is responsible for more deaths to children and young adults than any other cause. Each year, nearly 150,000 people die from injuries. Children, minorities, and the elderly are especially at risk. Although the greatest cost of injury is in human suffering and loss, the financial cost is also staggering. Including direct medical care and rehabilitation costs and lost income and productivity, injury costs are estimated at more than $224 billion. Without exception, preventing injuries costs less than treating them.

As late as 1989, most State and local public health agencies in this country did not have the organizational focus or capacity to systematically address injuries as a public health problem or to lead their State or community activities in injury prevention and control. Currently, each State public health agency, and many of their local counterparts, maintains a focus in injury prevention and control. While this injury focus is minimal in a portion of these agencies, an impressive track record is emerging in this still relatively new field. Lessons of importance have been learned. While the locus for injury programs in public health agencies is in a variety of organizational locations, valuable injury prevention programs are in place and accurate surveillance is being conducted. Predictably, public health agencies have shown themselves adept at forging relationships with the many new partners necessary to address the problem of injuries, and these partnerships have successfully crossed traditional zones of comfort for both the public health agencies and their partners.

However, this encouraging level of interest and competence has not yet resulted in adequate capacity to address this major public health problem in all States. This program will allow State public health agencies with minimal injury prevention and control capability to establish or strengthen the organizational focus needed to develop viable injury prevention and control activities.

Purpose

The purposes of the cooperative agreements are to enable State public health agencies to implement priority injury prevention and control activities. The areas of interest are:

Part I

A. Unintentional Injury Prevention Programs for: 1. Bicycle Helmet Promotion Programs (Part IA1), 2. Residential Fire Injury Prevention Programs (Part IA2).

B. Trauma Care System Development Programs (Part IB).

C. Emergency Department Injury Surveillance Programs (Part IC).

Part II Basic Injury Program Development Programs (Part II)

This funding will allow the applicant to establish or strengthen injury prevention and control activities in the targeted areas (e.g., Trauma Care Systems development). It is expected that programs developed or enhanced under this funding will function as a component of the public health agency's injury control program (if any exist), will coordinate related activities both within the agency and within the jurisdiction, and will mobilize, seek input from, and utilize broad coalitions.

Four Topic Areas

Part IA1—Bicycle Helmet Promotion

Bicycle Helmet Promotion Programs are used to promote the use of bicycle helmets among high-risk (unhelmeted) 5–12 year-olds. (Additional high-risk, age, or demographic groups may be targeted, but their inclusion must be justified separately and the 5–12 year-old age group must be covered.)

These programs will establish or strengthen a state-level bicycle helmet

promotion program and allow support for multifaceted local programs within the State. State-level programs will collaborate with the State Department of Education to promote school-based programs, foster adult programs on helmets, and provide public programs to change knowledge, attitudes and beliefs, support helmet discounting or giveaways, develop helmet-wearing incentive programs, enhance enforcement, encourage helmet promotion in the health care delivery setting, and collaborate with governmental and civic organizations.

State programs will foster multifaceted (See **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) programs at local levels within the State. These local programs will include elements such as school-based parental programs and public programs to change knowledge, attitudes and beliefs, bicycle rodeos, helmet discounting or giveaways, helmet-wearing incentive programs, enforcement and support of existing legislation/regulation, helmet promotion in the health care delivery setting, and partnership with civic organizations such as Safe Kids, Boy Scouts, etc. Programs will also evaluate the effectiveness of strategies for increasing bicycle helmet use (including observing pre- and post-program helmet use in the target population.)

Novel approaches to supplement the elements noted above are strongly encouraged.

Part IA2—Residential Fire Injury Prevention

Residential Fire Injury Prevention Programs are used to allow State public health agencies to compare the effectiveness of approaches to promoting residential smoke detectors in high-risk populations. The focus of the programs is smoke detector installation and maintenance. Programs can include home visits—smoke detector installation, and/or maintenance of existing detectors- as well as incentive programs that provide coupons/discounts for smoke detectors, combined with follow-up. Programs will involve educating parents and other care givers, children, teachers, policy makers, community leaders, and the general public about the importance of residential smoke detectors as an effective intervention. Programs may also involve the distribution and installation of smoke detectors in selected high risk communities, encouraging public policy (nonlegislative), or serving as a resource, when requested, as issues arise related to local ordinances requiring smoke detector use. Programs will establish or strengthen local smoke detector promotion programs which increase current residential smoke detector prevalence rates, achieve optimal adequacy of coverage, and maintain smoke detector functionality.

To achieve these goals, programs will support smoke detector installation and maintenance programs, develop smoke detector incentive programs, provide public education, form broad partnerships that may include businesses, governmental agencies, community-based and civic organizations, and fire safety personnel, enforce local ordinances, and encourage smoke detector promotion in the health care delivery setting.

Part IB—Trauma Care System Development

This program will enable State public health agencies to enhance their role as lead agencies or prospective lead agencies in order to plan and take steps toward implementing *or* improving an inclusive TCS in their State or substate region. These programs will develop or enhance their State TCS by adding components of an optimal TCS as defined in ''A National Plan for Injury Control'' (See **WHERE TO OBTAIN ADDITIONAL INFORMATION** section), and by evaluating success. Specifically, programs will assess the current level of TCS development, create plans, and implement or improve components of the optimal TCS, regardless of the level of maturity of their existing TCS. This program is designed for mature and developing TCSs.

Part IC—Emergency Department Injury Surveillance

This program is designed to expedite the development of emergency department surveillance for injuries in the United States and to provide a coordinated approach to improving the quality, comparability, and availability of ED data. State public health agencies will develop and evaluate or enhance and evaluate a hospital emergency department injury data system which can provide E-coded injury data representative of all types of emergency department treated nonfatal injuries occurring statewide or in a population of one million people or more which is representative of the State population. Specifically, programs will improve the quality and availability of population-based, hospital emergency department nonfatal injury surveillance data for use in injury control program planning.

Part II—Basic Injury Program Development

These program is designed to allow State public health agencies with minimal injury prevention and control capability to develop or strengthen their organizational focus in prevention and control of injuries. State public health agencies will identify a coordinator for injury activities, develop a profile of injuries within the State from existing data sources, develop an advisory structure to utilize collaborative relationships with public and private sector groups, organizations, agencies and individuals with interest or expertise in injury prevention or control, and develop a priority-driven State plan for injury prevention and control.

Cooperative Activities

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under A–E. (Recipient Activities), and CDC will be responsible for the activities listed under F. (CDC Activities).

A. Recipient Activities: Bicycle Helmet Promotion (Part IA1)

1. Provide a full-time coordinator with the authority, responsibility, and expertise to conduct and manage the state-level program and provide technical and evaluation assistance to local programs.

2. If statewide or local legislation requiring bicycle helmet use exists, promote its enforcement. Provide evaluation data, when requested, for use by legislators considering helmet legislation. When requested, serve as a resource as issues arise relating to local ordinances requiring bicycle helmet use.

3. Collaborate with highway safety officials, civic organizations, educational groups, employers, health care providers, and others to promote statewide bicycle helmet usage.

4. Collaborate with the State Department of Education to promote school-based programs that increase knowledge, affect attitudes and beliefs (including students, teachers, and parents), and encourage rules to foster helmet use. Encourage school systems to support data collection by allowing initial classroom surveys of ridership and helmet use by show-of-hands to be conducted.

5. Encourage parental programs that increase knowledge, affect attitudes and beliefs (e.g., in the workplace), provide public education (meetings, newsletters, media coverage), support helmet discounting or giveaways, develop

helmet-wearing incentive programs, and encourage helmet promotion in the health care delivery setting.

6. Conduct a multifaceted program and support the development and implementation of multifaceted community-based programs to promote the use of bicycle helmets.

7. Evaluate the effectiveness of both the State and local programs, including pre- and post-program observed helmet use among the target population and, for local programs, observation of at least 100 child bicyclists (from at least 4 different sites) in the immediate pre- and post-intervention periods.

8. Designate control communities and conduct observations in these communities in order to help differentiate program effects from background trends.

9. Participate in a process of evaluation and improvement in which lessons learned are shared with other States implementing bicycle helmet promotion programs.

B. Recipient Activities: Residential Fire Injury Prevention (Part IA2)

1. Provide a full-time coordinator with the expertise, authority, and responsibility to manage the state-level program. This individual will oversee the development of local area residential smoke detector promotion programs and coordinate evaluations of and comparison among local interventions conducted within the State during the funding cycle. This individual will provide technical and evaluation assistance to local programs.

2. Collaborate with state-level firefighters' associations, fire marshals' associations, fire safety coalitions and other grassroots organizations (e.g., SAFE KIDS Campaign) which are interested in reducing residential fire-related deaths and injuries.

3. Support the development and implementation of multifaceted community-based programs to promote the installation and maintenance of smoke detectors in all residential dwellings. Local programs will: (a) provide a coordinator who will develop residential smoke detector promotion program(s) targeted to a local high-risk group(s) (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section); (b) conduct multifaceted programs to promote the installation and maintenance of smoke detectors in all residential dwellings, including fire-safety education through door-to-door canvassing and public education; (c) canvass households (at least 400) in the targeted population to determine the functionality of residential smoke detectors and install additional units as needed, and simultaneously canvass households (at least 400) in a comparable population to determine the presence and functionality of residential smoke detectors, distribute home fire-safety literature, and recommend smoke detector installation, as needed, and (d) conduct evaluation of both groups 12 months post intervention implementation to assess the difference in effectiveness of intervention strategies. When requested, serve as a resource as issues arise relating to local ordinances requiring residential smoke detector use. If such ordinances exist promote their enforcement.

4. Evaluate the effectiveness of local programs, including pre- and post-program estimates of the proportion of functional residential smoke detectors, as well as adequacy of residential smoke detector coverage among the target population. Coordinate evaluation of installation smoke detector promotion efforts in the target communities versus other strategies utilized in comparable communities to discern the effectiveness of each intervention.

5. When requested, serve as a resource as issues arise relating to statewide legislation requiring residential smoke detector use. Promote enforcement if such legislation exists.

6. Participate in a process of evaluation and improvement in which lessons learned are shared with other States implementing residential fire injury prevention programs.

C. Recipient Activities: Trauma Care System Development (Part IB)

1. Provide a full-time coordinator with the authority, responsibility, and expertise to conduct and manage the state-level program.

2. Plan, develop, and implement a data-driven system to monitor and evaluate prehospital and hospital compliance with TCS standards, utilizing such data sources as trauma registries, EMS run reports, hospital discharge data, vital statistics and autopsy records.

3. Design, test, refine, and use methods to identify and respond to preventable trauma morbidity, complications, and disability among patients hospitalized from trauma throughout the TCS.

4. Establish administrative rules and procedures for designating trauma centers, if needed.

5. Administer and complete (if needed) a trauma center designation process.

6. Establish or improve a TCS information system and collect and analyze TCS data.

7. Develop a strategic plan to overcome specified barriers to an optimal TCS, and over time, monitor the impact of this strategic plan.

8. Identify non-federal sources of support for the TCS.

9. Participate in a process of evaluation and improvement in which lessons learned are shared with other States implementing trauma care systems.

D. Recipient Activities: Emergency Department Injury Surveillance (Part IC)

1. Provide a full-time coordinator with the authority, responsibility, and expertise to conduct and manage the state-level program.

2. Develop, implement, and evaluate a plan for conducting hospital ED surveillance.

3. Conduct hospital emergency department surveillance, which includes (but is not limited to) the essential injury elements (see definitions) as specified in ''Data Elements for Emergency Department Systems'' (DEEDS), and collect information addressing demographics, diagnoses, treatment, etiology, severity, charges, and outcome.

4. Evaluate the surveillance system for completeness and validity of data collected using methods described in ''Guidelines for Evaluating Surveillance Systems.''

5. Develop and submit an annual report of the analysis of surveillance data, and compile and share aggregated data with CDC in electronic format.

6. Participate in a process of evaluation and improvement in which lessons learned are shared with other States implementing ED surveillance.

E. Recipient Activities: Basic Injury Program Development (Part II)

1. Provide a full-time coordinator who has the authority, responsibility, and expertise to conduct and manage the state-level program.

2. Establish an advisory group to address issues relevant to injury prevention and control in the State. This group will consist of public and private individuals, organizations, agencies, and groups such as internal public health agency units (e.g., MCH, epidemiology, EMS, block grant coordination), Governor's Highway Safety Representatives, police, SAFE KIDS, NFPA Champions, National Safety Council, AARP, Brain Injury Association, trauma care organizations, violence prevention programs, and community-based organizations. The advisory group will advise and make recommendations in areas such as reviewing injury data, setting priorities,

assessing the public health agency's capacity and resources to address injury as a priority public health problem, and creating a State plan for injury prevention and control.

3. Analyze existing data to define the magnitude of the injury problem in the State, the population(s) at risk, and the causes of injury. Potential data sources include E-coded hospital discharge data, vital statistics, emergency department data, BRFSS, fire incident reports, police records, child death review records, autopsy records, and EMS run reports.

4. Prepare a report (for dissemination within the State) that includes an annotated inventory or data sources, the magnitude and causes of the injury problem in the State, and the populations affected.

5. Identify and catalog current and potential injury prevention and control resources within the State.

6. Develop a State plan which is based on data and prioritized for the prevention and control of injuries.

7. Participate in a process of evaluation and improvement in which lessons learned are shared with other States implementing basic injury prevention programs.

F. CDC Activities

1. Provide consultation on planning, implementation, evaluation, data analysis, and dissemination of results.

2. Provide coordination between and among the States, by assisting in the transfer of information and methods developed to other programs, and providing up-to-date information.

3. Provide technical assistance for program planning and management.

4. Develop and provide BRFSS and other specific injury surveillance modules.

5. Plan and coordinate review of program activities by outside experts to ensure available expertise and provide for quality assurance.

6. Operate a process of evaluation and improvement in which lessons learned are shared with other States implementing the same type of program.

Technical Reporting Requirements

An original and two copies of semiannual progress reports (and an electronic copy submitted by electronic mail to the project officer) are required of all awardees. Time lines for the reports will be established at the time of award. Final financial status and performance reports are required no later than 90 days after the end of the project period. All reports will be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Semiannual progress reports should include:

A. A brief, updated program description, and a one-page summary of quarterly activities.

B. A status report on accomplishment of program goals and objectives, accompanied by a comparison of the actual accomplishments related to the goals and objectives established for the period. Include target population, intervention/surveillance elements and activities, collaborative activities, and evaluation.

C. If established goals and objectives were not accomplished or were delayed, describe both the reason for the deviation and anticipated corrective action or deletion of the activity from the project. Include lessons learned and recommendations.

D. Other pertinent information, including changes in staffing, contractors, or partners.

Application Content

A separate application should be submitted for each Part (topic area) for which funding is requested. Each application, including appendices, should not exceed 70 pages (75 pages for competing continuation applications) and the Proposal Narrative section should not exceed 30 pages. Competing continuation applications may add up to five pages (for a total of 35 pages) to address progress and outcomes from the prior funded program. Pages should be clearly numbered and a complete index to the application and any appendices included. The project narrative section must be double-spaced. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, double-spaced, with unreduced type (font size 10 point or greater) on 8½″ by 11″ paper, with at least 1″ margins, headers and footers, and printed on one side only.

The applicant should provide a detailed description of first-year activities and briefly describe future-year objectives and activities.

For Bicycle Helmet Promotion (Part IA1) Applications, the Application Must Include

A. Abstract

A one page summary of the proposed program.

B. Progress Report: (To be completed by competing continuation applicants only.)

Provide a detailed report on the achievements of the program over the preceding three-year period of CDC funding for prevention of bicycle-related head injuries. The applicant should include the accomplishments made with CDC funding covering all areas related to that cooperative agreement. The section should not exceed five pages.

C. Background and Capacity

Identify suitable target populations and include data justifying need for the program regarding lack of helmet use in the target population and magnitude of the bicycle-related head injury problem. Justify the inclusion of high-risk, demographic, or other age groups beyond 5–12 years-old. Indicate ridership data by age and month or season if available. Provide supporting data. Demonstrate capacity to conduct the program. Include a description of current activities and previous experience in bicycle helmet promotion programs, including status of surveillance activities related to the program. Show the appropriateness of position descriptions, curriculum vitea's (CV's), and lines of command to accomplish program goals and objectives.

D. Goals and Objectives

Include goals which are relevant to the purpose of the program and feasible for the project period. Goals should be specific and measurable. Include objectives which are feasible for the budget period, and which address all activities necessary to accomplish the purpose of the proposal. Objectives should be specific, time-framed, measurable, and realistic. If groups beyond 5–12 year-olds are targeted, include goals and objectives for them separately.

E. Methods and Staffing

Describe activities at the State and local levels. Describe how the model bicycle helmet promotion program (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) will be implemented, and why deviations from this model, if any, are necessary for the applicant's setting. Provide detail on proposed multifacetedness. Describe creative approaches to impact the high-risk (unhelmeted) target population. Provide: (a) A detailed description of proposed activities designed to achieve each objective and overall program goals, and which includes designation of responsibility for each action

undertaken; (b) a complete time frame indicating when each activity will occur; and (c) a description of the roles of each unit, organization, or agency, and coordination, supervision and degree of commitment (e.g., time, in-kind, financial) of staff, organizations, and agencies involved in activities. Show allocation of staff to the activities. Describe the roles and responsibilities of the project director and each staff member. Descriptions should include the position titles, education and experience required, and the percentage of time each will devote to the program. Curriculum vitae for existing staff should be included. Document specific concurrence of plans by all other involved parties, including consultants, and provide a letter from each consultant or outside agency describing their willingness and capacity to fulfill proposed responsibilities.

For each local program conducting interventions, describe the local program's ability and commitment to: (a) Provide a coordinator who will act as liaison with the State, (b) organize a coalition of appropriate individuals, agencies, and organizations to generate community input and support for bicycle helmet promotion campaigns, (c) collaborate with the local health department, (d) state measurable objectives for the project, (e) conduct pre- and post-program observations of helmet use that collects data on at least 100 child bicyclists from 4 or more different types of sites (e.g., residential areas, bike paths, parks, to/from schools), (f) educate each child who receives a ''program'' helmet and the parents about proper use, fit, and maintenance and safe bicycle riding practices, (g) maintain records of helmet promotional activities and provide to the State coordinator at the requested interval.

Women, Racial and Ethnic Minorities. Provide a description of the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

F. Evaluation

Provide sufficient detail on how the proposed evaluation system will document program process, effectiveness, and impact on helmet use. Evaluation should include progress in meeting program objectives. Demonstrate potential data sources for evaluation purposes, and document staff availability, expertise, experience, and capacity to perform the evaluation. Include a plan for reporting evaluation results and using evaluation information for programmatic decisions. Describe, if it exists, a capacity to monitor bicycle-related head injuries, costs associated with bicycle-related head injuries, and changes in health outcomes associated with the program. Describe the use of control populations to help differentiate program effects from background trends. Indicate willingness to participate in a process of continuous improvement which may require frequent review of progress and processes utilized, remediation of identified barriers, and adoption of modified methods and measures.

G. Collaboration

Describe the relationships between the program and other organizations, agencies, and health department units (e.g. MCH) that relate to the program. Describe coalition membership and member roles. Describe relationships with the Governor's Office of Highway Safety, public safety officials, and Injury Control Research Centers (ICRC's) or local academic institutions, and show evidence of specific support. Describe relationships with local communities conducting intervention activities and show evidence of specific support. For areas with helmet laws, letters from appropriate officials should be provided that express a commitment to enforcement and detail the nature of their involvement and measures to be taken in the enforcement effort to promote helmet use.

H. Budget and Accompanying Justification

Provide a detailed budget with accompanying narrative justifying all individual budget items which make up the total amount of funds requested. The budget should be consistent with stated objectives and planned activities. The budget should include funds for two trips to Atlanta by key State and community staff for participation in continuous improvement activities, and ''grantee'' meetings.

I. Human Subjects

Indicate whether human subjects will be involved, and if so, how they will be protected, and describe the review process which will govern their participation.

For Residential Fire Injury Prevention (Part IA2), the Application Must Include

A. Abstract

A one page abstract and summary of the proposed program.

B. Progress Report: (To be completed by competing continuation applicants only.)

Provide a detailed report on the achievements of the program over the preceding three-year period of CDC funding for prevention of residential fire-related injuries. The applicant should include the accomplishments made with CDC funding covering all areas related to that cooperative agreement. The section should not exceed five pages.

C. Background, Need, and Capacity

Describe background and need for the program, quantifying the magnitude of the residential fire-related injury problem (local versus State data), populations at risk, extent of the problem, and demographics of the targeted community. Include a description of current activities and previous experience in fire-related injury prevention programs (such as door-to-door campaigns), including status of surveillance activities related to the problem. Demonstrate capacity to conduct the program. Show the appropriateness of position descriptions, CV's, and lines of command to accomplish program goals and objectives.

D. Goals and Objectives

Specify goals which indicate what the applicant anticipates its residential fire-related injury prevention program will have accomplished at the end of the three-year project period. Include specific time-framed, measurable and achievable objectives which can be accomplished during the first budget period. Objectives should relate directly to project goals, and should include, but not be limited to, increasing smoke detector usage and maintenance, and demonstrating the effectiveness of smoke detector intervention activities.

E. Methods and Staffing

Describe how the model residential fire injury prevention program (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) will be implemented and why deviations from this model, if any, are necessary for the applicant's setting. Specify how the target population corresponds to the high-risk population, as defined (see **BACKGROUND AND DEFINITIONS** section). Describe activities at the State and local levels that are designed to achieve each of the program objectives during the budget period. A time-frame should be included which indicates when each activity will occur. Include an organizational chart identifying placement of the residential fire-related injury prevention program. Show allocation of staff to the activities. Describe the roles and responsibilities of the project director and each staff member. Descriptions should include

the position titles, education and experience required, and the percentage of time each will devote to the program. CVs for existing staff should be included. Document specific concurrence of plans by all other involved parties, including consultants, and provide a letter from each consultant or outside agency describing their willingness and capacity to fulfill proposed responsibilities.

For each local program conducting interventions, describe the program's ability and commitment to:

1. Provide a coordinator to act as liaison with the State,
2. Organize a coalition of appropriate individuals, agencies, and organizations to generate community input and support for smoke detector promotion campaigns,
3. Collaborate with the local health department,
4. State measurable objectives for the project,
5. Conduct pre- and post-program household surveys of smoke detector use within the target and comparable populations,
6. Educate residents who receive a home visit smoke detector on fire safety and smoke detector installation and maintenance,
7. Maintain records of smoke detector promotional activities and provide to the state coordinator at the requested interval.

Women, Racial and Ethnic Minorities. Provide a description of the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

F. Evaluation

Provide a detailed description of the methods and design to evaluate program effectiveness, including what will be evaluated, data to be used, and the time-frame. Document staff availability, expertise, and capacity to evaluate program activities and effectiveness, and demonstrate evaluation data availability. Evaluation should include progress in meeting the objectives and conducting activities on residential smoke detector programs (process evaluation measures), and increasing residential smoke detector prevalence and functionality (outcome measures). Describe the use of control populations to help differentiate program effects from background trends. Indicate willingness to participate in a process of continuous improvement which may require frequent review of progress and processes utilized, remediation of identified barriers, and adoption of modified methods and measures.

G. Coordination and Collaboration

Provide a description of the relationship between the program and other organizations, agencies, and health department units that will relate to the program. Composition and roles of State and/or local coalitions should be included; specific commitments of support should be provided. Letters of support from public safety officials should also be included if related activities are undertaken. A description of proposed collaboration with ICRC's (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) local academic institutions should be included.

H. Budget and Accompanying Justification

Provide a detailed budget with accompanying narrative justifying all individual budget items which make up the total amount of funds requested. The budget should be consistent with stated objectives and planned activities. The budget should include funds for two trips to Atlanta by key State and community staff for participation in continuous improvement activities and ''grantee'' meetings.

I. Human Subjects

Indicate whether human subjects will be involved, and if so, how they will be protected, and describe the review process which will govern their participation.

For Trauma Care System Development (Part IB), the Application Must Include

A. Abstract

A one page summary of the proposed program.

B. Background and Capacity

Define the current magnitude of trauma burden, in terms of mortality, hospitalizations, and/or disability. Define the current status of the trauma care system in the State, including the extent to which the key components of a TCS are currently in place (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section). Identify a sub-state target area (if such is proposed) and justify its need and use. Specify barriers to TCS planning, development, and operations. Demonstrate capacity to utilize data systems (e.g., trauma registries, hospital discharge data, autopsy records, EMS run reports, and surveys) that assess hospital trauma care capabilities. Demonstrate capacity to conduct the program. Show the appropriateness of position, descriptions, CV's, and lines of command to accomplishment of program goals and objectives.

C. Goals and Objectives

Provide specific goals which indicate where the applicant anticipates its TCS program will be at the end of the three-year project period. Include specific time-framed, measurable, and achievable objectives that can be accomplished during the first budget period. Objectives should relate directly to the project goals, and should include, but not be limited to, improving the TCS structure and process and reducing trauma morbidity, mortality, and disability. Include objectives which address all activities necessary to accomplish the purpose of the proposal.

D. Methods and Staffing

Describe how the model trauma care system (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) will be implemented and why deviations from this model, if any, are necessary for the applicant's setting. Describe proposed activities at the State, regional, and local levels. Provide: (a) A detailed description of proposed activities which are designed to achieve each objective and overall program goals, and which includes designation of responsibility for each activity undertaken; (b) a complete time frame indicating when each activity will occur; and (c) a description of the roles of each unit, organization, or agency, and coordination, supervision, and degree of commitment (e.g., time, in-kind, financial) of staff, organizations, and agencies involved in activities. Show allocation of staff assigned to the activities. Describe the roles and responsibilities of the project director and each staff member. Descriptions should include the position titles, education and experience required, and the percentage of time each will devote to the program. CVs for existing staff should be included. Document specific concurrence of plans by all other involved parties, including consultants, and provide a letter from each consultant or outside agency describing their willingness and capacity to fulfill proposed responsibilities.

Women, Racial and Ethnic Minorities. Provide a description of the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

E. Evaluation

Describe how the proposed evaluation system will document program progress, and how proposed evaluation measures will measure success in developing the TCS. Evaluation should include progress in meeting program objectives. Demonstrate potential data sources and

TCS information systems (or plans to develop one) for evaluation purposes, and document staff availability, expertise, experience, and capacity to perform the evaluation. Include a plan for reporting evaluation results and using evaluation information for programmatic decisions. Indicate willingness to participate in a process of continuous improvement which may require frequent review of progress and processes utilized, remediation of identified barriers, and adoption of modified methods and measures.

F. Coordination and Collaboration

Provide a description of the relationship between the program and other organizations, agencies, and health department units that will associate with the program. Composition and roles of State, regional, and/or local coalitions should be included; specific commitments of support should be provided. A description of proposed collaboration with ICRC's (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) or local academic institutions should be included.

G. Budget and Accompanying Justification

Provide a detailed budget with accompanying narrative justifying all individual budget items which make up the total amount of funds requested. The budget should be consistent with stated objectives and planned activities. The budget should include funds for two trips to Atlanta by key State and community staff for participation in continuous quality improvement activities and ''grantee'' meetings.

H. Human Subjects

Indicate whether human subjects will be involved, and if so, how they will be protected, and describe the review process which will govern their participation.

For Emergency Department Injury Surveillance (Part IC), the Application Must Include

A. Abstract

A one page summary of the proposed program.

B. Background and Capacity

Provide a brief description of the need for non-fatal injury surveillance within the State, and provide a description of the existing injury (fatal, hospitalized, and non-hospitalized) surveillance program within the jurisdiction, including:

1. Existing staff and brief summary of their qualifications.

2. Methods of current non-hospitalized injury surveillance, including: (a) Case definition(s), (b) Data elements collected, and (c) Data sources used and their completeness.

3. A brief summary of any data analyses completed.

4. A brief summary of any evaluations of surveillance system data quality which addresses the attributes of the surveillance system.

Provide evidence of the existence of a statewide (or in a population of one million or more, which is representative of the State) population-based E-coded hospital discharge data system. Provide analysis of the most recent year of data from this system. Provide documentation that legislation and/or regulations are in place which support current collection of hospital emergency department data, and which protect the confidentiality of these data. Demonstrate capacity to conduct this injury surveillance program. Show the appropriateness of position descriptions, CV's, and lines of command to accomplish program goals and objectives. Provide a description of the capability for the entry, management, processing and analysis of data, including a description of available computer hardware and software resources.

C. Goals and Objectives

Provide specific goals which indicate what the applicant anticipates its ED Injury Surveillance program will have accomplished at the end of the three-year project period. Include specific time-framed, measurable, and achievable objectives that can be accomplished during the first budget period. Objectives should relate directly to the project goals. Include objectives which address all activities necessary to accomplish the purpose of the proposal.

D. Methods and Staffing

Describe how the model ED surveillance program (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) will be implemented and why deviations, if any, are necessary for the applicant's setting. Describe proposed activities at all involved levels (State, local, organization). Provide: (a) A detailed description of proposed activities which are designed to achieve each objective and overall program goals, and which includes designation of responsibility for each activity undertaken; (b) a complete time frame indicating when each activity will occur; and (c) a description of the roles of each unit, organization, or agency and coordination, supervision, and degree of commitment (e.g., time, in-kind, financial) of staff, organizations, and agencies involved in activities. Show allocation of staff to the activities. Describe the roles and responsibilities of the project director and each staff member. Descriptions should include the position titles, education and experience required, and the percentage of time each will devote to the program. CVs for existing staff should be included. Document specific concurrence of plans by all other involved parties, including consultants, and provide a letter from each consultant or outside agency describing their willingness and capacity to fulfill proposed responsibilities.

Specifically, include proposed methods of system development or system enhancement, and data collection, including:

1. Case definitions for inclusion in the system.

2. A listing of data elements proposed for collection. Provide plans to incorporate the essential DEEDS data elements, as defined above. At a minimum, data elements collected for every case should include birthdate, age, sex, race, county (or zip code) of residence, ICD–9–CM diagnostic and external cause-of-injury codes, dates of encounter, or dates of injury and death (if applicable). Medical service charges should be included. If the plan includes use of a representative sample of hospital emergency department injury visits, provide the sampling frame and plan.

3. All other sources of data that would be used to provide additional information on cases. Other optional sources of data might include hospital medical record, EMS, or police report data. Provide a brief description of the proposed use of data for injury prevention programs.

E. Evaluation

Describe how the proposed evaluation activities will assess the sensitivity, predictive value positive, quality of the data collected, and other attributes of the surveillance system (e.g., representativeness, timeliness). Evaluation should include progress in meeting program objectives. Document staff availability, expertise, experience, and capacity to perform the evaluation. Include a plan for reporting evaluation results and using evaluation information for programmatic decisions. Indicate willingness to participate in a process of continuous improvement which may require frequent review of progress and processes utilized, remediation of identified barriers, and adoption of modified methods and measures.

F. Coordination and Collaboration

Provide a description of the relationship between the program and other organizations, agencies, and health department units that will associate with the program. Composition and roles of State, regional, and/or local partners should be included; specific commitments of support should be provided. Include a description of proposed collaboration with ICRC's or local academic institutions.

G. Budget and Accompanying Justification

Provide a detailed budget with accompanying narrative justifying all individual budget items which make up the total amount of funds requested. The budget should be consistent with stated objectives and planned activities. The budget should include funds for two trips to Atlanta by key State and community staff for participation in continuous improvement activities and ''grantee'' meetings.

For Basic Injury Prevention Programs (Part II), the Application Must Include

A. Abstract

Provide a one page summary of the proposed program.

B. Background and Need

Describe current and past injury control activities of the public health agency. Justify the need to develop a basic injury prevention and control program. Describe the benefit of creating or enhancing a State public health injury prevention and control focal point. Describe the type and nature of current and past advisory groups related to injury prevention and control. Demonstrate capacity to conduct the program.

C. Goals and Objectives

Provide specific goals which indicate what the applicant anticipates its Basic Injury Prevention Program will have accomplished at the end of the three-year project period. Include specific time-framed, measurable and achievable objectives that can be accomplished during the first budget period. Objectives should relate directly to the project goals. Include objectives which address all activities necessary to accomplish the purpose of the proposal. Specifically, they should include, but not be limited to, creation of an advisory structure, producing a profile of injuries in the State, assessing public health agency capacity to prevent injuries, and developing a State plan to address injury prevention and control.

D. Methods and Staffing

Describe how the program will be implemented. Provide: (a) A detailed description of proposed activities designed to achieve each objective and overall program goals and which includes designation of responsibility for each activity undertaken; (b) a complete time frame indicating when each activity will occur; and (c) a description of the roles of each unit, organization, or agency and coordination, supervision, and degree of commitment (e.g., time, in-kind, financial) of staff, organizations, and agencies involved in activities. Show allocation of staff to the activities. Describe the roles and responsibilities of the project director and each staff member. Descriptions should include the position titles, education and experience required, and the percentage of time each will devote to the program. CVs for existing staff should be included. Document specific concurrence of plans by all other involved parties, including consultants, and provide a letter from each consultant or outside agency describing their willingness and capacity to fulfill proposed responsibilities.

E. Evaluation

Describe how the proposed evaluation system will document program progress, and how proposed evaluation measures will measure success in developing basic injury prevention programs. Evaluation should include progress in meeting program objectives. Document staff availability, expertise, experience, and capacity to perform the evaluation. Include a plan for reporting evaluation results and using evaluation information for programmatic decisions. Indicate willingness to participate in a process of continuous improvement which may require frequent review of progress and processes utilized, remediation of identified barriers, and adoption of modified methods and measures.

F. Coordination and Collaboration

Provide a description of the relationship between the program and other organizations, agencies, and health department units that will associate with the program. Composition and roles for the advisory structure and other partners should be included; specific commitments of support should be provided. Include a description of proposed collaboration with ICRC's (see **WHERE TO OBTAIN ADDITIONAL INFORMATION** section) or local academic institutions.

G. Budget and Accompanying Justification

Provide a detailed budget with accompanying narrative justifying all individual budget items which make up the total amount of funds requested. The budget should be consistent with stated objectives and planned activities. The budget should include funds for two trips to Atlanta by key State staff for participation in continuous improvement activities and ''grantee'' meetings.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (maximum 100 total points):

A. Background, Need, and Capacity (30 percent)

The extent to which the applicant presents data and information documenting the capacity to accomplish the program, positive progress in related past or current activities or programs, and, as appropriate, need for the program. The extent to which current resources demonstrate capability to conduct the program.

Note: For competing continuation applicants, the extent to which past activities are presented completely and demonstrate attainment of objectives.

B. Goals and Objectives (10 percent)

The extent to which the applicant includes goals which are relevant to the purpose of the proposal and feasible to accomplish during the project period, and the extent to which these are specific and measurable. The extent to which the applicant has included objectives which are feasible to accomplish during the budget period, and which address all activities necessary to accomplish the purpose of the proposal. The extent to which the objectives are specific, time-framed, measurable, and realistic.

C. Methods and Staffing (30 percent)

The extent to which the applicant provides: (1) A detailed description of proposed activities which are likely to achieve each objective and overall program goals, and which includes designation of responsibility for each action undertaken; (2) a reasonable and complete schedule for implementing all activities; and (3) a description of the roles of each unit, organization, or agency, and evidence of coordination, supervision, and degree of commitment (e.g., time, in-kind, financial) of staff, organizations, and agencies involved in activities.

The degree to which the applicant has met the CDC Policy requirements

regarding the inclusion of women, ethnic, and racial groups in the proposed project. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; and (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits will be documented.

D. Evaluation (20 percent)

The extent to which the proposed evaluation system is detailed, addresses goals and objectives of the program, and will document program process, effectiveness, and impact. The extent to which the applicant demonstrates potential data sources for evaluation purposes and methods to evaluate the data sources, and documents staff availability, expertise, experience, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included. The extent to which an agreement to participate in continuous improvement activities is present.

E. Collaboration (10 percent)

The extent to which relationships between the program and other organizations, agencies, and health department units that will relate to the program or conduct related activities are clear, complete and provide for complementary or supplementary interactions. The extent to which coalition membership and roles are clear and appropriate. The extent to which relationships with ICRC'S or local academic institutions are completely described and activity-specific.

F. Budget and Justification (Not Weighted)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

G. Human Subjects (Applicable Parts Only) (Not Weighted)

The extent to which the applicant describes the involvement of human subjects (if any) and the process which will govern their participation. The extent to which adequate safeguards are in place.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, no later than 30 days after the application deadline. (The appropriation for this financial assistance program was received late in the fiscal year and would not allow for the application receipt date which would accommodate the 60-day recommendation process period.) The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' the State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.136.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where a clear and compelling rationale exists that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47949–47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 321, Mailstop E–13, Atlanta, GA 30305, on or before August 12, 1997.

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 objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.a. or 1.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 reference Announcement 780. You will receive a complete program description, information on application procedures, and applications forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6535 or Internet address <jcw6@cdc.gov.

Programmatic technical assistance may be obtained from:

Part IA1: Bicycle Helmet Promotion Programs, Jeffrey Sacks, M.D., MPH, telephone (770) 488–4901, Mailstop K63, Internet address <jjs3@cdc.gov>.

Part IA2: Residential Fire Injury Prevention Programs, Pauline Harvey, MSPH, telephone(770) 488–4592, Mailstop K63, Internet address <pdh7@cdc.gov>.

Part IB: Trauma Care Systems Development, Paul Burlack, telephone (770) 488–4713, Mailstop F41, Internet address <pab5@cdc.gov>.

Part IC: Emergency Department Injury Surveillance, Daniel Sosin, M.D., MPH, telephone (770) 488–4233, Mailstop K02, Internet address <dms8@cdc.gov.

Part II: Basic Injury Program Development, James Belloni, MA, telephone (770) 488–4538, Mailstop K02, Internet address <jsb1@cdc.gov>.

National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop (Insert Mailstop from above), Atlanta, GA 30341–3724.

The complete application kit includes a copy of the following listed addendums. These addendums provide the applicants with additional program guidance, such as additional background information and further define model programs described in this announcement and provide a complete listing of the ICRCs.

—Addendum IA1: Bicycle Helmet Promotion Programs
—Addendum IA2: Residential Fire Injury Prevention Programs
—Addendum IB: Trauma Care Systems Development
—Addendum IC: Emergency Department Injury Surveillance
—Addendum II: Injury Control Research Centers (ICRCs)

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC homepage is <http://www.cdc.gov>.

CDC will not send application kits by facsimile or express mail.

Please refer to Announcement 780 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1) referenced in the **''Introduction''** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 17, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16310 Filed 6–20–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Ethics Subcommittee and the Advisory Committee to the Director, Centers for Disease Control and Prevention; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee and committee meetings.

Name: Ethics Subcommittee of the Advisory Committee to the Director, CDC.

Time and Date: 9 a.m.-3 p.m., July 10, 1997.

Place: CDC, Building 16, Room 1107, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 30 people.

Purpose: This subcommittee will anticipate, identify, and propose solutions to strategic and broad ethical issues facing CDC.

Matters to be Discussed: Agenda items will include updates from the Associate Director for Science, Dixie E. Snider, M.D., M.P.H., followed by a discussion on CDC's current procedures for protecting human research subjects and ethical standards for international research.

Name: Advisory Committee to the Director, CDC.

Time and Date: 8:30 a.m.–3 p.m., July 11, 1997.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee advises the Director, CDC, on policy issues and broad strategies that will enable CDC, the Nation's prevention agency, to fulfill its mission of promoting health and quality of life by preventing and controlling disease, injury, and disability. The Committee recommends ways to incorporate prevention activities more fully into health care. It also provides guidance to help CDC work more effectively with its various constituents, in both the private and public sectors, to make prevention a practical reality.

Matters To Be Discussed: Agenda items will include updates from CDC Director, David Satcher, M.D., Ph.D., followed by a report from the Ethics Subcommittee, a discussion on CDC's data for a healthy Nation, and the agency's plans for facing the challenges of health communication.

Agenda items are subject to change as priorities dictate.

Contact Person for more Information: Linda Kay McGowan, Acting Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333, telephone 404/639–7080.

Dated: June 17, 1997.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16323 Filed 6–20–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Breast and Cervical Cancer Early Detection and Control Advisory Committee.

Times and Dates: 1 p.m.-4:45 p.m., July 10, 1997; 9 a.m.-12:30 p.m., July 11, 1997.

Place: The Westin Hotel Atlanta Airport, Hartsfield Ballroom, 4736 Best Road, College Park, Georgia 30337. Telephone 404/762–7676.

Status: Open to the public, limited only by the space available. The room will accommodate approximately 100 people.

Purpose: The Breast and Cervical Cancer Early Detection and Control Advisory Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director of CDC, regarding the early detection and control of breast and cervical cancer and to evaluate the Department's current breast and cervical cancer early detection and control activities.

Matters to be Discussed: The discussion will focus on how the National Breast and Cervical Cancer Early Detection Program can improve breast and cervical cancer screening rates among all women.

Persons wishing to make written or oral comments at the meeting should notify the contact person listed below, no later than close of business July 1, 1997. Requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests to make oral comments, it may be necessary to limit the time of each presenter.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Rebecca B. Wolf, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE, M/S K–64, Atlanta, Georgia 30341–3724. Telephone 770/488–4751, FAX 770/488–4760, E-mail rbw2@cdc.gov.

Dated: June 13, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16307 Filed 6–20–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–5 p.m., July 23, 1997.

Place: The Washington Court, Montpelier Room, 525 New Jersey Avenue, NW, Washington, DC 20001–1527.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH is charged with providing advice to the Director, NIOSH on NIOSH research programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters To Be Discussed: Agenda items include a report from the Director of NIOSH; Final Report on the NIOSH Musculoskeletal Disorders Research Program; International Standardization; Navy Sarcoidosis Study; Health Effects Laboratory Division (HELD) Activity Update; and future activities of the Board.

NIOSH/National Cancer Institute will present a protocol that has been revised based on comments received from the BSC and the public on the previous draft protocol for a study entitled ''A Cohort Mortality Study with a Nested Case-Control Study of Lung Cancer and Diesel Exhaust Among Non-Metal Miners' (''diesel study''). Copies of the revised protocol may be obtained from Michael Attfield, Ph.D., NIOSH Project Director, NIOSH, Division of Respiratory Disease Studies, Mail Stop 234, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888. Telephone 304/285–5751, e-mail mda1@cdc.gov.

Individuals will be permitted to make brief (10-minute) oral statements subject to the availability of time. Persons who wish to make oral statements should make a written request to the contact person listed below.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Dr. Bryan D. Hardin, Executive Secretary, NIOSH, Room 715-H, Hubert H. Humphrey Building, 200 Constitution Avenue SW, Washington, DC, 20201. Telephone 202/205–8556, fax 202/260–4464, e-mail bdh1@cdc.gov.

Dated: June 17, 1997.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16308 Filed 6–20–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Program Information Report, 1997–1998.

OMB No.: 0980–0017.

Description: The Head Start Act requires that the Program Information Report (PIR) information is collected from Head Start grantees and delegate agencies. Data elements are primarily in the areas of management, class activity, health profile and home environment. Principle uses of the data include local program management, ACF regional management, ACYF central office management, management of services to children with disabilities, and dissemination to other interested parties.

Respondents: Head Start Grantees and Delegate Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PIR	2,078	1	3.35	6,691

Estimated Total Annual Burden Hours: 6,691.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 18, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–16393 Filed 6–20–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[316]

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid, Integrated Quality Control Review Worksheet; *Form No.:* HCFA–316; *Use:* The integrated quality control (QC) worksheet is used by State case workers to collect case characteristics and QC data during the course of all QC reviews. In addition to case identifying information, the worksheet is also used to document and evaluate each of the independent full field investigation to determine eligibility and amount of payment under States' plans; *Frequency:* Monthly; *Affected Public:* State, local or tribal government; *Number of Respondents:* 51; *Total Annual Responses:* See supporting statement; *Total Annual Hours:* 262,072.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Date: June 12, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–16258 Filed 6–20–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[367, 367a, b, c, and 368, R–144]

Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Drug Rebate Program—Manufacturers; *Form No.:* HCFA–367, 367a, b, and c; *Use:* Section 1927 requires drug manufacturers to enter into and have in effect a rebate agreement with the Federal Government for States to receive funding for drugs dispensed to Medicaid recipients; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit; *Number of Respondents:* 520; *Total Annual Responses:* 2,080; Total Annual Hours: 49,480.

2. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* State Drug Rebate (Medicaid); *Form No.:* HCFA–368 and HCFA–R–144; *Use:* Section 1927 requires State Medicaid agencies to report to drug manufacturers and HCFA on the drug utilization for their State and the amount of rebate to be paid by the manufacturers; *Frequency:* Quarterly; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 51; *Total Annual Responses:* 204; *Total Annual Hours:* 6,125.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503

Dated: June 12, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–16259 Filed 6–20–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. FR–4045–N–02 and FR–4083–N–03]

Announcement of Funding Awards for Fiscal Year 1996 for the Family Unification, Rental Voucher, and Rental Certificate Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 1996 to housing agencies (HAs) under the Section 8 rental voucher and rental certificate programs. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide rental assistance to very low-income families.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone (202) 708–0477. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The regulations governing the rental certificate and rental voucher programs are published at 24 CFR parts 882 and 887, respectively, and 24 CFR part 982. The regulations for allocating housing assistance budget authority under section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, subpart D.

The purpose of the rental voucher and rental certificate programs is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 96 awards announced in this notice were selected for funding consistent with the provisions in the Notices of Funding Availability (NOFAs) published in the **Federal Register** on July 19, 1996 (61 FR 37756), and July 29, 1996 (61 FR 39515), and May 2, 1996 (61 FR 19762).

The July 29, 1996 NOFA made a correction to the July 19, 1996 NOFA to insert the application deadline date for the acceptance of Section 8 applications for public housing relocation and replacement units under categories 1 through 6.

The May 2, 1996 NOFA made available rental certificates for the Family Unification Program to assist families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

A total of $635,439,626 of budget authority for rental vouchers and rental certificates (32,671 units) was awarded to recipients.

The Catalog of Federal Domestic Assistance numbers are 14.855 and 14.857.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: June 17, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996

Housing agency	Address	Units	Award
AMENDMENTS—CERTIFICATES			
HA AUBURN	931 BOOKER STREET, AUBURN, AL 36830	0	$264,602
HA BESSEMER	1100 5TH AVENUE, NORTH BESSEMER, AL 35020	0	100,291
HA NORTHPORT	P O DRAWER 349, NORTHPORT, AL 35476	0	167,462
HA BAY MINETTE	400 SOUTH STREET, BAY MINETTE, AL 36507	0	27,846
PULASKI COUNTY HOUSING AGENCY.	201 S BROADWAY, SUITE 430, LITTLE ROCK, AR 72201	0	348,534
CHANDLER HOUSING & REDEV DIV.	99 N. DELAWARE STREET, CHANDLER, AZ 85225	0	607,964
MOHAVE COUNTY HSG AUTH	809 E. BEALE STREET, KINGMAN, AZ 86402	0	28,422
CITY OF LOS ANGELES HSG AUTH	2600 WILSHIRE BLVD., LOS ANGELES, CA 90057	0	9,650,000
UPLAND CITY HOUSING AUTH	1226 N CAMPUS AVE, UPLAND, CA 91786	0	365,000
COUNTY OF SAN BERNARDINO HSG AUTH.	1053 NORTH D STREET, SAN BERNARDINO, CA 92410	0	1,225,000
COUNTY OF RIVERSIDE HSG AUTH.	5555 ARLINGTON AVE, RIVERSIDE, CA 92504	0	1,225,000
CITY OF BERKELEY HOUSING AUTH.	3200 ADELINE STREET, BERKELEY, CA 94703	0	39,000
CITY OF SAN LUIS OBISPO H/A	P.O. BOX 638, SAN LUIS OBISPO, CA 93406	0	290,000
SUISUN CITY HOUSING AUTHORITY.	701 CIVIC CENTER BLVD, SUISUN CITY, CA 94585	0	3,586,926
CITY OF SANTA BARBARA H/A	808 LAGUNA ST., SANTA BARBARA, CA 93101	0	270,000
COUNTY OF VENTURA AREA HSG AUTH.	99 SOUTH GLENN DRIVE, CAMARILLO, CA 93010	0	850,000
CITY OF BURBANK	275 E. OLIVE AVE, BURBANK, CA 91510	0	250,000
GLENDALE CITY HOUSING AUTH	119 N GLENDALE AVE, GLENDALE, CA 91206	0	575,000
CITY OF BALDWIN PARK HOUSING AUTH.	14403 E PACIFIC AVE, BALDWIN PARK, CA 91706	0	300,000
PLACER COUNTY HOUSING AUTH	11481 B AVE., SUITE 6, AUBURN, CA 95603	0	64,000
CALIFORNIA DEPT OF HSG AND COM.	P. O. BOX 952050, SACRAMENTO, CA 94252	0	185,000
HA TAMPA	1514 UNION ST, TAMPA, FL 33607	0	2,000,000
HA SARASOTA	1300 SIXTH STREET, SARASOTA, FL 33577	0	280,000

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
HA BREVARD COUNTY	P O BOX 338, MERRITT ISLAND, FL 32952	0	820,000
FORT WALTON BEACH H/A	27 ROBINWOOD DR. SW, FORT WALTON BEACH, FL 32548	0	360,000
HA TALLAHASSEE	2940 GRADY ROAD, TALLAHASSEE, FL 32312	0	1,500,000
HA BOCA RATON	201 W PALMETTO PARK ROAD, BOCA RATON, FL 33432	0	700,000
HA LITHONIA	6878 E CHURCH ST, LITHONIA, GA 30058	0	300,000
MAYWOOD HOUSING AUTHORITY	1701 S 1ST AVENUE, SUITE 5, MAYWOOD, IL 60153	0	1,251,570
OAK PARK HA	112 S HUMPHREY, OAK PARK, IL 60302	0	50,000
LEXINGTON-FAYETTE UR CO H/A	635 BALLARD ST, LEXINGTON, KY 40508	0	2,022,283
WEST MONROE HSG AUTH	2305 N 7TH STREET, WEST MONROE, LA 71291	0	400,000
DESOTO PARISH POLICE JURY	P O BOX 898, MANSFIELD, LA 71052	0	150,000
LAWRENCE HOUSING AUTHORITY	353 ELM STREET, LAWRENCE, MA 01842	0	9,800,000
WORCESTER HOUSING AUTHORITY.	40 BELMONT STREET, WORCESTER, MA 01605	0	315,000
TAUNTON HOUSING AUTHORITY	30 OLNEY STREET, TAUNTON, MA 02780	0	1,725,000
NORTHAMPTON HOUSING AUTHORITY.	49 OLD SOUTH STREET, NORTHAMPTON, MA 01060	0	1,224,000
WINCHENDON HOUSING AUTHORITY.	108 IPSWICH DRIVE, WINCHENDON, MA 01475	0	90,000
BELMONT HSG AUTHORITY	59 PEARSON RD, BELMONT, MA 02178	0	74,000
AVON HSG AUTHORITY	1 FELLOWSHIP CIRCLE, AVON, MA 02322	0	300,000
GREENFIELD HSG AUTHORITY	ONE ELM TERRACE, GREENFIELD TOWN, MA 01301	0	740,000
SAUGUS HSG AUTHORITY	19 TALBOT ST, SAUGUS, MA 01906	0	500,000
ATHOL HSG AUTHORITY	P O BOX 207, ATHOL TOWN, MA 01331	0	275,000
NORTH ANDOVER HOUSING AUTH	P. O. BOX 373, NORTH ANDOVER, MA 01845	0	1,400,000
BURLINGTON HSG AUTHORITY	15 BIRCHCREST ST, BURLINGTON, MA 01803	0	250,000
BELCHERTOWN HSG AUTHORITY	24 EVERETT ACRES, BELCHERTOWN TOWN, MA 01007	0	160,000
AMESBURY HSG AUTHORITY	180 MAIN ST, AMESBURY TOWN, MA 01913	0	275,000
EASTON HOUSING AUTHORITY	PARKER TERRACE, NORTH EASTON, MA 02356	0	400,000
WEBSTER HOUSING AUTHORITY	GOLDEN HEIGHTS, WEBSTER, MA 01570	0	345,000
WALPOLE HSG AUTHORITY	8 DIAMOND TERRACE, WALPOLE, MA 02081	0	350,000
BLOOMINGTON HRA	2215 W. OLD SHAKOPEE RD., BLOOMINGTON, MN 55431	0	383,799
SOUTH CENTRAL MULTI COUNTY HRA.	410 JACKSON STREET, MANKATO, MN 56001	0	612,768
HSG AUTH CITY OF GREENWOOD	P O BOX 1847, GREENWOOD, MS 38930	0	824,760
HA ASHEVILLE	P O BOX 1898, ASHEVILLE, NC 28802	0	1,104,896
HA DURHAM	P O BOX 1726, DURHAM, NC 27702	0	1,604,260
NORTHWEST REGIONAL	P O BOX 66, SHERWOOD, ND 58782	0	37,315
ELIZABETH HA	688 MAPLE AVENUE, ELIZABETH, NJ 07202	0	340,000
ASBURY PARK HA	1004 COMSTOCK STREET, ASBURY PARK, NJ 07712	0	85,000
LODI HA	DE VRIES PARK, LODI, NJ 07644	0	50,000
PASSAIC HA	333 PASSAIC STREET, PASSAIC, NJ 07055	0	200,000
ATLANTIC CITY HA	227 NO VERMONT AVENUE, ATLANTIC CITY, NJ 08404	0	135,000
NEW BRUNSWICK HA	176 MEMORIAL PARKWAY, NEW BRUNSWICK, NJ 08903	0	200,000
WEST NEW YORK HA	6100 ADAMS STREET, WEST NEW YORK, NJ 07093	0	25,000
GLASSBORO HA	737 LINCOLN BLVD, GLASSBORO, NJ 08028	0	100,000
LAKEWOOD HA	P O BOX 1543, LAKEWOOD, NJ 08701	0	362,500
MIDDLETOWN HA	DANIEL TOWERS OAKDALE DR, MIDDLETOWN, NJ 07748	0	65,000
PASSAIC COUNTY HA	317 PENNSYLVANIA AVE, PATERSON, NJ 07503	0	200,000
MONMOUTH COUNTY HA	P.O. BOX 3000, FREEHOLD, NJ 07728	0	200,000
CITY OF LINDEN	13 KNOPF STREET, LINDEN, NJ 07036	0	100,000
HA OF MADISON	P.O. BOX 495, MADISON, NJ 07940	0	120,000
HA OF GLOUCESTER COUNTY	223 S EVERGREEN AVE, WOODBURY, NJ 08096	0	260,000
CITY OF SEA ISLE CITY	P.O. BOX 154, SEA ISLE CITY, NJ 08243	0	25,000
LAKEWOOD TOWNSHIP	231 THIRD ST, LAKEWOOD, NJ 08701	0	200,000
COUNTY OF BURLINGTON	49 RANC0CAS ROAD, MT HOLLY, NJ 08060	0	200,000
NORMAN	700 NORTH BERRY RD, NORMAN, OK 73069	0	517,480
HOUSING AUTH CITY OF PITTSBURGH.	200 ROSS STREET, PITTSBURGH, PA 15219	0	3,000,000
CHESTER HOUSING AUTHORITY	6 W. 6TH STREET, CHESTER, PA 19016	0	503,222
READING HOUSING AUTHORITY	400 HANCOCK BOULEVARD, READING, PA 19611	0	238,109
BUTLER COUNTY HOUSING AUTH	P.O. BOX 1917, BUTLER, PA 16003	0	975,000
LANCASTER HOUSING AUTHORITY	333 CHURCH STREET, LANCASTER, PA 17602	0	588,050
LEBANON COUNTY HOUSING AUTH.	303 CHESTNUT STREET, LEBANON, PA 17042	0	520,380
JEFFERSON COUNTY HOUSING AUTH.	201 N JEFFERSON STREET, PUNXSUTAWNEY, PA 15767	0	200,000
BRADFORD COUNTY HOUSING AUTH.	4 RIVERSIDE PLAZA, BLOSSBURG, PA 16912	0	148,784
CARBON COUNTY HOUSING AUTH	215 SOUTH THIRD STREET, LEHIGHTON, PA 18235	0	214,916
CUMBERLAND COUNTY HOUSING AUTH.	114 NORTH HANOVER STREET, CARLISLE, PA 17013	0	223,343

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
COLUMBIA COUNTY HOUSING AUTH.	37 WEST MAIN STREET, BLOOMSBURG, PA 17815	0	139,664
PROVIDENCE HA	100 BROAD ST, PROVIDENCE, RI 02903	0	2,572,758
WOONSOCKET HA	679 SOCIAL ST, WOONSOCKET, RI 02895	0	225,857
CRANSTON HA	50 BIRCH ST, CRANSTON, RI 02920	0	254,067
TOWN OF WESTERLY HA	5 CHESTNUT ST, WESTERLY TOWN, RI 02891	0	278,184
SOUTH KINGSTON HOUSING AUTH	P.O. BOX 6, PEACE DALE, RI 02883	0	106,534
BURRILLVILLE HOUSING AUTH	ASHTON COURT CHAPEL STREET, HARRISVILLE, RI 02830	0	130,141
SMITHFIELD HOUSING AUTHORITY	7 CHURCH STREET, GREENVILLE, RI 02828	0	9,947
MUNICIPALITY OF PONCE	P.O. BOX 1709, PONCE, PR 00733	0	515,995
MUNICIPALITY OF MAYAGUEZ	BOX 447, MAYAGUEZ MUNICIPIO, PR 00709	0	507,506
MUNICIPALITY OF AGUADILLA	P.O. BOX 1008 VS, AGUADILLA, PR 00605	0	82,387
MUNICIPALITY OF GUANICA	APARTADO 785, GUANICA, PR 00653	0	61,060
MUNICIPALITY OF NAGUABO	P.O. BOX 40, NAGUABO MUNICIPIO, PR 00718	0	98,662
MUNICIPALITY OF ADJUNTAS	P.O. BOX 1009, ADJUNTAS, PR 00601	0	111,554
MUNICIPALITY OF VEGA ALTA	BOX 292 , VEGA ALTA, PR 00762	0	103,450
MUNICIPALITY OF ISABELA	P O BOX 507, ISABELA, PR 00662	0	42,407
MUNICIPALITY LUQUILLO	P O BOX M, SAN JUAN, PR 00673	0	54,815
MUNICIPALITY OF YAUCO	P O BOX 6270, SAN JUAN, PR 00698	0	65,663
HA TULLAHOMA	2401 CEDAR LANE VILLAGE DRIVE, TULLAHOMA, TN 37388	0	19,141
HA SMITHVILLE	P O BOX 117, SMITHVILLE, TN 37166	0	155,683
AUSTIN HOUSING AUTHORITY	P O BOX 6159 , AUSTIN, TX 78762	0	2,700,000
SAN ANTONIO HOUSING AUTHORITY.	P O DRAWER 1300, SAN ANTONIO, TX 78295	0	2,063,180
BROWNSVILLE HSG AUTHORITY	P O BOX 4420, BROWNSVILLE, TX 78523	0	850,000
CORPUS CHRISTI HOUSING AUTHORITY.	P O BOX 7019, CORPUS CHRISTI, TX 78467	0	146,150
LAREDO HOUSING AUTHORITY	2000 SAN FRANCISCO AVENUE, LAREDO, TX 78040	0	228,894
DEL RIO HOUSING AUTHORITY	P O DRAWER 4080, DEL RIO, TX 78841	0	689,968
EAGLE PASS HOUSING AUTHORITY.	P O BOX 844, EAGLE PASS, TX 78853	0	237,733
SAN BENITO HSG AUTHORITY	P O BOX 1950, SAN BENITO, TX 78586	0	7,428
MISSION HA	906 E 8TH STREET, MISSION, TX 78572	0	500,000
WESLACO HOUSING AUTHORITY	P O BOX 95, WESLACO, TX 78596	0	332,526
EDINBURG HOUSING AUTHORITY	P O BOX 295, EDINBURG, TX 78540	0	495,140
HARLINGEN HSG AUTHORITY	P O BOX 1669, HARLINGEN, TX 78551	0	127,094
PHARR HOUSING AUTHORITY	211 W AUDREY, PHARR, TX 78577	0	324,006
VICTORIA HOUSING AUTHORITY	1410 E CRESTWOOD DRIVE, VICTORIA, TX 77901	0	198,402
SAN MARCOS HOUSING AUTHORITY.	1201 THORPE LANE, SAN MARCOS, TX 78666	0	77,678
CRYSTAL CITY HSG AUTHORITY	P O BOX 727, CRYSTAL CITY, TX 78839	0	232,526
KINGSVILLE HSG. AUTHORITY	1000 W CORRAL, KINGSVILLE, TX 78363	0	47,300
BEEVILLE HOUSING AUTHORITY	P O BOX 427, BEEVILLE, TX 78104	0	20,540
HSG AUTH CITY OF DONNA	P O BOX 667, DONNA, TX 78537	0	372,900
FALFURRIAS HOUSING AUTHORITY.	P O BOX 357, FALFURRIAS, TX 78355	0	504,026
ELSA HOUSING AUTHORITY/LA HACI.	P O BOX 98, ELSA, TX 78543	0	47,474
HSG AUTH CITY OF MARBLE FALLS.	P O BOX 668, MARBLE FALLS, TX 78654	0	103,948
ARANSAS PASS HOUSING AUTHORITY.	254 N 13TH STREET, ARANSAS PASS, TX 78336	0	25,242
PEARSALL HOUSING AUTHORITY	501 WEST MEDINA ST, PEARSALL, TX 78061	0	12,778
NEW BRAUNFELS HOUSING AUTHORITY.	P O BOX 310906, NEW BRAUNFELS, TX 78131	0	129,320
SCHERTZ HOUSING AUTHORITY	204 SCHERTZ PARKWAY, SCHERTZ, TX 78154	0	168,962
STARR COUNTY HSG AUTHORITY	P O BOX 50, RIO GRANDE CITY, TX 78582	0	46,524
UVALDE HOUSING AUTHORITY	1700 GARNER FIELD RD, UVALDE, TX 78801	0	276,028
HIDALGO HOUSING AUTHORITY	P O BOX 187, HIDALGO, TX 78557	0	88,212
LA VILLA HOUSING AUTHORITY	PO BOX 425, ELSA, TX 78543	0	75,502
SAN JUAN HOUSING AUTHORITY	700 MALDONADO DRIVE, SAN JUAN, TX 78589	0	45,784
ASHERTON HOUSING AUTHORITY	PO BOX 368, ASHERTON, TX 78827	0	131,404
HIDALGO COUNTY HSG AUTH	1800 N. TEXAS BLVD., WESLACO, TX 78596	0	7,072
NACOGDOCHES COUNTY HSG AUTH.	715 SUMMIT ST, NACOGDOCHES, TX 75961	0	300,755
TEXAS DEPT HSG & COMM AFFAIRS.	PO BOX 13166, AUSTIN, TX 78711	0	200,000
HA COUNTY OF KING	15455 65TH AVE SO, TUKWILA, WA 98188	0	712,720
THURSTON COUNTY	2000 LAKERIDGE DRIVE, OLYMPIA, WA 98502	0	500,000

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
AMENDMENTS—MODERATE REHABILITATION			
HA OPELIKA	PO BOX 786, OPELIKA, AL 36801	0	$103,184
CITY OF PHOENIX	251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ	0	212,168
TUCSON HOUSING MANAGEMENT DIV.	1501 N. ORACLE ROAD, STE 115, TUCSON, AZ	0	500,000
MESA HOUSING AUTHORITY	415 N. PASADENA STREET, MESA, AZ 85201	0	212,168
COUNTY OF LOS ANGELES HOUSING.	2525 CORPORATE PL, STE 200, MONTEREY PARK, CA 91754	0	3,513,000
OAKLAND HOUSING AUTHORITY	1619 HARRISON ST, OAKLAND, CA 94612	0	5,108,872
CITY OF FRESNO HSG AUTH	PO BOX 11985, FRESNO, CA 93776	0	350,000
COUNTY OF CONTRA COSTA HSG AUTH.	3133 ESTUDILLO ST, MARTINEZ, CA 94553	0	150,061
COUNTY OF STANISLAUS HSG AUTH.	PO BOX 3958, MODESTO, CA 95352	0	964,995
COUNTY OF RIVERSIDE HSG AUTH.	5555 ARLINGTON AVE, RIVERSIDE, CA 92504	0	622,000
TULARE COUNTY HOUSING AUTH	PO BOX 791, VISALIA, CA 93279	0	267,842
COUNTY OF MONTEREY HSG AUTH.	123 RICO STREET, SALINAS, CA 93907	0	995,000
COUNTY OF BUTTE HSG AUTH	580 VALLOMBROSA AVE, CHICO, CA 95926	0	120,000
CITY OF FAIRFIELD	1000 WEBSTER, FAIRFIELD, CA 94533	0	275,000
SANTA CRUZ COUNTY HSG AUTH	2160—41ST AVE, CAPITOLA, CA 95010	0	350,000
MENDOCINO COUNTY	1076 NORTH STATE STREET, UKIAH, CA 95482	0	260,000
CITY OF REDDING HSG AUTH	760 PARKVIEW AVE, REDDING, CA 96001	0	192,000
COUNTY OF SAN DIEGO	3989 RUFFIN ROAD, SAN DIEGO, CA 92123	0	865,000
CALIFORNIA DEPT OF HSG AND COM.	P. O. BOX 952050, SACRAMENTO, CA 94252	0	302,000
DENVER	P.O. BOX 40305, DENVER, CO 80204	0	294,301
COLORADO SPRINGS HSG AUTH	P O BOX 1575, COLORADO SPRINGS, CO 80901	0	65,000
COLORADO DIVISION OF HOUSING	1313 SHERMAN STREET, R00M 518, DENVER, CO 80203	0	135,000
D.C. HOUSING AUTHORITY	1133 NORTH CAPITOL ST NE, WASHINGTON, DC 20002	0	19,956,219
ST. PETERSBURG HSG AUTH	P O BOX 12849, ST. PETERSBURG, FL 33733	0	635,000
HA POMPANO BEACH	P O BOX 2006, POMPANO BEACH, FL 33061	0	129,000
HA DELRAY BEACH	770 S W 12TH TERRACE, DELRAY BEACH, FL 33444	0	3,998,593
CITY OF PENSACOLA	180 GOVERNMENTAL CENTER, PENSACOLA, FL 32501	0	50,000
HA MACON	P O BOX 4928, MACON, GA 31208	0	129,808
H/A DEKALB COUNTY	P O BOX 1627, DECATUR, GA 30031	0	407,582
GEORGIA RESIDENTIAL FINANCE AUTH.	60 EXECUTIVE PKWY S., STE 250, ATLANTA, GA 30329	0	472,413
CITY OF CEDAR FALLS	217 WASHINGTON ST, CEDAR FALLS, IA 52401	0	95,000
IDAHO HA	565 W MYRTLE STREET, BOISE, ID 83707	0	305,000
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 60602	0	6,683,924
MADISON HA	1609 OLIVE STREET, COLLINSVILLE, IL 62234	0	1,236,874
HA WAUKEGAN	200 SOUTH UTICA STREET, WAUKEGAN, IL 60085	0	1,042,218
HA KANKAKEE	P O BOX 1289, KANKAKEE, IL 60901	0	831,019
AURORA LAND CLEARANCE COMMISSION.	1630 WEST PLUM STREET, AURORA, IL 60506	0	110,745
CITY OF NORTH CHICAGO	1850 LEWIS AVE, NORTH CHICAGO, IL 60064	0	67,021
ILLINOIS HSG DEVELOPMENT AUTH.	401 N MICHIGAN AVE, STE 900, CHICAGO, IL 60611	0	811,877
STATE OF ILLINOIS	620 E ADAMS, SPRINGFIELD, IL 62706	0	666,673
ANDERSON HA	528 WEST 11TH ST, ANDERSON, IN 46016	0	220,656
EAST CHICAGO HA	4920 LARKSPUR DR, EAST CHICAGO, IN 46312	0	80,000
NOBLESVILLE HOUSING AUTH	780 NOBLE RUN, NOBLESVILLE, IN 46060	0	56,000
INDIANA DEPT OF HUMAN SERVICES.	1251 N. ILLINOIS, INDIANAPOLIS, IN 46207	0	381,000
KANSAS CITY HOUSING AUTHORITY.	1124 NORTH NINTH ST, KANSAS CITY, KS 66101	0	100,000
HA MAYFIELD	P O BOX 474, MAYFIELD, KY 42066	0	170,000
HA CAMPBELLSVILLE	P O BOX 459, CAMPBELLSVILLE, KY 42718	0	147,552
HOUSING AUTH OF JEFFERSON COUNTY.	801 VINE STREET, LOUISVILLE, KY 40204	0	427,056
HA PIKEVILLE	MYERS TOWER, PIKEVILLE, KY 41501	0	100,000
CITY OF LOUISVILLE	601 WEST JEFFERSON STREET, LOUISVILLE, KY 40202	0	163,883
CITY OF COVINGTON	638 MADISON AVENUE, COVINGTON, KY 41011	0	147,420
CUMBERLAND VALLEY REGIONAL HA.	P O BOX 806, BARBOURVILLE, KY 40906	0	234,000
GRAYSON–CARTER CO HSG AUTHORITY.	1448 DIEDERICH BOULEVARD, RUSSELL, KY 41169	0	130,296
MONROE HOUSING AUTHORITY	P O BOX 1194, MONROE, LA 71201	0	939,408

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
HOLYOKE HOUSING AUTHORITY	475 MAPLE STREET, HOLYOKE, MA 01040	0	2,300,000
WORCESTER HOUSING AUTHORITY.	40 BELMONT STREET, WORCESTER, MA 01605	0	555,000
GLOUCESTER HOUSING AUTHORITY.	P. O. BOX 1599, GLOUCESTER, MA 01931	0	150,000
COMM DEV PROG COMM OF MA	100 CAMBRIDGE ST, BOSTON, MA 02202	0	8,995,000
MONTGOMERY COUNTY HSG AUTH.	10400 DETRICK AVENUE, KENSINGTON, MD 20895	0	1,555,784
HAGERSTOWN HOUSING AUTHORITY.	P.O. BOX 2859, HAGERSTOWN, MD 21741	0	423,172
PRINCE GEORGES CO HSG AUTH	9400 PEPPERCORN PLACE, LANDOVER, MD 20785	0	483,487
BALTIMORE COUNTY HSG AUTH	400 WASHINGTON AVENUE, TOWSON, MD 21204	0	64,064
CITY OF ANN ARBOR-COMMUN DEVEL.	100 NORTH FIFTH AVE, ANN ARBOR, MI 48107	0	187,770
GRAND RAPIDS HOUSING COMMISSION.	1420 FULLER AVE SE, GRAND RAPIDS, MI 49507	0	255,682
ST PAUL PHA	480 CEDAR STREET, STE 600, ST. PAUL, MN 55101	0	397,627
MINNEAPOLIS PHA	1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401	0	210,489
NW MN MULTI-COUNTY HRA	P.O. BOX 128, MENTOR, MN 56736	0	24,500
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD, ST. LOUIS, MO 63108	0	342,770
ST. LOUIS COUNTY HSG AUTH	8865 NATURAL BRIDGE, ST. LOUIS, MO 63121	0	1,861,299
BOONE COUNTY PHA	807 B. N. PROVIDENCE RD., COLUMBIA, MO 65205	0	52,000
LINCOLN COUNTY PUB HSG AGENCY.	16 NORTH COURT, BOWLING GREEN, MO 63334	0	56,000
ST. FRANCOIS COUNTY PH AGENCY.	P O BOX N, FLAT RIVER, MO 63601	0	100,000
STATE OF MONTANA	CAPITOL STATION, HELENA, MT 59620	0	521,636
RALEIGH HA	P O BOX 28007, RALEIGH, NC 27611	0	535,800
HA CHARLOTTE	P O BOX 36795, CHARLOTTE, NC 28236	0	150,000
HA ASHEVILLE	P O BOX 1898, ASHEVILLE, NC 28802	0	185,000
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC 27420	0	108,007
HA WINSTON-SALEM	901 CLEVELAND AVENUE, WINSTON-SALEM, NC 28101	0	200,978
HA NORTHWESTERN REGIONAL	P O BOX 2510, BOONE, NC 28607	0	319,772
HOUSING AUTHORITY OF LINCOLN	5700 "R" ST, LINCOLN, NE 68505	0	22,000
NEW HAMPSHIRE HOUSING FINANCE.	PO BOX 5087, MANCHESTER, NH 03108	0	500,000
SALEM HA	205 SEVENTH STREET, SALEM, NJ 08079	0	104,112
COUNTY OF MIDDLESEX	ADMINISTRATION BUILDING, NEW BRUNSWICK, NJ 08901	0	1,075,000
STATE OF NJ DEPT OF COMM AFFAIRS.	101 S. BROAD STREET CN800, TRENTON, NJ 08625	0	5,652,000
ALBUQUERQUE HSG AUTHORITY	1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM 87106	0	481,118
CITY OF RENO HSG AUTHORITY	1525 EAST NINTH ST, RENO, NV 89512	0	593,192
HA OF MECHANICVILLE	HARRIS AVENUE, MECHANICVILLE, NY 12118	0	2,148
HA OF HUNTINGTON	5 LOWNDES AVE, HUNTINGTION STA, NY 11746	0	241,000
HA OF BEACON	1 FORRESTAL HEIGHTS, BEACON, NY 12508	0	475,000
HA OF ISLIP TOWN	963 MONTAUK HIGHWAY, OAKDALE, NY 11769	0	91,344
NEW YORK STATE HSG FIN AGENCY.	ONE FORDHAM PLAZA, BRONX, NY 10458	0	70,000
COLUMBUS METROPOLITAN HA	960 EAST FIFTH AVE., COLUMBUS, OH 43201	0	1,300,791
DAYTON METROPOLITAN HA	400 WAYNE AVE, DAYTON, OH 45410	0	995,934
PORTSMOUTH METRO HA	410 COURT STREET, PORTSMOUTH, OH 45662	0	142,222
GREENE MET HA	538 NORTH DETROIT ST., XENIA, OH 45385	0	592,705
ALLEN MHA	600 SOUTH MAIN ST., LIMA, OH 45804	0	104,100
TULSA	P O BOX 6369, TULSA, OK 7414	0	326,953
HENRYETTA	1708 WEST RAGAN, HENRYETTA, OK 74437	0	464,947
HSG AUTH OF PORTLAND	135 SW ASH STREET, PORTLAND, OR 97204	0	100,000
HA & COMMUNITY SVS AGENCY LANE.	177 DAY ISLAND RD, EUGENE, OR 97401	0	153,803
HA CITY OF SALEM	PO BOX 808, SALEM, OR 97308	0	393,600
LINN-BENTON HOUSING AUTHORITY.	1250 SE QUEEN AVENUE, ALBANY, OR 97321	0	394,000
COOS-CURRY HA	1700 MONROE, NORTH BEND, OR 97459	0	474,000
NORTHWEST OREGON HSG ASSOCIATION.	1508 EXCHANGE, ASTORIA, OR 97103	0	500,000
JOSEPHINE HOUSING AND COMMUNITY.	PO BOX 1940, GRANTS PASS, OR 97526	0	76,000
HOUSING AUTH CITY OF PITTSBURGH.	200 ROSS STREET, PITTSBURGH, PA 15219	0	150,000
PHILADELPHIA HOUSING AUTHORITY.	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 19103	0	172,360

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
ALLEGHENY COUNTY HOUSING AUTH.	341 FOURTH AVENUE, PITTSBURGH, PA 15222	0	300,000
MONTGOMERY COUNTY HOUSING AUTH.	1875 NEW HOPE STREET, NORRISTOWN, PA 19401	0	1,100,000
FAYETTE COUNTY HOUSING AUTH	P.O. BOX 1007, UNIONTOWN, PA 154010	0	50,000
DAUPHIN COUNTY HSG AUTH	501 MOHN STREET, STEELTON, PA 17113	0	690,000
HOUS AUTH OF THE CO OF CHESTER.	222 NORTH CHURCH STREET, WEST CHESTER, PA 19380	0	750,000
WILKES BARRE HSG AUTHORITY	LINCOLN PLAZA S., WILKES BARRE, PA 18702	0	180,000
CUMBERLAND COUNTY HSG AUTH	114 NORTH HANOVER STREET, CARLISLE, PA 17013	0	55,610
NORTHAMPTON COUNTY HSG AUTH.	P.O. BOX 252, NAZARETH, PA 18064	0	221,334
LEHIGH COUNTY HSG AUTH	333 RIDGE STREET, EMMAUS, PA 18049	0	78,136
COLUMBIA COUNTY HSG AUTH	37 WEST MAIN STREET, BLOOMSBURG, PA 17815	0	134,782
LANCASTER COUNTY HSG AUTH	29 EAST KING STREET, LANCASTER, PA 17603	0	3,160,147
ADAMS COUNTY HOUSING AUTHORITY.	139 CARLISLE STREET, GETTYSBURG, PA 17325	0	172,171
PUERTO RICO DEPT OF HOUSING	606 BARBOSA AVENUE, RIO PIEDRAS, PR 00928	0	1,173,12
HA COLUMBIA	1917 HARDEN STREET, COLUMBIA, SC 29204	0	1,143,672
HA MEMPHIS	700 ADAMS AVE, MEMPHIS, TN 38105	0	582,763
KNOXVILLE COMMUNITY DEVEL CORP.	P O BOX 3629, KNOXVILLE, TN 37937	0	128,772
METROPOLITAN DEVELOPMNT & HSG.	701 SIXTH STREET, NASHVILLE-DAVIDSON, TN 37206	0	394,004
SAN ANTONIO HOUSING AUTHORITY.	P O DRAWER 1300, SAN ANTONIO, TX 78295	0	2,064,880
BROWNSVILLE HSG AUTHORITY	P O BOX 4420, BROWNSVILLE, TX 78523	0	29,359
LAREDO HOUSING AUTHORITY	2000 SAN FRANCISCO AVENUE, LAREDO, TX 78040	0	77,374
EDINBURG HOUSING AUTHORITY	P O BOX 295, EDINBURG, TX 78540	0	18,555
OGDEN HOUSING AUTHORITY	127 24TH STREET STE 6, OGDEN, UT 84401	0	105,000
SALT LAKE CITY HSG AUTH	1800 SW TEMPLE, STE 204, SALT LAKE CITY, UT 84115	0	290,000
NORFOLK REDEVELOPMENT & H/A	201 GRANBY ST, NORFOLK, VA 23510	0	194,190
CHESAPEAKE REDEVELOPMENT & H/A.	P.O. BOX 1304, CHESAPEAKE, VA 23320	0	1,250,000
HAMPTON REDEVELOPMENT & H/A.	P.O. BOX 280, HAMPTON, VA 23669	0	450,000
FAIRFAX CO RED AND HSG AUTH	3700 PENDER DRIVE, FAIRFAX, VA 22030	0	464,487
ARLINGTON CO DEPT OF HUMAN SER.	2100 CLARENDON BLVD, STE 709, ARLINGTON, VA 22201	0	2,665,962
VIRGINIA HSG DEVELOPMENT AUTH.	601 S. BELVIDERE STREET, RICHMOND, VA 23225	0	3,410,000
THE CITY OF FAIRMONT HNG AUTH.	517 FAIRMONT AVENUE, FAIRMONT, WV 26554	0	1,200,000
JACKSON HOUSING AUTHORITY	WHISPERING WAY-TANGLEWOOD VILLAGE, RIPLEY, WV 25271	0	480,000
RANDOLPH COUNTY HSG AUTH	P O BOX 1579, ELKINS, WV 262410000	0	88,000
GREENBRIER CO HSG AUTH	BOX 265, LEWISBURG, WV 24901	0	5,320
TOTAL—ALL AMENDMENTS		0	197,179,805
SECTION 23 CONVERSION—CERTIFICATES			
KLAMATH H.A	1445 AVALON, KLAMATH FALLS, OR 97601	80	$497,440
WYOMING COUNTY HOUSING AUTH.	ROUTE 309 P.O. BOX J, TUNKHANNOCK, PA 18657	75	294,020
TOTAL		155	719,225
SECTION 8 COUNSELING—VOUCHERS			
ST PAUL PHA	480 CEDAR STREET, STE 600, ST. PAUL, MN 55101	0	$75,000
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 75212	0	900,000
TOTAL		0	975,000
SECTION 8 COUNSELING—CERTIFICATES			
City of Los Angeles HSG AUTH	2600 WILSHIRE BLVD., LOS ANGELES, CA 90057	0	$118,457
COUNTY OF RIVERSIDE HSG AUTH.	5555 ARLINGTON AVE, RIVERSIDE, CA 92504	0	1,810,000
SAN DIEGO HOUSING COMMISSION.	1625 NEWTON AVE, SAN DIEGO, CA 92113	0	2,679,000

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 06106	0	1,148,000
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 60602	0	227,637
NEW ORLEANS HOUSING AUTHORITY.	918 CARONDELET STREET, NEW ORLEANS, LA 70130	0	1,207,000
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 02111	0	5,133,996
SPRINGFIELD HSG AUTHORITY	25 SAAB COURT P O BOX 1609, SPRINGFIELD, MA 01101	0	774,000
HOUSING AUTHORITY OF BALTIMORE.	417 E FAYETTE STREET, BALTIMORE, MD 21202	0	3,496,550
HNG AUTH PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD 20785	0	3,969,000
GRAND RAPIDS HOUSING COMM	1420 FULLER AVE SE, GRAND RAPIDS, MI 49507	0	504,000
METROPOLITAN COUNCIL	230 E. FIFTH STREET, ST. PAUL, MN 55101	0	$1,745,000
OMAHA HOUSING AUTHORITY	540 SOUTH 27TH STREET, OMAHA, NE 68105	0	300,000
STATE OF NJ DEPT OF COMM AFFAIRS.	101 S. BROAD STREET CN800, TRENTON, NJ 08625	0	2,752,000
NEW YORK CITY HSG AUTH	250 BROADWAY, NEW YORK, NY 10007	0	107,304
HA OF ROCHESTER	140 WEST AVENUE, ROCHESTER, NY 14611	0	1,040,000
CITY OF BUFFALO	201 CITY HALL–65 NIAGARA SQUARE, BUFFALO, NY 14202	0	3,000,000
CINCINNATI METROPOLITAN HSG AUTH.	16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	0	1,244,000
PHILADELPHIA HOUSING AUTHORITY.	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 19103	0	4,684,000
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 75212	0	1,945,000
MILWAUKEE COUNTY	907 N TENTH ST, MILWAUKEE, WI 53233	0	1,697,000
TOTAL		0	39,581,944
FAMILY UNIFICATION—CERTIFICATES			
COUNTY OF SAN BERNARDINO H/A.	1053 NORTH D STREET, SAN BERNARDINO, CA 92410	50	$799,230
COUNTY OF RIVERSIDE HSG AUTH.	5555 ARLINGTON AVE, RIVERSIDE, CA 92504	50	714,544
CITY OF SAN LUIS OBISPO H/A	P.O. BOX 638, SAN LUIS OBISPO, CA 93406	50	855,628
COUNTY OF SAN DIEGO	3989 RUFFIN ROAD, SAN DIEGO, CA 92123	29	473,308
HA TAMPA	1514 UNION ST, TAMPA, FL 33607	50	670,600
HA PALM BEACH COUNTY	3432 W 45TH STREET, WEST PALM BEACH, FL 33407	50	1,159,300
H/A DEKALB COUNTY	P O BOX 1627, DECATUR, GA 30031	50	905,350
COOK COUNTY HOUSING AUTHORITY.	59 E VAN BUREN, STE 1802, CHICAGO, IL 60605	50	800,100
HA KANKAKEE	P O BOX 1289, KANKAKEE, IL 60901	25	302,280
LAKE COUNTY HA	33928 N ROUTE 45, GRAYSLAKE, IL 60030	50	817,150
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 02111	50	871,680
COMM DEV PROG COMM OF MA	B 1APH, 100 CAMBRIDGE ST, BOSTON	50	1,012,572
MONTGOMERY CO HOUSING AUTHORITY.	10400 DETRICK AVENUE, KENSINGTON, MD 20895	50	1,049,960
HNG AUTH PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD 20785	50	1,065,220
ST PAUL PHA	480 CEDAR STREET, STE 600, ST. PAUL, MN 55101	50	764,130
METROPOLITAN COUNCIL	230 E. FIFTH STREET, ST. PAUL, MN 55101	50	859,000
ST. LOUIS COUNTY HOUSING AUTH.	8865 NATURAL BRIDGE, ST. LOUIS, MO 63121	50	401,600
LINCOLN COUNTY PUB HSG AGENCY.	16 NORTH COURT, BOWLING GREEN, MO 63334	50	417,750
ST. FRANCOIS COUNTY PH AGENCY.	P O BOX N, FLAT RIVER, MO 63601	50	497,040
HA HIGH POINT	P O BOX 1779, HIGH POINT, NC 27261	50	563,320
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC 27420	50	674,640
HA WINSTON-SALEM	901 CLEVELAND AVENUE, WINSTON-SALEM, NC 28101	50	545,760
HA ROWAN COUNTY	121 WEST COUNCIL SUITE 103, SALISBURY, NC 28144	50	556,380
STATE OF NJ DEPT OF COMM AFFAIRS.	101 S. BROAD STREET CN800, TRENTON, NJ 08625	80	615,416
NEW YORK CITY HSG AUTH	250 BROADWAY, NEW YORK, NY 10007	50	1,024,950
TOWN OF AMHERST	5583 MAIN ST., WILLIAMSVILLE, NY 14221	50	554,280
NEW YORK STATE HSG FIN AGENCY.	ONE FORDHAM PLAZA, BRONX, NY 10458	25	1,207,516
COLUMBUS METRO HA	960 EAST FIFTH AVE., COLUMBUS, OH 43201	50	579,620
ZANESVILLE MET HA	2746 MAPLE AVENUE, ZANESVILLE, OH 43701	50	376,116
HAMILTON COUNTY	138 EAST COURT ST, RM 507, CINCINNATI, OH 45202	50	607,376
PHILADELPHIA HOUSING AUTHORITY.	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 19103	50	919,620
ALLEGHENY COUNTY HSG AUTH	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA 15222	50	480,580

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
DELAWARE COUNTY HSG AUTH	1855 CONSTITUTION AVENUE, WOODLYN, PA 19094	30	485,760
DAUPHIN COUNTY HSG AUTH	501 MOHN STREET, STEELTON, PA 17113	50	608,760
CENTRE COUNTY HSG AUTH	602 E. HOWARD STREET, BELLEFONTE, PA 16823	25	300,324
HOUSTON HOUSING AUTHORITY	2640 FOUNTAIN VIEW, HOUSTON, TX 77057	50	609,960
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 75212	50	851,360
LUBBOCK HOUSING AUTHORITY	P O BOX 2568, LUBBOCK, TX 79408	50	591,870
TARRANT COUNTY	100 E WEATHERFORD STREET, FORT WORTH, TX 76196	13	176,518
BRAZOS VALLEY DEVELOPMENT COUNTY.	P O DRAWER 4128, BRYAN, TX 77805	50	603,370
NORFOLK REDEVELOPMENT & H/A	201 GRANBY ST, NORFOLK, VA 23510	50	621,950
FAIRFAX CO RED AND HSG AUTH	3700 PENDER DRIVE, FAIRFAX, VA 22030	26	489,612
TOTAL		1,953	28,481,500
LITIGATION—CERTIFICATES			
COOK COUNTY HOUSING AUTHORITY.	59 E VAN BUREN, STE 1802, CHICAGO, IL 60605	125	$2,111,400
LAKE COUNTY HA	33928 N ROUTE 45, GRAYSLAKE, IL 60030	125	237,990
LEADERSHIP COUNCIL METRO	401 S STATE STREET, STE 860, CHICAGO, IL 60605	10	160,620
HINGHAM HOUSING AUTHORITY	30 THAXTER STREET, HINGHAM, MA 02043	25	464,948
COMM DEV PROG COMM OF MA	100 CAMBRIDGE STREET, BOSTON, MA	50	717,500
HOUSING AUTHORITY OF BALTIMORE.	417 E FAYETTE STREET, BALTIMORE, MD 21202	150	2,707,200
CITY OF BUFFALO	201 CITY HALL–65 NIAGARA SQUARE, BUFFALO, NY 14202	750	8,875,500
KLAMATH TRIBE HSG AUTH	905 MAIN STREET, STE 603, KLAMATH FALLS, OR 97601	50	619,216
ALLEGHENY COUNTY HSG AUTH	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA 15222	50	475,188
TOTAL		1,335	16,369,562
LITIGATION—VOUCHERS			
ST PAUL PHA	480 CEDAR STREET, STE 600, ST. PAUL, MN 55101	200	$3,391,300
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 75212	325	4,149,600
BEAUMONT HOUSING AUTHORITY	P O BOX 1312, BEAUMONT, TX 77704	25	217,350
PORT ARTHUR HSG AUTHORITY	P O BOX 2295, PORT ARTHUR, TX 7764320	157,080	
ORANGE (CITY) HA	P O BOX 3107, ORANGE, TX 77631	20	186,600
HSG AUTH OF ORANGE COUNTY	119 MEMPHIS ST., ORANGE, TX 77630	20	191,680
GARLAND (CITY OF)	P O BOX 469002, GARLAND, TX 75046	0	1,259,208
TYLER (CITY OF)	P O BOX 2039, TYLER, TX 75710	25	241,000
MARSHALL HOUSING AUTHORITY	P O BOX 609, MARSHALL, TX 75671	19	101,558
NACOGDOCHES HSG AUTHORITY	715 SUMMIT ST, NACOGDOCHES, TX 75961	20	168,520
ARK-TEX COUNCIL OF GOVTS	P O BOX 5307, TEXARKANA, TX 75505	25	245,250
DEEP EAST TX COUNCIL OF GOVTS.	274 E LAMAR, JASPER, TX 75951	25	158,100
TOTAL		724	10,467,246
RELOCATION/REPLACEMENT—CERTIFICATES			
HA OZARK	P O BOX 566, OZARK, AL 36361	26	$188,068
BRIDGEPORT HOUSING AUTHORITY.	150 HIGHLAND AVENUE, BRIDGEPORT, CT 06604	50	669,262
HARTFORD HOUSING AUTHORITY	475 FLATBUSH AVENUE, HARTFORD, CT 06106	846	12,405,092
HSG AUTH OF CITY OF NEW HAVEN.	360 ORANGE STREET, NEW HAVEN, CT 06511	63	1,166,069
STAMFORD HOUSING AUTHORITY	22 CLINTON AVENUE, STAMFORD, CT 06904	64	1,574,018
MIDDLETOWN HOUSING AUTHORITY.	40 BROAD STREET, MIDDLETOWN, CT 06457	80	1,284,936
D.C. HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	569	13,910,490
HA TAMPA	1514 UNION ST, TAMPA, FL 33607	70	811,496
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA 30365	1,074	16,114,488
HA FULTON COUNTY	10 PARK PLACE SE, STE 216, ATLANTA, GA 30303	71	1,216,274
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 60602	2,640	43,590,910
CITY OF TOPEKA CITY HALL	515 S. KANSAS AVE, STE 405, TOPEKA, KS 66603	100	979,540
LOUISVILLE HOUSING AUTHORITY	420 S. 8TH ST., LOUISVILLE, KY 40203	250	3,091,188
NEW ORLEANS HOUSING AUTHORITY.	918 CARONDELET STREET, NEW ORLEANS, LA 70130	495	7,256,558
BROCKTON HOUSING AUTHORITY	45 GODDARD ROAD, BROCKTON, MA 02403	28	491,040
WESTBROOK HOUSING AUTHORITY.	P.O. BOX 349, WESTBROOK, ME 04092	10	144,534

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
MINNEAPOLIS PHA	1001 WASHINGTON AVE N, MINNEAPOLIS, MN 55401	88	983,488
HA SANFORD	P O BOX 636, SANFORD, NC 27331	18	195,264
HA MIDEAST REGIONAL	P O BOX 474, WASHINGTON, NC 27889	99	726,404
ATLANTIC CITY HA	227 N VERMONT AVENUE, ATLANTIC CITY, NJ 08404	199	2,945,850
PATERSON HA	160 WARD STREET, PATERSON, NJ 07509	498	11,029,844
NEW YORK CITY HSG AUTH	250 BROADWAY, NEW YORK, NY 10007	100	1,959,360
DAYTON METROPOLITAN HA	400 WAYNE AVE, DAYTON, OH 45410	50	346,122
HA WASHINGTON COUNTY	111 NE LINCOLN ST, STE 200–L, HILLSBORO, OR 97124	3	164,158
PHILADELPHIA HOUSING AUTHORITY.	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 19103	638	12,542,944
MCKEESPORT HOUSING AUTHORITY.	332 FIFTH AVENUE SUITE 214, MCKEESPORT, PA 15132	70	839,640
MONTGOMERY COUNTY HOUSING AUTH.	1875 NEW HOPE STREET, NORRISTOWN, PA 19401	59	987,044
H/A OF CHARLESTON	20 FRANKLIN ST, CHARLESTON, SC 29401	53	605,188
CITY OF SPARTANBURG H/A	P O BOX 2828, SPARTANBURG, SC 29304	50	452,680
METROPOLITAN DEV & HSG AUTH	701 SIXTH STREET, NASHVILLE–DAVIDSON, TN 37206	50	716,500
EL PASO HOUSING AUTHORITY	1600 MONTANA, EL PASO, TX 79902	120	1,722,492
FORT WORTH HOUSING AUTHORITY.	P O BOX 430, FORT WORTH, TX 76101	77	990,576
DALLAS HOUSING AUTHORITY	3939 N HAMPTON, DALLAS, TX 75212	138	1,691,648
LUBBOCK HOUSING AUTHORITY	P O BOX 2568, LUBBOCK, TX 79408	121	1,225,116
MERCEDES HOUSING AUTHORITY	P O BOX 985, MERCEDES, TX 78570	34	397,190
GRAPEVINE HOUSING AUTHORITY	131 STARR PL, GRAPEVINE, TX 76051	144	598,530
DENTON HOUSING AUTHORITY	308 S RUDDELL, DENTON, TX 76205	60	251,624
TARRANT COUNTY	100 E WEATHERFORD STREET, FORT WORTH, TX 76196	96	508,088
PORTSMOUTH REDEVELOPMENT & H/A.	339 HIGH STREET, PORTSMOUTH, VA 23705	220	2,275,190
DANVILLE REDEVELOPMENT AND H/A.	P.O. BOX 2669, DANVILLE, VA 24541	76	608,896
ROANOKE REDEVELOPMENT & H/A.	P.O. BOX 6359, ROANOKE, VA 24017	126	989,940
PETERSBURG REDEVELOPMENT & H/A.	128 S. SYCAMORE STREET, PETERSBURG, VA 23804	15	217,060
HA CITY OF TACOMA	1728 E 44TH ST, TACOMA, WA 98404	127	1,212,480
CHARLESTON HOUSING AUTHORITY.	P.O. BOX 86, CHARLESTON, WV 25321	160	1,901,440
TOTAL		9,925	153,978,719
RELOCATION/REPLACEMENT—VOUCHERS			
TUCSON HOUSING MANAGEMENT DIV.	1501 N. ORACLE ROAD, STE 115, TUCSON, AZ 85726	10	$147,640
CITY OF LOS ANGELES HSG AUTH	2600 WILSHIRE BLVD, LOS ANGELES, CA 90057	350	7,264,112
BRIDGEPORT HOUSING AUTHORITY.	150 HIGHLAND AVENUE, BRIDGEPORT, CT 06604	57	864,398
D.C. HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	403	9,114,458
CITY AND COUNTY OF HONOLULU	650 S. KING STREET, HONOLULU, HI 96813	18	383,332
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 60602	700	10,712,864
BROCKTON HOUSING AUTHORITY	45 GODDARD ROAD, BROCKTON, MA 02403	28	491,040
HOUSING AUTHORITY OF BALTIMORE.	417 E FAYETTE STREET, BALTIMORE, MD 21202	200	3,349,700
WINONA HRA	165 EAST FOURTH ST., WINONA, MN 55987	40	272,904
PERTH AMBOY HA	881 AMBOY AVE, PERTH AMBOY, NJ 08862	111	2,518,436
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ 07306	100	1,970,900
PATERSON HA	160 WARD ST, PATERSON, NJ 075090	160	3,044,880
NEW BRUNSWICK HA	176 MEMORIAL PARKWAY, NEW BRUNSWICK, NJ 08903	323	6,427,988
CINCINNATI METROPOLITAN HSG AUTH.	16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	1,270	1,796,154
HOUSING AUTH CITY OF PITTSBURGH.	200 ROSS STREET, PITTSBURGH, PA 15219	933	10,397,182
HOUS AUTH OF THE CO OF CHESTER.	222 NORTH CHURCH STREET, WEST CHESTER, PA 19380	85	1,418,876
H/A OF CHARLESTON	20 FRANKLIN ST, CHARLESTON, SC 29401	53	601,092
HA MEMPHIS	700 ADAMS AVE MEMPHIS, TN 38105	1,016	9,806,458
SAN ANTONIO HOUSING AUTHORITY.	P O DRAWER 1300, SAN ANTONIO, TX 78295	93	3,744,724
DENTON HOUSING AUTHORITY	308 S RUDDELL, DENTON, TX 76205	2	9,914
TARRANT COUNTY	100 E WEATHERFORD STREET, FORT WORTH, TX 76196	10	39,910

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
PORTSMOUTH REDEVELOPMENT & H/A.	339 HIGH STREET, PORTSMOUTH, VA 23705	503	3,915,472
NEWPORT NEWS REDEVELOPMENT & H/A.	P.O. BOX 77, NEWPORT NEWS, VA 23607	100	1,338,060
RICHMOND REDEVELOPMENT & H/A.	P.O. BOX 26887, RICHMOND, VA 23261	175	2,559,628
PETERSBURG REDEVELOPMENT & H/A.	128 S. SYCAMORE STREET, PETERSBURG, VA 23804	20	324,040
HA CITY OF TACOMA	1728 E 44TH ST, TACOMA, WA 98404	127	1,474,160
TOTAL		6,887	83,988,322
WITNESS RELOCATION—VOUCHERS			
RICHMOND REDEVELOPMENT & H/A.	P.O. BOX 26887, RICHMOND, VA 23261	191	$2,498,280
TOTAL		191	2,498,280
PROPERTY DISPOSITION—CERTIFICATES			
OAKLAND HOUSING AUTHORITY	1619 HARRISON ST, OAKLAND, CA 94612	291	$6,077,438
COUNTY OF SACRAMENTO	SACRAMENTO, CA 9581	18	257,040
NEW BRITAIN HOUSING AUTHORITY.	34 MARIMAC ROAD, NEW BRITAIN, CT 06053	45	391,020
WATERBURY HOUSING AUTHORITY.	70 LAKEWOOD ROAD, WATERBURY, CT 06704	85	589,972
WEST HAVEN HOUSING AUTHORITY.	15 GLADE STREET, WEST HAVEN, CT 06516	376	5,509,606
CITY OF HARTFORD	550 MAIN ST, HARTFORD, CT 06103	99	1,713,300
D.C HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	91	4,850,886
HA FULTON COUNTY	10 PARK PLACE SE, STE 216, ATLANTA, GA 30303	40	544,640
NEW ORLEANS HOUSING AUTHORITY.	918 CARONDELET STREET, NEW ORLEANS, LA 70130	175	1,926,360
EAST BATON ROUGE HSG AUTHORITY.	4546 NORTH STREET, BATON ROUGE, LA 70808	35	325,872
JEFFERSON PARISH HOUSING AUTH.	1718 BETTY STREET, MARRERO, LA 70072	107	986,974
HOUSING AUTHORITY OF BALTIMORE.	417 E FAYETTE STREET, BALTIMORE, MD 21202	28	368,796
BALTIMORE COUNTY	400 WASHINGTON AVEN, TOWSON, MD	362	2,339,169
ST. LOUIS HOUSING AUTHORITY	4100 LINDELL BLVD, ST. LOUIS, MO 63108	113	1,336,816
H.A.K.C.	712 BROADWAY, KANASAS CITY, MO 64106	162	1,691,250
MISS REG HSG AUTH IV	P O DRAWER 2249, COLUMBUS, MS 39704	110	1,031,448
HA MISSISSIPPI REGIONAL NO 5	P O BOX 419, NEWTON, MS 39345	48	432,984
HA DURHAM	P O BOX 1726, DURHAM, NC 27702	38	546,864
GASTONIA H/A	P O BOX 2398, GASTONIA, NC 28053	95	1,227,720
NEWARK HA	57 SUSSEX AVENUE, NEWARK, NJ 07103	320	5,240,904
STATE OF NJ DEPT OF COMM AFFAIRS.	101 S. BROAD STREET CN800, TRENTON, NJ 08625	38	327,328
NEW YORK CITY HOUSING AUTHORITY.	250 BROADWAY, NEW YORK, NY 10007	456	2,270,858
COLUMBUS METRO HA	960 EAST FIFTH AVE., COLUMBUS, OH 43201	100	1,288,088
CUYAHOGA METRO HA	1441 WEST 25TH STREET, CLEVELAND, OH 44113	209	2,396,938
CINCINNATI METROPOLITAN HSG AUTH.	16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	112	1,454,078
HAMILTON COUNTY	138 EAST COURT ST, RM 507, CINCINNATI, OH 45202	120	1,191,524
O.H.F.A.	P O BOX 26720, OKLAHOMA CITY, OK 73126	165	2,036,436
HOUSING AUTH CITY OF PITTSBURGH.	200 ROSS STREET, PITTSBURGH, PA 15219	92	726,022
PHILADELPHIA HOUSING AUTHORITY.	2012–18 CHESTNUT STREET, PHILADELPHIA, PA 19103	28	213,696
HOUSTON HOUSING AUTHORITY	2640 FOUNTAIN VIEW, HOUSTON, TX 77057	154	1,350,804
PORT ARTHUR HSG AUTHORITY	P O BOX 2295, PORT ARTHUR, TX 77643	100	1,011,072
CITY OF PASADENA HSG AUTH	P O BOX 672, PASADENA, TX 77501	214	2,937,634
DALLAS COUNTY	411 ELM ST, DALLAS, TX 75202	370	4,711,464
TEXAS DEPT HSG & COMMUNITY AFFAIRS.	P O BOX 13166, AUSTIN, TX 78710	139	1,588,440
NORFOLK REDEVELOPMENT & H/A	201 GRANBY ST, NORFOLK, VA 23510	480	2,250,464
RICHMOND REDEVELOPMENT & H/A.	P.O. BOX 26887, RICHMOND, VA 23261	276	3,384,864

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
CHESAPEAKE REDEVELOPMENT & H/A.	P.O. BOX 1304, CHESAPEAKE, VA 23320	83	1,170,646
VIRGINIA HOUSING DEVELOPMENT AUTH.	601 S. BELVIDERE STREET, RICHMOND, VA 23225	389	4,764,072
TOTAL		6,163	72,473,487
PROPERTY DISPOSITION—VOUCHERS			
DENVER HSG AUTH	P.O. BOX 40305, DENVER, CO 80204	6	$80,196
D.C. HOUSING AUTHORITY	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	39	784,380
CITY OF JACKSONVILLE	1300 BROAD STREET, JACKSONVILLE, FL 32202	182	2,259,556
HA POMPANO BEACH	P O BOX 2006, POMPANO BEACH, FL 33061	188	2,763,272
CHICAGO HOUSING AUTHORITY	626 W. JACKSON BLVD, CHICAGO, IL 60602	121	1,612,216
HSG AUTH OF THE COUNTY OF COOK.	59 E VAN BUREN, STE 1802, CHICAGO, IL 60605	276	2,017,978
TOTAL		812	9,517,598
PRESERVATION/PREPAYMENT—CERTIFICATES			
MESA HOUSING AUTHORITY	415 N. PASADENA STREET, MESA, AZ 852015916	16	$53,820
COUNTY OF LOS ANGELES HOUSING.	2525 CORPORATE PL, STE 200, MONTEREY PARK, CA 91754	151	954,866
CITY OF LOS ANGELES HSG AUTH	2600 WILSHIRE BLVD., LOS ANGELES, CA 90057	43	231,520
CITY OF SACRAMENTO	SACRAMENTO, CA 95812	22	68,406
HA OF THE CITY OF LIVERMORE	3203 LEAHY WAY, LIVERMORE, CA 94550	29	146,891
ORANGE COUNTY HSG AUTH	2043 N BROADWAY, SANTA ANA, CA 92706	49	415,191
CITY OF GARDEN GROVE	11391 ACACIA PARKWAY, GARDEN GROVE, CA 92640	70	390,140
CITY OF VACAVILLE	650 MERCHANT STREET, VACAVILLE, CA 95688	10	17,110
CITY OF ROSEVILLE	311 VERNON STREET, ROSEVILLE, CA 95678	24	92,587
SANTA FE SPRINGS HA	P O BOX 2120, SANTA FE SPRINGS, CA 90670	8	40,899
BALTIMORE COUNTY	400 WASHINGTON AVENUE, TOWSON, MD 21204	292	1,217,077
COUNTY OF CLARK HOUSING AUTH.	5064 E. FLAMINGO ROAD, LAS VEGAS, NV 89122	86	342,707
HSG AUTH OF DOUGLAS COUNTY	P.O. BOX 966, ROSEBURG, OR 97470	18	59,964
HA & COMMUNITY SVS AGENCY LANE.	177 DAY ISLAND RD, EUGENE, OR 97401	54	169,038
HA CITY OF SALEM	PO BOX 808, SALEM, OR 97308	3	5,913
HOUSING AUTHORITY OF JACKSON CO.	2231 TABLE ROCK ROAD, MEDFORD, OR 97501	52	260,612
VIRGINIA HOUSING DEVELOPMENT AUTH.	601 S. BELVIDERE STREET, RICHMOND, VA 23225	350	1,553,022
CITY OF KENOSHA	625 52ND ST, KENOSHA, WI 53140	21	82,068
HOUSING AUTHORITY OF THE CITY.	455 S. FIRST STREET, EVANSVILLE, WI 53536	17	68,068
TOTAL		1,315	6,169,899
PRESERVATION/PREPAYMENT—VOUCHERS			
COUNTY OF LOS ANGELES HOUSING.	2525 CORPORATE PL, STE 200, MONTEREY PARK, CA 91754	44	$269,056
COUNTY OF SAN MATEO HSG AUTH.	456 PENINSULA AVE, SAN MATEO, CA 94401	64	402,530
COUNTY OF SAN JOAQUIN HOUSING.	P.O. BOX 447, STOCKTON, CA 95201	8	18,244
COUNTY OF RIVERSIDE HSG AUTH.	5555 ARLINGTON AVE, RIVERSIDE, CA 92504	55	225,318
COUNTY OF BUTTE HSG AUTH	580 VALLOMBROSA AVE, CHICO, CA 95926	3	11,157
COUNTY OF SANTA CLARA HOUSING.	505 WEST JULIAN ST, SAN JOSE, CA 95110	27	207,224
CITY OF CRESCENT CITY HSG AUTH.	343 G STREET, CRESCENT CITY, CA 95531	45	124,077
SAN DIEGO HOUSING COMMISSION.	1625 NEWTON AVE, SAN DIEGO, CA 92113	7	21,707
CITY OF SANTA ANA HSG AUTH	20 CIVIC CENTER PLAZA, SANTA ANA, CA 92701	85	608,889
ORANGE COUNTY HOUSING AUTHORITY.	2043 N BROADWAY, SANTA ANA, CA 92706	125	722,178
CITY OF REDDING HSG AUTH	760 PARKVIEW AVE, REDDING, CA 96001	77	238,960
COUNTY OF SAN DIEGO	3989 RUFFIN ROAD, SAN DIEGO, CA 92123	133	582,119
CITY OF HAWTHORNE	4455 W 126TH ST, HAWTHORNE, CA 90250	18	107,479

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1996—Continued

Housing agency	Address	Units	Award
CITY OF OCEANSIDE	300 NORTH HILL ST, OCEANSIDE, CA 92054	104	358,292
DENVER	P.O. BOX 40305, DENVER, CO 80204	1	2,448
ADAMS COUNTY	7190 COLORADO BLVD 6TH FL, COMMERCE CITY, CO 80022	61	224,051
WATERBURY HOUSING AUTHORITY.	70 LAKEWOOD ROAD, WATERBURY, CT 06704	19	89,494
FORT WALTON BEACH H/A	27 ROBINWOOD DR. SW, FORT WALTON BEACH, FL 32548	64	207,412
IDAHO HA	565 W MYRTLE STREET, BOISE, ID 83707	25	65,712
GARY HA	578 BROADWAY, GARY, IN 46402	27	72,102
CITY OF INDIANAPOLIS	5 INDIANA SQ., 2ND FL, INDIANAPOLIS, IN 46204	140	414,708
FAYETTE COUNTY HA	812 GRAND AVE., CONNERSVILLE, IN 47331	26	42,430
LEXINGTON-FAYETTE UR CO H/A	635 BALLARD ST, LEXINGTON, KY 40508	46	148,100
EAST BATON ROUGE HSG AUTHORITY.	4546 NORTH STREET, BATON ROUGE, LA 70808	44	94,768
WEST MONROE HSG AUTH	2305 N 7TH STREET, WEST MONROE, LA 71291	121	269,572
BOSTON HOUSING AUTHORITY	52 CHAUNCY STREET, BOSTON, MA 02111	46	393,669
BROOKLINE HOUSING AUTHORITY	90 LONGWOOD AVE, BROOKLINE, MA 02146	154	1,492,325
ANNE ARUNDEL COUNTY HSG AUTH.	7885 GORDON COURT, GLEN BURNIE, MD 21061	336	1,530,274
HOWARD CO HSG AND COMM DEV.	10650 HICKORY RIDGE ROAD, COLUMBIA, MD 21044	65	363,954
BALTIMORE COUNTY	400 WASHINGTON AVEN, TOWSON, MD 21204	372	1,251,334
MICHIGAN STATE HSG DEV AUTH	401 S. WASHINGTON SQUARE, LANSING, MI 4890	365	866,941
DAKOTA COUNTY HRA	2496 145TH ST. WEST, ROSEMOUNT, MN 5506	37	92,972
DOUGLAS COUNTY HSG AUTH	5449 NORTH 108TH ST, OMAHA, NE 68164	54	175,412
DOVER HA	215 EAST BLACKWELL STREET, DOVER, NJ 07801	72	303,595
ALBUQUERQUE HSG AUTHORITY	1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM 87106	24	83,028
COUNTY OF CLARK HSG AUTH	5064 E. FLAMINGO ROAD, LAS VEGAS, NV 89122	52	216,877
H.A. OF YAMHILL COUNTY	414 N EVANS, MCMINNVILLE, OR 97128	14	50,185
LINN-BENTON HOUSING AUTHORITY.	1250 SE QUEEN AVENUE, ALBANY, OR 97321	10	18,090
HA SOUTH CAROLINA REG NO 3	P O BOX 1326, BARNWELL, SC 29812	25	97,205
VIRGINIA HSG DEV AUTH	601 S. BELVIDERE STREET, RICHMOND, VA 23225	64	124,001
HA OF CITY OF SEATTLE	120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	9	44,356
HA CITY OF SPOKANE	W. 55TH MISSION, STE 104, SPOKANE, WA 99201	38	138,582
HA CITY OF WALLA WALLA	411 W. MAIN STREET, WALLA WALLA, WA 99362	39	80,151
MILWAUKEE COUNTY	907 N. TENTH STREET, MILWAUKEE, WI 53233	32	78,288
DODGE COUNTY HSG AUTH	419 E CENTER ST, JUNEAU, WI 53039	22	84,788
CLARKSBURG HOUSING AUTHORITY.	916 WEST PIKE STREET, CLARKSBURG, WV 26301	12	23,985
TOTAL		3,211	13,038,039
GRAND TOTAL		32,671	635,439,626

[FR Doc. 97–16250 Filed 6–20–97; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Western Water Policy Review Advisory Commission Meeting

AGENCY: Department of the Interior.

ACTION: Notice of open meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Western Water Policy Review Advisory Commission (Commission), established by the Secretary of the Interior under the Reclamation Projects Authorization and Adjustment Act of 1992, will meet to hear testimony of agricultural interests and to discuss draft chapters of the Commission Report and meet on other Commission business.

DATES: Thursday, July 10, 1997, 8:30 a.m.–5:00 p.m. Friday, July 11, 1997, 8:30 a.m.–5:00 p.m. Saturday, July 12, 1997, 8:30 a.m.–12:00 noon.

ADDRESSES: All meetings will be held at the Doubletree Hotel Riverside, 2900 Chinden Boulevard, Boise, Idaho. Room locations in the hotel will be posted in the hotel lobby. Copies of the agenda are available from the Westernwater Policy Review Office, D–5001; P.O. Box 25007; Denver, CO 80225–007.

FOR FURTHER INFORMATION CONTACT:

The Commission Office at telephone (303) 236–6211, FAX (303) 236–4286, or E-mail to rgunnarsondo.usbr.gov.

SUPPLEMENTARY INFORMATION:

Public Participation: Written statements may be provided in advance to the Western Water Policy Review Office, address cited under the **ADDRESSES** caption of this notice, or submitted directly at the meeting. Statements will be provided to the members prior to the meeting if received by no later than July 2, 1997. The Commission's schedule will not allow time for formal presentations by the public during the meeting.

Dated: June 17,1 997

Larry Schulz,

Administrative Officer.

[FR Doc. 97–16326 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Eastern States

[ES–930–07–1430–00–241A; ALES 48103]

Notice of Recordable Disclaimer of Interest

Notice is hereby given that the United States of America, pursuant to the provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745, intends to disclaim and release all interest to the owner of record for the following property, to wit:

St. Stephen Meridian, Alabama

T. 7 N., R. 1 W.,
Sec. 32

Any person wishing to submit a protest or comments on the above disclaimer should do so in writing within 90 days of the publication date of this notice. If no protest(s) is received, the disclaimer will be effective shortly after the 90 day period.

The purpose of this notice is to afford any person or persons having a protest to the above action an opportunity to submit such protest to the Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, telephone (703) 440–1700 on or before expiration of the 90-day period.

For Further Information Contact: Nadine Watson at (703) 440–1553.

Dated: June 16, 1997.

Carson W. Culp, Jr.,

State Director.

[FR Doc. 97–16380 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–97–2200]

Notice of Intent To Prepare an Environmental Impact Statement for a Proposed Land Exchange Near Kingman, Arizona, and Notice of Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to **Federal Register** Notice of Intent: June 11, 1997 (Volume 62, Number 112, Page 31839–31840), Add Meeting Times.

SUMMARY: The Bureau of Land Management is considering a proposal to exchange land pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended. An environmental impact statement will be prepared in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 to analyze the impacts associated with the proposed exchange.

DATES: Public scoping meetings to identify public concerns will be held on the following dates:

Monday, June 30, in Wikieup, Arizona, at the Owens School, 14109 East Chicken Springs Road, Wikieup, Arizona 85360.

Tuesday, July 1, in Kingman, Arizona, at the BLM office located at 2475 Beverly Avenue, Kingman, Arizona 86401.

Wednesday, July 2, in Yucca, Arizona, at the Brooks Realty Office, 12470 South Yucca Frontage Road, Yucca, Arizona 86348.

All meetings will start at 6 p.m. and end at 8 p.m.

Comments relating to the identification of issues and alternatives will be accepted for up to 45 days following the publication of this notice.

ADDRESSES: Send comments to Bureau of Land Management, Kingman Field Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

FOR MORE INFORMATION CONTACT: Don McClure, Project Manager, (520) 757–3161.

Dated: June 18, 1997.

Denise P. Meridith,

State Director, Arizona.

[FR Doc. 97–16473 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–1610–00: G–7–0210 (RMP #OR–95–01)]

Resource Management Plans

ACTION: Revised Notice of Intent, Southeastern Oregon Resource Management Plan and Revision to the Donner und Blitzen Wild and Scenic River Management Plan.

SUMMARY: In accordance with 43 Code of Federal Regulations (CFR) 1610.2 and 1610.3 and 43 CFR 8351, notice is given that the Bureau of Land Management (BLM) in the State of Oregon, Burns District, Andrews Resource Area, intends to develop and analyze revised management direction for the Donner und Blitzen Wild and Scenic River Plan as a subcomponent of the ongoing Southeastern Oregon Resource Management Plan/Environmental Impact Statement (SEORMP/EIS). The purpose of the revised River Plan is to address issues raised in recent litigation concerning the adequacy of the current River Plan, which was developed and approved in May 1993. The original Notice of Intent to prepare the RMP was published in the **Federal Register** on August 24, 1995, on Volume 60, No. 164.

DATES: Publication of this Notice of Intent in the Federal Register starts a 30-day comment period (initiated on the date of this publication) necessary to meet public notification requirements for both the Revised Notice of Intent, to incorporate the required elements of the River Plan, and limited expansion of the scope of the related Environmental Impact Statement (EIS).

ADDRESSES:

Bureau of Land Management, Burns District Office, Andrews Resource Area, HC 74–12533 Hwy 20 West, Hines, OR 97738.

Bureau of Land Management, Vale District Office, Southeastern Oregon Resource Management Planning Team, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Miles Brown, Andrews Resource Area Manager, (541) 573–4425 or Gary Cooper, RMP Team Leader, (541) 523–1256.

SUPPLEMENTARY INFORMATION: The Burns and Vale Districts have been preparing the draft SEORMP/EIS since 1995. It is intended to fully supersede the existing land use plans for the Burns District's Andrews Resource Area and the Vale District's Malheur and Jordan Resource Areas. The planning area includes all BLM-managed public land in the south half of Harney County and all of Malheur County, in extreme southeastern Oregon. The Donner und Blitzen River system is located on the west and southwest slopes of Steens Mountain, in south-central Harney County and drains northward into Malheur Lake. The draft SEORMP/EIS is tentatively scheduled to be published and distributed in the fall of 1997. Land use and resource allocation decisions will be comprehensive, overlap and support numerous existing special area designations and management plans, including the Donner und Blitzen Wild and Scenic River Management Plan. In ONDA et al. v. Green et al., 953F. Supp. 1133 (D. OR 1997) BLM is enjoined from authorizing, approving or allowing certain activities on public land within the river corridor until it prepares an EIS and approves revisions to the River Plan that address these activities. These activities include domestic livestock grazing, construction or improvement of parking lots and roads for motorized vehicles, and construction or

maintenance of any facility or project to divert or impound water. Those elements of the approved plan which were not challenged or found inadequate will remain in full force and effect. Issues expected to be analyzed in detail include, but are not limited to, riparian vegetation objectives; protection and enhancement of native plants, including Special Status species plants; appropriate levels, timing, intensity, and locations of livestock grazing within the river corridor, if any; improving existing roads and constructing small parking areas (to the National Historic Register listed Riddle Brothers Ranch) located within the river corridor; timing and use levels of irrigation (if any) of meadows; locations and design for any livestock fences designed to exclude livestock from the river corridor or make pasture systems within and residual pastures outside the corridor to form functional portions of livestock grazing allotments; potential reclassification of one river segment to more accurately reflect the actual level of development and use at the time of river designation; and other issues as identified by interest groups and individuals.

The final decisions for the Donner und Blitzen River considered through this analysis will be in full conformance with the new SEORMP as well as the intent of the Wild and Scenic Rivers Act. The environmental analysis and public and interagency review processes anticipated for this analysis will fully comply with the BLM's regulations for land use planning, including Wild and Scenic River Plan amendments, public involvement, and coordination with other Federal agencies, State, local governments, and Indian tribes, (43 CFR 1610.2, 1610.3 and 1610.5–5).

Any approved decisions which amend the Donner und Blitzen River Plan will be incorporated into the Plan and become part of the permanent planning record. Any refinements or clarifications of management direction and additional information, monitoring or evaluation reports will be incorporated into the applicable plans and documented through published plan maintenance reports, as provided under 43 CFR 1610.5–4. Copies of previous RMP planning project notices, newsletters, and existing land use and river plans are available in the Burns and Vale District Offices and available for inspection during normal working hours.

Disciplines to be represented on the interdisciplinary team preparing the SEORMP and revised River Plan and EIS include, but are not limited to, archaeology, anthropology, economics, lands and minerals, recreation, wilderness, wildlife biology, fisheries, hydrology, botanical, soils, geology, range management, and wild horse herd management.

Copies of this announcement or equivalent information are being distributed to those individuals already on the Wild and Scenic River and SEORMP/EIS mailing lists. To be added to these lists, individuals should contact the RMP Team Leader. The BLM is inviting comments to be considered in the preparation of the expanded EIS for the revisions to the Donner und Blitzen River Plan. Comments may be addressed to Miles Brown, Andrews Resource Area Manager, at the Burns District Office. Comments should be postmarked by July 23, 1997. No public meetings have been exclusively scheduled for this proposal at this time; however, meetings may be arranged through the Andrews Resource Area Manager or RMP Team Leader. A series of open houses or public meetings will be held during the 90-day comment period on the draft plans and EIS, in the fall of 1997. Any public meetings will be announced at least 15 days in advance. The purpose of this scoping is to offer the public, tribes, partner agencies, and counties additional time to provide supplemental issues or information to the EIS process. Pursuant to 7 CFR, Part 1, Sub-part B, Section 1.27, all written submissions in response to this notice shall be made available for public inspection including the submitter's name, unless the submitter specifically requests confidentially. Anonymous comments will not be accepted. All written submissions from business entities and organizations, submitted on official letterhead, in response to this notice shall be made available for public inspection in their entirety.

Detailed information concerning the proposed SEORMP and revised River Plan, including the draft EIS, will be available at a later date at BLM offices in Burns, Vale, and Portland, Oregon, and at scheduled public meetings. In Burns and Ontario, Oregon, this information will also be available at the Harney and Malheur public libraries.

Dated: June 17, 1997.

Michael T. Green,

Burns District Manager.

[FR Doc. 97–16324 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–57186]

Cancellation of Proposed Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has canceled its withdrawal application for a proposed National Wild Horse and Burro Center in Washoe County, Nevada. The application was filed on July 27, 1993. The Bureau of Land Management is no longer pursuing the establishment of this facility.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702–785–6532.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published as FR Doc. 93–17770 in the **Federal Register**, 58 FR 40154–40155, July 27, 1993, for the Bureau of Land Management to withdraw 8,344.22 acres of public land for a proposed National Wild Horse and Burro Center. Partial Cancellation of Withdrawal Application was published as FR Doc. 93–31888 in the **Federal Register**, 58 FR 69407, December 30, 1993, as to 7,704.22 acres. There were 640 acres remaining in the application. Establishment of the proposed facility is no longer being pursued and the withdrawal application has been canceled.

The segregative effect associated with the remaining 640 acres terminated in accordance with the notice published as FR Doc. 93–17770 in the **Federal Register**, 58 FR 40154–40155, July 27, 1993.

Dated: June 10, 1997.

William K. Stowers,

Lands Team Lead.

[FR Doc. 97–16261 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–HC–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 14, 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 8, 1997.

Carol D. Shull,

Keeper of the National Register.

Arkansas

Lonoke County

First Christian Church, Jct. of 2nd and Depot Sts., Lonoke, 97000748

Pulaski County

Railroad Call Historic District, 108, 112, and 114 S. Pulaski St., Little Rock, 97000749

California

Los Angeles County

Crank House, 2186 Crary St., Altadena vicinity, 97000751

Santa Barbara County

Acacia Lodge, 109 Miramar Ave., Santa Barbara, 97000750

Delaware

New Castle County

Cooch's Bridge Historic District (Boundary Decrease), W of Newark, off DE 896, Newark vicinity, 97000790

Sussex County

Thompson's Island Site (Boundary Increase), address restricted, Rohoboth Beach vicinity, 97000789

Georgia

Habersham County

Olgetree Farm, Jct. of Pea Ridge Rd. and Paradise Park Rd., View, 97000753

Meriwether County

Carmel Rural Historic District, E of GA 85. Roughly bounded by Winky Branch, Gable and Sullivan Mill Rds., Flint R., and White Oak Cr., Alvaton vicinity, 97000752

Richmond County

Sands Hill Historic District, Roughly bounded by Monte Sano and North View Aves., Mount Auburn St., Johns Rd., and Augusta Country Club., Augusta, 97000754

Washington County

Warthen Historic District, Jct. of GA 15, GA 102, Warthen St., Old Sadersville-Sparta and Walker Dairy Rds., Warthen, 97000755

Idaho

Bannock County

Lava High School Gymnasium, 202 W. Fife, Lava Hot Springs, 97000764

Blaine County

Cold Springs Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS) Over the Big Wood R. 0.5 mi. S of jct. of US 93 abd ID 367, Ketchum vicinity, 97000762

Gimlet Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS), Over the Big Wood R. 0.5 mi. S of jct. of US 93 and E. Fork Wood River Rd., Ketchum vicinity, 97000757

Fremont County

Conant Creek Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS), Over the Conant Creek. 1 mi. S of jct. of Squirrel Rd. and Old Ashton-Victor RR spur tracks, Grainville vicinity, 97000756

Independent Order of Odd Fellows Hall, Jct. of 6th Ave. and Main St., Ashton, 97000763

St. Anthony Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS), Over Henry's Fork. 0.5 mi. S of jct. of S. Parker Rd. and West Belt Branch RR tracks, St. Anthony vicinity, 97000761

Gem County

Sweet Methodist Episcopal Church, 7200 Sweet-Ola Hwy, Sweet, 97000766

Jefferson County

Grace Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS), Over the Bear R. 0.5 mi. NNW of jct. of ID 34 and Turner Rd., Grace vicinity, 97000758

Ririe A Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS), Over the Snake R. 1 mi. NNE of jct. of Heise Rd. and East Belt Branch RR tracks, Ririe vicinity, 97000759

Ririe B Pegram Truss Railroad Bridge (Pegram Truss Railroad Bridges of Idaho MPS), Over the Snake R. flood channel, 0.5 mi. NNE of jct. of Heise Rd. and East Belt Branch RR tracks, Ririe vicinity, 97000760

Kootenai County

Young, Samuel and Ann, House, 120 4th Ave., Post Falls, 97000765

Louisiana

East Baton Rouge Parish, Baton Rouge National Cemetery (Civil War Era National Cemeteries MPS), 220 N. 19th St., Baton Rouge, 97000768

Rapides Parish, Alexandria National Cemetery (Civil War Era National Cemeteries MPS), 209 Shamrock Ave., Pineville, 97000767

Mississippi

Alcorn County

Union Earthworks, 0.5 mi NE of jct. of US 45 and MS 356, Rienzi vicinity, 97000770

Holmes County

Holmes County State Park (State Parks in Mississippi built by the CCC,1934–1942 MPS), Between I–55 and MS 51. 1 mi. S of Durrant, Durrant vicinity, 97000769

Nebraska

Scotts Bluff County

Sandford Hall, 130625 County Rd. E., Mitchell, 97000771

New Jersey

Camden County

Oaks Historic District, The, Roughly bounded by W. Maple Ave., Browning Rd., Volan St., and Oak Terrace, Merchantville, 97000772

Essex County

St. Casimir's Roman Catholic Church, 164 Nichols St., Newark, 97000773

New Mexico

Bernalillo County

Barelas—South Fourth Street Historic District (Auto-oriented Commercial Development in Albuquerque MPS) 4th St. from Stover Ave. to Bridge St., Albuquerque, 97000774

North Carolina

Wake County

Purefoy—Dunn Plantation (Boundary Decrease), E side of US 1, 0.3 mi. N of US 1A, Wake Forest vicinity, 97000788

Pennsylvania

Philadelphia County

Philadelphia National Cemetery (Civil War Era National Cemeteries MPS), Jct. of Haines St. and Limekiln Rd., Philadelphia, 97000775

South Carolina

Beaufort County

McLeod Farmstead, Seabrook Rd. 1 mi. W of SC 21 and 10 mi. N of Beaufort, Seabrook, 97000776

Richland County

McMaster School, 1106 Pickens St., Columbia, 97000777

Saluda County

Stevens—Dorn Farmstead, Co. Rd. 156. 0.5 mi. S of jct. of Co. Rd. 156 and US 178, Saluda, 97000778

Tennessee

Rhea County Broyles—Darwin House, 108 Idaho, Dayton, 97000779

Texas

Hidalgo County

Miller, Sam and Marjorie, House, 707 N. 15th St., McAllen, 97000780

Stephens County

Stephens County Courthouse, 200 W. Walker St., Breckenridge, 97000781

West Virginia

Gilmer County

Duck Run Cable Suspension Bridge, Over the Kanawha R. S of jct. of WV 5 and WV 30, Trubada, 97000783

Kanawha County

St. Albans Chesapeake and Ohio Railroad Depot, 410 4th Ave., St. Albans, 97000785

Preston County

Terra Alta Bank, 109 E. Washington St., Terra Alta, 97000786

Putnam County

Gold Houses, The, 503 and 505 N. Second St., Mason, 97000784

Wetzel County

War Memorial Building, 501 N. Main St., New Martinsville, 97000787

Wisconsin

La Crosse County

Bell Coulee Shelter (Wisconsin Indian Rock Art Sites MPS), address restricted, Mindoro vicinity, 97000782

[FR Doc. 97–16384 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection requests for the titles described below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection requests describe the nature of the information collections and their expected burden and cost.

DATES: Comments must be submitted on or before July 23, 1997. To be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783. You may also contact Mr. Trelease at jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OSM has submitted two requests to OMB to renew its approval of the collections of information found at 30 CFR Part 761, Areas designated by act of Congress, and Part 876, Acid mine drainage treatment and abatement program. OSM is requesting a 3-year term of approval of these information collection activities.

An agency may not conduct or sponsor, and person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for these collections of information are 1029–0102 and 1029–0104, respectively.

As required under 5 CFR 1320.8(d), **Federal Register** notices soliciting comments on these collections of information were published on April 7, 1997 (62 FR 16606), for Part 876, and on April 10, 1997 (62 FR 17635), for Part 761. No comments were received from either notice. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

Title: Areas Designated by Act of Congress—30CFR Part 761.

OMB Control Number: 1029–0102.

Summary: OSM and State regulatory authorities use the information collected under 30 CFR Part 761 to ensure that persons planning to conduct surface coal mining operations on the lands protected by § 522(e) of the Surface Mining Control and Reclamation Act of 1977 have the right to do so under one of the exemptions or waivers provided by this section of the Act.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Persons planning to conduct coal mining and reclamation operations and State regulatory authorities.

Total Annual Responses: 620.

Total Annual Burden Hours: 1.6 hours.

Title: Acid mine drainage treatment and abatement program, 30 CFR 876.

OMB Control Number: 1029–0104.

Summary: This part establishes the requirements and procedures allowing State and Indian Tribes to establish acid mine drainage abatement and treatment programs under the Abandoned Mine Land fund as directed through Public Law 101–508.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: State governments and Indian Tribes.

Total Annual Responses: 1.

Total Annual Burden Hours: 350.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1997.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 97–16330 Filed 6–20–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; survey.

Protocal: COPS MORE (Making Oficer Redeployment Effective) '95.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 23, 1997.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice, Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington DC, 20530. Additionally comments may be submitted to DOJ via facsimile to 202–514–1590.

Written comments and suggestions from the public and affected agencies should address one of the following points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of this information collection.

(1) Type of Information Collection: New collection.

(2) Title of the Form/Collection: Survey Protocol: COPS MORE (Making Officer Redeployment Effective) '95.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: COPS 18/01. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: State, local and tribal law enforcement agencies that received a COPS MORE '95 grant and that were selected to participate in a phone survey. COPS MORE (Making Officer Redeployment Effective) '95 provided grant monies to selected law enforcement agencies that submitted grant applications requesting financial assistance for the purchase of equipment, hiring of civilians, and provision of overtime resulting in the redeployment of law enforcement officers to community oriented policing activities. The 1994 Crime Bill states that grants for equipment, technology, and support systems may not be awarded in FY 1998–2000 unless the Attorney General has certified that grants awarded in fiscal years 1995–1997 have resulted in an increase in the number of officers deployed in community policing. the survey in consideration covers all areas necessary to determine the effectiveness of COPS MORE '95 in meeting the above criteria.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: Survey Protocol: COPS MORE (Making Officer Redeployment Effective) '95: Approximately 200 respondents, at 1.25 hours per response (including record-keeping).

(6) Estimate of the total public burden (in hours) associated with the collection: approximately 250 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: June 17, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16252 Filed 6–20–97; 8:45 am]

BILLING CODE 4410–10–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 16–97]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Monday, June 30, 1997, 9:30 a.m.

SUBJECT MATTER: Consideration of Proposed Decisions on claims of Holocaust survivors against Germany.

STATUS: Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579; Telephone: (202) 616–6988.

Dated at Washington, DC, June 18, 1997

Judith H. Lock,

Administrative Officer.

[FR Doc. 97–16440 Filed 6–18–97; 4.52 pm]

BILLING CODE 4410–01–P

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 17–97]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATES AND TIMES: Monday, July 7, 1997, 10:00 a.m. to 5:00 p.m. Tuesday, July 8, 1997, 10:00 a.m. to 5:00 p.m. Wednesday, July 9, 1997, 10:00 a.m. to 5:00 p.m. Thursday, July 10, 1997, 10:00 a.m. to 5:00 p.m. Friday, July 11, 1997, 10:00 a.m. to 5:00 p.m. Monday, July 14, 1997, 10:00 a.m. to 5:00 p.m. Tuesday, July 15, 1997, 10:00 a.m. to 5:00 p.m. Wednesday, July 16, 1997, 10:00 a.m. to 5:00 p.m. Thursday, July 17, 1997, 10:00 a.m. to 5:00 p.m. Friday, July 18, 1997, 10:00 a.m. to 5:00 p.m.

SUBJECT MATTER: (1) Oral Hearings on Objections to the Commission's Proposed Decision on the Scope of the Holocaust Survivors Claims Program, Decision No. HS-I, issued June 16, 1997; (2) Consideration of individual Proposed Decisions on claims of Holocaust survivors against Germany.

STATUS: Closed.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579; Telephone: (202) 616–6988.

Dated at Washington, DC, June 18, 1997.

Judith H. Lock,

Administrative Officer.

[FR Doc. 97–16441 Filed 6–18–97; 4:52 pm]

BILLING CODE 4410–01–P

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ)–1138]

RIN 1121–ZA84

National Institute of Justice Solicitation ''Data Resources Program Funding for the Analysis of Existing Data''

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 ''Data Resources Program Funding for the Analysis of Existing Data.''

DATES: The deadlines for receipt of proposals are close of business August 15 and December 15, 1997, and April 15, August 15, and December 15, 1998.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, NW, Room 303, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: 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, Section 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice is seeking applicants to conduct original research using data from the National Archive of Criminal Justice Data, especially data from previous NIJ-funded projects. The Institute is particularly interested in proposals addressing these issues: sentencing, drugs and the criminal justice system, violence, and policing. Special consideration will be given to proposals providing direct applications to criminal justice policy or practice or suggesting innovative applications of emerging statistical techniques and analytic methodologies.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Data Resources Program Funding for the Analysis of Existing Data'' (refer to document no. SL 000232). 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.

Dated:

Jeremy Travis, Director,

National Institute of Justice.

[FR Doc. 97–16344 Filed 6–20–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ)–1137]

RIN 1121–ZA83

National Institute of Justice Solicitation for Effectiveness of Victims of Crime Act Funding in Meeting the Needs of Crime Victims

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 ''Effectiveness of Victims of Crime Act Funding in Meeting the Needs of Crime Victims.''

DATES: The deadline for receipt of proposals is close of business August 1, 1997.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Effectiveness of Victims of Crime Act Funding in Meeting the Needs of Crime Victims'' (refer to document no. SL000231). For general information about application procedures for solicitations or for copies of the solicitations, application guidelines and forms, please call the U.S. Department of Justice Response Center 1–800-421–6770. 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/fedgrant.htmınij. 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.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, Section 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice (NIJ), with the support of the Office for Victims of Crime (OVC),is undertaking a multi year evaluation effort to assess the effectiveness of the Victims of Crime Act (VOCA) funded compensation and assistance programs in meeting the needs of crime victims. The overall program will yield: (a) A needs assessment from the victim's point of view; (b) an assessment of the services available to victims from VOCA and other federally-funded victim programs of financial compensation and assistance, as well as other local and private victim services; (c) identification of unmet needs such as gaps in service or access to compensation; and (d) suggestions for improving the delivery of and payment for services to all crime victims. The products from this effort will provide an evaluation of VOCA compensation and assistance programs, along with guidelines for increasing their utility and effectiveness in meeting the needs of crime victims.

This solicitation is the first phase in the effort; it will fund innovative and creative pilot tests of recommended approaches to be followed in a subsequent separately-funded national effort to identify crime victims and their needs, the sources of aid they sought and received to meet these needs, the adequacy of this aid in meeting those needs, and the impact of VOCA in meeting those needs.

Jeremy Travis, Director,

National Institute of Justice.

[FR Doc. 97–16343 Filed 6–20–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Governor's Coordination and Special Services Plan (GCSSP); 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 Employment and Training Administration is soliciting comments concerning the proposed reinstatement collection of the Governor's Coordination and Special Services Plan (GCSSP).

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 22, 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 clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Barbara DeVeaux, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4670, Washington, DC. 20210; Internet Address: DeVeauxB@DOLETA.GOV; telephone number (202) 219–7533, extension 165 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 121(a) of the Job Training Reform Amendments of 1992 (Pub. L. 102–367, September 7, 1992, effective July 1, 1993) ''any State seeking financial assistance under this Act shall submit a Governor's Coordination and Special Services Plan (GCSSP) for two program years to the Secretary describing the use of all resources provided to the State and its service delivery areas under this Act and evaluating the experience over the preceding two years.''

II. Current Actions

States are required to submit a new GCSSP biennially.

Type of Review: Reinstatement without change.

Agency: Employment and Training Administration.

Title: Governor's Coordination and Special Services Plan (GCSSP).

OMB Number: 1205–0336.

Recordkeeping: These records must be kept for a minimum of three years after the affected program dates.

Affected Public: State and local governments.

Total Respondents: 59.

Frequency: Biennially.

Total responses: 59.

Average Time per Response: 50 hours.

Estimated Total Burden Hours: 2,950.

Total Burden Cost (capital/startup): Federal cost of $54,629. This represents 20 percent of five GS–13's salaries. It is estimated that five GS–13's will spend 20 percent of his/her time on the preparation clearance and dissemination of instructions and the review and processing of the incoming GCSSP for each State.

State cost would be $1,100 per submission. The individual preparing the request is likely to be earning $45,000 per year or $22.00 per hour times 50 hours of preparation.

Total Burden Cost (operating/maintaining): Burden cost for operating and maintaining is the amount of money allowed for the administration of JTPA.

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 public record.

Dated: June 13, 1997.

Peter E. Rell,

Acting Administrator, Office of Job Training Programs.

[FR Doc. 97–16366 Filed 6–20–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Native American Employment and Training Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of Labor has determined that the renewal of the Native American Employment and Training Council is in the public interest consistent with the requirements of title IV, section 401(k)(1) of the Job Training Partnership Act (JTPA).

The Council will provide advice to the Assistant Secretary for Employment and Training regarding the overall operation and administration of Native American programs authorized under title IV, section 401, as amended, as well as the implementation of other programs providing services to Native American youth and adults under this Act. The Assistant Secretary views the Council as the primary vehicle to accomplish the Department's commitment to work in partnership with the Indian and Native American community on employment and training concerns.

The Council shall consist of no less than 17 Indians, Alaskan Natives, and Hawaiian Natives appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Alaskan Native, or Hawaiian Native organizations. An equitable geographic distribution will be sought, in addition to appropriate representation of both tribes and non-tribal organizations. The members shall not be compensated and shall not be deemed to be employees of the United States.

The Council will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the renewal of the Native American Employment and Training Council. Such comments should be addressed to: Mr. Thomas M. Dowd, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW, Room N–4641, Washington, DC 20210. Telephone: (202) 219–8502 ext 119 (this is not a toll free number).

Signed at Washington, DC this 17th day of June, 1997.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 97–16367 Filed 6–20–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Number ICR–97–19]

Agency Information Collection Activities: Proposed Collection; Comment Request; Access to Employee Exposure and Medical Records

AGENCY: Occupatonal Safety and Health Administration (OSHA), Department of Labor.

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) [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

Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Access to Employee Exposure and Medical Records Standard 29 CFR 1910.1020. 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 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.

DATES: Comments must be submitted on or before August 22, 1997.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–97–19, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue. NW, Washington, DC 20210, telephone (202) 219–7894.

Written comments limited to 10 pages or fewer may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Contact Todd Owen, Directorate of Health Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue. NW, Washington, DC 20210. Telephone: (202) 219–7075. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Barbara Bielaski at (202) 219–8076 or Todd Owen at (202) 219–7075. For electronic copies of the Information Collection Request on Access to Employee Exposure and Medical Records contact OSHA's WebPage on Internet at http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Access to Employee Exposure and Medical Records Standard and its information collection requirements are to provide employees and their designated representatives the right to access relevant exposure and medical records, and to provide representatives of the Assistant Secretary the right of access to these records in order to fulfill responsibilities under the Occupational Safety and Health Act. Access by employees, their representatives, and the Assistant Secretary is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this standard, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records.

II. Current Actions

This action requests an extension of the current Office of Management and Budget approval of the paperwork requirements in the Access to Employee Exposure and Medical Records Standards.

Extension is necessary to continue to allow employee, employee designated representatives and OSHA access to exposure and medical records.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: Access to Employee Exposure and Medical Records 29 CFR 1910.1020.

OMB Number: 1218–0065.

Agency Number: Docket Number ICR–97–19.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Total Respondents: 747,874.

Frequency: On occasion.

Total Responses: 3,068,284.

Average Time per Response: 0.15 hour.

Estimated Total Burden Hours: 448,886.

Total Annualized capital/startup costs: 0

Total initial annual costs (operating/maintaining systems or purchasing services): $10.00 (for shipping records to the National Institute for Occupational Safety and Health) 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. The comments will become a matter of public record.

Dated: June 17, 1997.

Adam M. Finkel,

Director, Directorate of Health Standards Programs.

[FR Doc. 97–16368 Filed 6–20–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10346, et al.]

Proposed Exemptions; 1st Source Bank

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents

Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

1st Source Bank Located in South Bend, Indiana

[Application No. D–10346]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 F.R. 32836, 32847, August 10, 1990).[1]

Section I—Exemption for In-Kind Transfer of Assets

If the exemption is granted the restrictions of section 406(a) and section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply, effective September 19, 1996, to the in-kind transfer to separate series of an open-end investment company registered under the Investment Company Act of 1940 (the Funds) to which 1st Source Bank or any of its affiliates (collectively, the Bank) serves as investment advisor, and may provide other services, of the assets of various employee benefit plans (the Plans) that are held in certain collective investment funds (the CIFs) maintained by the Bank or otherwise held by the Bank as trustee, investment manager, or in any other capacity as fiduciary on behalf of the Plans, in exchange for shares of such Funds; provided that the following conditions are met:

(A) A fiduciary (the Second Fiduciary) who is acting on behalf of each affected Plan and who is independent of and unrelated to the Bank, as defined in paragraph (G) of Section III below, receives in advance of the investment by the Plan in any of the Funds a full and detailed written disclosure of information concerning such Fund, including, but not limited to:

(1) A current prospectus for each portfolio of each of the Funds in which such Plan is considering investing,

(2) A statement describing the fees for investment management, investment advisory, or other similar services, any fees for secondary services (Secondary Services), as defined in paragraph (H) of section III below, and all other fees to be charged to or paid by the Plan and by such Funds to the Bank, including the nature and extent of any differential between the rates of such fees,

(3) The reasons why the Bank may consider such investment in the Funds to be appropriate for the Plan,

(4) A statement describing whether there are any limitations applicable to the Bank with respect to which assets of a Plan may be invested in the Funds, and, if so, the nature of such limitations, and

(5) Upon request of the Second Fiduciary, a copy of this proposed exemption and/or a copy of the final exemption;

(B)(1) With respect to each of the Funds in which a Plan invests, the Bank will provide the Second Fiduciary of such Plan:

(a) At least annually with a copy of an updated prospectus of such Fund,

(b) Upon the request of such Second Fiduciary, with a report or statement (which may take the form of the most recent financial report, the current statement of additional information or some other written statement) which contains a description of all fees paid by the Fund to the Bank;

(2) On the basis of the information described above in paragraph (A) of this section I, the Second Fiduciary authorizes in writing the in-kind transfer of assets of the Plans in exchange for shares of the Funds, the investment of such assets in corresponding portfolios of the Funds, and the fees received by the Bank in connection with its services to the Funds, such authorization by the Second Fiduciary to be consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act;

(C) No sales commissions or other fees are paid by the Plans in connection with the purchase of Fund shares through the in-kind transfer of Plan assets in the CIFs, and no redemption fees are paid in connection with the sale of such shares by the Plans to the Fund;

(D) All or a *pro rata* portion of the assets of the Plans held in the CIFs or all or a *pro rata* portion of the assets of the Plans held by the Bank in any capacities as fiduciary on behalf of such Plans are transferred in-kind to the Funds in exchange for shares of such Funds;

(E) The Plans receive shares of the Funds that have a total net asset value that is equal to the value of the assets of the Plans or the CIFs exchanged for such shares on the date of transfer, based on the current market value of the assets of the Plans or the CIFs;

(F) The current market value of the assets of the Plans or the CIFs to be transferred in-kind in exchange for shares is determined in a single valuation performed in the same manner and at the close of business on the same day, using independent sources in accordance with the procedures set forth in Rule 17a–7(b) (Rule 17a–7), issued by the Securities and Exchange Commission under the Investment Company Act of 1940, and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the day preceding the CIF or Plan transfers determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of the Bank;

[1] For purposes of this exemption, references to specific provisions of title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

(G) For all conversion transactions that occur after the date of publication in the **Federal Register** of a notice proposing this exemption: Not later than thirty (30) days after completion of each in-kind transfer of assets of the Plans or the CIFs in exchange for shares of the Funds, the Bank sends by regular mail to the Second Fiduciary, as defined in paragraph (G) of Section III below, a written confirmation which contains the following information:

(1) The identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) under the Investment Company Act of 1940;

(2) The price of such asset involved in the transaction; and

(3) The identity of each pricing service or market maker consulted in determining the value of such assets;

(H) No later than ninety (90) days after completion of each in-kind transfer of assets of the Plans or the CIFs in exchange for shares of the Funds, the Bank sends by regular mail to the Second Fiduciary, who is acting on behalf of each affected Plan and who is independent of and unrelated to the Bank, as defined in paragraph (G) of section III below, a written confirmation that contains the following information:

(1) The number of CIF units held by each affected Plan immediately before the transfer, the related per unit value, and the aggregate dollar value of the units transferred; and

(2) The number of shares in the Funds that are held by each affected Plan following the transfer, the related per share net asset value, and the aggregate dollar value of the shares received;

(I) The combined total of all fees received by the Bank for the provision of services to the Plans, and in connection with the provision of services to any of the Funds in which the Plans may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act;

(J) The Bank does not receive any fees payable pursuant to Rule 12b–1 under the Investment Company Act of 1940 in connection with the transactions described herein;

(K) The Plans are not sponsored by the Bank;

(L) All dealings between the Plans and any of the Funds are on a basis no less favorable to the Plans than dealings between the Funds and other shareholders holding the same class of shares as the Plans; and

(M) The requirements of Prohibited Transaction Class Exemption 77–4 (42 FR 18732, April 8, 1977) are met with respect to all arrangements under which investment advisory fees are paid to the Bank directly or indirectly by Plans with assets invested in the Funds.

Section II—General Conditions

(A) The Bank maintains for a period of six years the records necessary to enable the persons, as described in paragraph (B) of this section II, to determine whether the conditions of this exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Bank, the records are lost or destroyed prior to the end of the six (6) year period, and

(2) No party in interest, other than the Bank, shall be subject to the civil penalty that may be assessed under section 503(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (B) of this section;

(B)(1) Except as provided in paragraph (B)(2) of this section II and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (A) of section II above are unconditionally available at their customary location for examination during normal business hours by—

(a) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(b) Any fiduciary of each of the Plans who has authority to acquire or dispose of shares of any of the Funds owned by such a Plan, or any duly authorized employee or representative of such fiduciary, and

(c) Any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraphs (B)(1)(b) and (B)(1)(c) of this section II shall be authorized to examine trade secrets of the Bank or commercial or financial information which is privileged or confidential.

Section III—Definitions

For purposes of this exemption:

(A) The term ''Bank'' means 1st Source Bank and any affiliate of the Bank, as defined in paragraph (B) of this section III.

(B) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(C) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(D) The term ''Fund'' or ''Funds'' means any diversified open-end investment company or companies registered under the Investment Company Act of 1940 for which the Bank serves as investment adviser, and may also provide custodial or other services as approved by such Funds.

(E) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(F) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(G) The term ''Second Fiduciary'' means a fiduciary of a plan who is independent of and unrelated to the Bank. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Bank if:

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank,

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary is an officer, director, partner, or employee of the Bank (or is a relative of such person), or

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, or employee of the Bank (or a relative of such persons) is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of the Plan's investment manager/advisor, (ii) the approval of any purchase or sale by the Plan of shares of the Funds, and (iii) the approval of any change of fees charged

to or paid by the Plan, in connection with any of the transactions described in section I above, then paragraph (G)(2) of section III above shall not apply.

(H) The term ''Secondary Service'' means a service, other than an investment management, investment advisory, or similar service, which is provided by the Bank to the Funds, including but not limited to custodial, accounting, brokerage, administrative or any other service.

EFFECTIVE DATE: This exemption, if granted, will be effective as of September 19, 1996.

Summary of Facts and Representations

1. The Bank is a state chartered banking association having its principal office in South Bend, Indiana. The Bank has total nontrust assets of approximately $1.74 billion and trust assets of approximately $1.17 billion. The 1st Source Corporation, with headquarters in South Bend, owns all of the outstanding stock of the Bank.

2. The Plans involved in the transactions for which the Bank requests exemptive relief are numerous plans for which the Bank has acted or will act as fiduciary and has exercised or will exercise investment discretion with respect to all or a portion of the assets of such Plans.[2] For this reason, specific information relating to each individual Plan does not appear in the application. However, it is anticipated that the Plans include or will include various employee benefit plans, as defined by section 3(3) of the Act, and certain plans or trusts as defined by section 4975(e)(1) of the Code. These Plans are sponsored or maintained by parties unrelated to the Bank[3] and include, among others, pension, profit sharing, stock bonus, and other retirement plans qualified for tax purposes under section 401(a) of the Code, voluntary employees' beneficiary associations and other welfare benefit plans, and individual retirement accounts and simplified employee pension plans described in section 408 of the Code.

The Bank represents that, as fiduciary, it exercises investment discretion with respect to all or a portion of the assets of approximately 443 such Plans having total assets under management by the Bank of approximately $443 million. The Bank receives compensation for serving as fiduciary with respect to these Plans in accordance with standard published fee schedules or as otherwise agreed upon by the Bank and the sponsors of such Plans.[4] The Bank represents that it generally receives separate compensation for investment management services and for administrative services other than investment management. These administrative services include, among others, acting as custodian of the Plan's assets, maintaining Plan records, preparing periodic reports concerning the status of the Plan and its assets, and accounting for Plan contributions and benefit distributions and other receipts and disbursements. Depending on the terms of the Plan's governing documents, the Bank's compensation is paid either from the Plan's assets or by its sponsor.

3. The transactions for which the Bank requests exemptive relief involve the Funds, each which constitutes a separate investment portfolio or a series of portfolios having a separate prospectus and representing a distinct investment vehicle. In the aggregate, the Funds comprise an Ohio business trust registered as an open-end investment company under the Investment Company Act of 1940 (the 1940 Act). The Funds currently include a diversified equity fund, an income equity fund, a special equity fund and an intermediate fixed income fund, along with the a money market portfolio. Additional series may be established in the future, and the existing portfolios may be modified, reorganized, or terminated.

4. BISYS Fund Services Limited Partnership, located in Columbus, Ohio (BISYS), acts as the administrator of the Funds and the distributor of shares of the Funds. BISYS Fund Services, Inc. (BISYS Services), an affiliate of BISYS, is the transfer agent and shareholder servicing agent of the Funds. The Bank represents that BISYS and BISYS Services are unrelated to the Bank. The Funds pay a monthly fee to BISYS for its services. Although the Funds have adopted a plan of distribution in accordance with Rule 12b–1 under the 1940 Act, such plan relates only to retail shareholders and the Bank represents that the Funds do not currently pay any 12b–1 fees to any entity. When sale commissions or ''loads'' or redemption fees are charged in connection with purchases or sales of Fund shares, the Funds implement procedures which exempt the Plans from any such charges. The Bank represents, and the conditions of this proposed exemption require, that in the event the Funds pay any such fees in the future, no portion of such fees will be paid, directly or indirectly to the Bank or any of its affiliates in connection with the acquisition or holding of Fund shares by any Plan with respect to which the Bank or any of its affiliates acts as a fiduciary.

5. The Bank, through the 1st Source Trust Investment Division, acts as investment adviser to the Funds. The Bank receives compensation from the Funds or from BYSIS or BYSIS Services for the services provided to the Funds, and expects to receive compensation for any additional services it may provide in the future.[5] The Bank's compensation is computed daily and paid monthly in accordance with various agreements between the Bank and the Funds, BYSIS, or BYSIS Services. These agreements are approved by the trustees of the Funds and by the shareholders of the Funds. The Fund trustees will also approve any changes in the compensation paid to the Bank for services rendered with respect to the Funds.

6. Investors in the Funds, including Plans, are able to purchase or sell Fund shares in accordance with the standard procedures described in the prospectus for each portfolio. In addition, the Bank makes available to Plans an automated cash management procedure (the ACMP), or ''sweep'' arrangement, whereby otherwise uninvested cash balances of Plan may be invested automatically overnight in the Money Market Portfolio.[6] Under the ACMP, the Bank's computerized system will automatically scan or ''sweep'' the accounts of the affected Plans as of the end of each business day to determine whether such accounts have positive or negative net cash balances. Based on this information, the system will automatically invest the cash of Plans having positive balances down to the last $.01 in shares of the Money Market Portfolio or, in the case of Plans having negative cash balances, automatically liquidate Fund shares held by the Plan

[2] The Department herein is not proposing relief for transactions afforded relief by section 404(c) of the Act.

[3] The Department herein is not proposing relief for transactions involving any plan sponsored by the Bank or its affiliates.

[4] The Department expresses no opinion as to whether the provision of services by the Bank or its affiliates to the Plans satisfies the requirements for statutory exemption, as set forth in section 408(b)(2) of the Act and 29 CFR 2550.408(b)(2) of the Department's regulation. To the extent that such provision of services to the Plan by the Bank or its affiliates does not satisfy the requirements of section 408(b)(2) of the Act, the Department, herein, is offering no relief.

[5] The Department notes that pursuant to paragraph (K) of Section I of the proposed exemption, in any compensation arrangements between the Bank and BYSIS or BYSIS Services, the Bank is prohibited from receiving any fees payable pursuant to Rule 12–b1 of the Investment Company Act of 1940 in connection with any of the transactions described herein.

[6] In this proposed exemption the Department is not proposing any exemptive relief for any transactions relating to the ACMP or the investments by the Plans in the Money Market Portfolio.

as necessary to eliminate the negative balance. The purchases and sales of Fund shares will be effected and posted to the accounts as of the business day following the business day on which the cash balance sweep occurs. The procedure will be fully automated, and the Bank will have no discretion with respect to the timing of the sweep. The Money Market Portfolio will be required to maintain a constant net asset value of $1.00 per share at all times. The Bank will not charge separate or additional fees to Plans participating in the ACMP. A Plan may participate in the ACMP only with the written approval of an independent fiduciary of the Plan based on written disclosures provided by the Bank. The Bank represents that it expects that substantially all Plans served by the Bank will elect to participate in the ACMP. However, a Plan participating in the ACMP may terminate participation at any time by notifying the Bank, orally or in writing. The Bank will take the steps necessary to terminate a Plan's participation as soon as practicable after receipt of the notice. The Bank will impose no fee, charge, or penalty of any kind in connection with a Plan's termination of its participation in the ACMP.

7. The Bank represents that it maintains collective investment funds (the CIFs) in accordance with Regulation 9 promulgated by the Comptroller of the Currency (12 CFR Part 9) and Internal Revenue Service Revenue Ruling 81–100 (1981–1 C.B. 326). The Bank has decided for business reasons to discontinue certain of the CIFs. The Bank believes that the interests of the Plans are better served by the investment of Plan assets in shares of the Funds rather than through the CIFs, for a variety of reasons, summarized as follows: Each of the Funds is valued on a daily basis, and the daily valuation permits almost immediate investment of contributions to a Plan in various types of investments, maximum flexibility in transferring Plan assets from one type of investment to another, and daily redemption of Fund shares for purposes of making distributions or other disbursements under a Plan. In addition, information concerning the investment performance of each of the Funds is available in newspapers of general circulation. This allows Plan sponsors and participants to monitor Fund performance on a daily basis. As shareholders of the Funds, the Plans receive disclosures mandated by the Securities and Exchange Commission and have the opportunity to exercise voting and other shareholder rights conferred by the 1940 Act. Finally, Fund shares may be distributed in kind to retiring or terminating participants, whereas interests in CIFs generally must be liquidated or withdrawn to effect distributions. While the CIFs are currently valued on a daily basis, the Funds offer the additional benefits of access to information on investment performance and the availability of disclosure documents.

8. The proposed exemption applies to the in-kind transfer of Plan assets from investment in the CIFs to investment in shares of the Funds, subject to the prior written authorization of an independent fiduciary. No sales commissions are paid by the Plans in connection with the in-kind transfers. All or a pro-rata portion of the assets of the Plans are transferred in-kind in exchange for shares of the Funds. The net asset value of the shares in the Funds received by the Plans equals the value of the assets transferred to the Funds on the date of transfer. In this regard, the proposed exemption requires that each Plan receive Fund shares in connection with the transfer of assets of a terminating CIF which have a net asset value that is equal to the value of the Plan's pro rata share of the CIF assets on the date of the transfer, based on the current market value of such assets as determined in a single valuation as the close of the same business day using independent sources in accordance with procedures established by the Fund which comply with Rule 17a–7 of the 1940 Act. A written confirmation of each transfer transaction is sent to each Plan involved. The proposed exemption does not apply to any receipt by the Bank of compensation for services rendered to any of the Funds where Plan assets have been invested in shares of the Funds. In this regard, with respect to the Bank's receipt of compensation from the Funds for investment advisory services, and the continued receipt of fees from the Plans for services rendered, the proposed exemption requires the Bank to meet all requirements of Prohibited Transaction Class Exemption 77–4 (PTE 77–4, 42 FR 18732, April 8, 1977). With respect to Plan assets invested in shares of the Funds, the Bank's sole compensation for investment advisory services will be the fees paid by the Funds to the Bank. The Bank represents that in accordance with PTE 77–4, no Plan will pay fees to the Bank for investment management services with respect to Plan assets invested in shares of the Fund, and that procedures are proposed which ensure this result, described as follows:

9. *Fees:* Under the current fee structure, the Bank charges the Plans, on a quarterly basis, fees for serving as trustee (Plan-level Fees). Plan-level Fees consist of separate fees for basic administration services, such as reporting, which do not include investment advisory or management services (Admin Fees), and for discretionary investment management services (Investment Fees). The Bank also receives fees, computed and charged daily, from the Funds for investment advisory and management services rendered to the Funds (Fund-level Fees). Under the arrangements of the proposed exemption, the structure of Plan-level fees does not change. The Admin Fee is charged regardless of whether Plan assets are invested in the Funds. The Investment Fee is also charged, but only with respect to Plan assets not invested in the Funds. To the extent that Plan assets are invested in the Funds, the Bank does not charge the Investment Fee with respect to such assets. A division of the Bank, 1st Source Trust Investment Division, receives the Fund-level Fees directly from the Funds. The Bank represents that the total combined Plan-level Fees and Fund-level Fees received by the Bank do not and will not exceed ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.[7]

10. The Bank as fiduciary will not invest Plan assets in shares of the Funds unless a fiduciary of each affected Plan who is unrelated to the Bank (the Second Fiduciary) has authorized such investment. The Bank represents that the Second Fiduciary with respect to each Plan will be the Plan's administrator, sponsor, or a committee appointed by the sponsor to act as a named fiduciary of the Plan. The Bank will not be permitted to invest a Plan's assets in shares of the Funds unless the Second Fiduciary has received full written disclosures concerning the Funds and all compensation received by the Bank in connection with its services to the Funds and, based on such information, authorized the investment under the following procedures:

The Second Fiduciary of each Plan will receive a current prospectus of the Fund portfolios and a written statement describing the compensation received by the Bank in connection with its services to the Funds. The statement will describe applicable limitations, if any, on investments by the Plan in shares of the Funds. On the basis of such information, the Second Fiduciary will authorize in writing the investment

[7] The Department expresses no opinion as to whether the Plan-level Fees and the Fund-level Fees constitute ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

of Plan assets in shares of the Funds and the compensation received by the Bank. The authorization will be terminable at will by the Second Fiduciary, without penalty to the Plan. In the event of any termination of the authorization, the Bank will sell shares of the Funds held by the Plan within one (1) business day following receipt by the Bank of written notice of such termination, unless due to circumstances beyond the control of the Bank, the sale of such shares cannot be executed within one business day, in which case the Bank will have an additional business day to complete such sale.

The exemption also requires the Bank to make certain disclosures to the Second Fiduciary after the transfer transactions in confirmation thereof. Within 30 days after completion of each in-kind transfer of assets of the Plans or the CIFs in exchange for shares of the Funds, the Bank is required to provide the Second Fiduciary with a written confirmation of the transaction which discloses the identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a-7(b)(4) of the Investment Company Act of 1940, the price of each such asset involved in the transaction, and the identity of each pricing service or market maker consulted in determining the value of such assets. Additionally, within 90 days after completion of each in-kind transfer of assets of the Plans or the CIFs in exchange for shares of the Funds, the Bank is required to provide the Second Fiduciary with a written confirmation of the transaction which discloses (1) the number of CIF units held by each affected Plan immediately before the transfer, the related per unit value, and the aggregate dollar value of the units transferred; and (2) the number of shares in the Funds that are held by each affected Plan following the transfer, the related per share net asset value, and the aggregate dollar value of the shares received. The Bank represents that for the conversion transactions which have occurred prior to the publication of this proposed exemption in the **Federal Register**, all of this confirmatory information has been provided to the Second Fiduciary after the completion of each in-kind transfer of assets in exchange for shares of the Funds.

11. The Bank represents that the transactions for which the exemption is requested took place on and after September 9, 1996. Hence, the Bank requests that the exemption be effective retroactively to that date.

12. In summary, the Bank represents that the transactions described herein will satisfy the criteria of section 408(a) of the Act for the following reasons:

(a) The Funds provide the Plans with a more effective investment vehicle than the CIFs maintained by the Bank without any increase in investment management, advisory or similar fees paid to the Bank;

(b) With respect to the transfer of a Plan's CIF assets into a Fund in exchange for Fund shares, a Second Fiduciary authorized in writing such transfer prior to the transaction only after full written disclosure of information concerning the Fund;

(c) Each Plan receives shares of a Fund in connection with the transfer of assets of a terminating CIF which have a net asset value that is equal to the value of the Plan's pro rata share of the CIF assets on the date of the transfer, based on the current market value of such assets as determined in a single valuation at the close of the same business day using independent sources in accordance with procedures established by the Fund which comply with Rule 17a–7 of the 1940 Act;

(d) No sales commissions or other fees, including any fees payable pursuant to Rule 12b–1 of the 1940 Act, are paid by a Plan in connection with the purchase of Fund shares through the in-kind transfer of CIF assets;

(e) The Plans will not pay any ''loads'', redemption fees or sales commissions charged by the Funds in connection with the purchases or sales of Fund shares;

(f) The Bank will provide ongoing disclosures to Second Fiduciaries of the Plans to verify the fees paid to the Bank and its affiliates by the Fund; and

(g) All dealings by or between the Plans and the Fund have been and will remain on a basis which is at least as favorable to the Plans as such dealings with other shareholders of the Fund.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

John Hancock Mutual Life Insurance Company (JH), Located in Boston, Massachusetts

[Application Nos. D–10416–10420]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the: (1) The acquisition by a separate account maintained by JH (the FPGT Account) from Willamette Industries, Inc. (Willamette) of certain oil and gas rights (the Deer Creek Oil and Gas Rights), subject to existing leases (the Leases) of such rights to Enerfin Resources Northwest Limited Partnership (Enerfin), a party in interest with respect to the plans invested in the FPGT Account; and (2) the continuation of the Leases following the acquisition by the FPGT Account, provided the following conditions are satisfied: (a) As part of its decision to enter into the separate account contract establishing the FPGT Account, an independent fiduciary determines that the acquisition of the Deer Creek Oil and Gas Rights is in the interest of the participants of the plans investing in the FPGT Account and that the price paid for the rights is no more than the fair market value of such rights; (b) an independent fiduciary determines that the continuation of the Leases is in the best interests of the FPGT Account; and (c) an independent fiduciary will monitor the performance of Enerfin under the Leases, as well as any proposed modifications or renewals of the Leases, and will take such steps as are necessary to protect the interests of the FPGT Account with respect to the Leases.

Summary of Facts and Representations

1. JH, a Massachusetts corporation, is a mutual life insurance company. JH offers group annuity contracts to contract holders, including retirement plans. Certain of these contracts provide that, in accordance with contract holder direction, the premiums or contributions received under these group annuity contracts will be allocated to segregated asset accounts or ''separate accounts''. A separate account may be established to back a group of substantially identical group annuity contracts issued to a group of unrelated customers (a ''pooled separate account'').

2. JH currently holds legal title to large holdings in timberland. Beneficial ownership in these assets has been allocated to a number of JH pooled and single customer separate accounts known as the ''ForesTree'' separate accounts. JH currently has established a total of fifteen such pooled and non-pooled ForesTree separate accounts which are invested only in timberland. Twenty contract holders currently participate in these ForesTree separate accounts. These contract holders

include both plans covered under the Act and non-ERISA governmental plans. The group annuity contracts state that JH shall be the sole owner of the ForesTree separate account assets and that JH shall have the right to control, manage and administer the account, including the sole discretion to select investments in accordance with the investment policy established by JH for the account.

3. The timberland investments allocated to the ForesTree separate accounts are managed by Hancock Natural Resource Group, Inc. (HNRG), which was established in 1995. HNRG is an indirect, wholly owned subsidiary of JH. Before 1995, HNRG was operated as a unit within JH. HNRG manages 2.2 million acres of timberland currently valued at approximately $2.2 billion. Pursuant to an agreement with JH, HNRG is responsible for all decisions regarding the acquisition and disposition of timberland properties and for the management of the properties, including matters such as timber harvesting and reforestation, road building and maintenance, leases of interests to third parties, acquisition of insurance and payment of taxes. On-site work is performed by independent forest managers under contract with HNRG.

4. JH is engaged in traditional life insurance business, including the sale of all types of life insurance for both the individual and group markets, and the sale of annuity products and long-term care insurance. The premiums received by JH are invested by the company as part of its general account. Currently, JH's general account is approximately $30 billion, which is invested in numerous public and private bonds, mortgages, real estate and other investments.

5. One of the investments in JH's general account is a limited partnership interest in Enerfin. The JH general account is the sole limited partner of Enerfin and is entitled to 99% of the partnership profits. Enerfin III–95, an entity unrelated to JH, is Enerfin's general partner. Enerfin is engaged in the business of leasing oil and gas rights from the fee owners of these mineral interests.

6. JH has entered into an agreement to purchase from Willamette approximately 100,000 acres of timberland located in the State of Oregon known as the Columbia Tree Farm (the Farm). JH is and has always been unaffiliated with Willamette. The purchase price for the Farm is $350 million. The Farm consists of six parcels. Under its agreement with Willamette, JH has a right to purchase some or all of these six parcels before November 15, 1997. Under this agreement, each of the six parcels has been allocated a portion of the total purchase price. This purchase price (and each parcel's allocable share of the purchase price) represents no more than the fair market value of the land and its timber since the price was negotiated at arm's-length between JH and Willamette. In determining the purchase price for the Farm (and the underlying parcels), JH did not take into account any of the oil and gas rights that are appurtenant to the timberland.

7. The Farm is being acquired on behalf of various HNRG pension clients and will be allocated to JH ForesTree separate accounts in which those clients invest. The applicant has requested the exemption proposed herein for certain transactions involving the separate account to which one of the Farm parcels (the Deer Creek Parcel) is to be allocated. This single customer separate account, the FPGT Account, will be established for the First Plaza Group Trust, a collective trust holding assets of certain qualified plans sponsored by General Motors Corporation and its subsidiaries. The named fiduciary with respect to investment activities of each of the plans participating in the First Plaza Group Trust is General Motors Investment Management Corporation (GMIMCo), a wholly owned subsidiary of General Motors Corporation. GMIMCo qualifies as an In-House Asset Manager as that term is defined in Prohibited Transaction Exemption 96–23 (61 FR 15975, April 10, 1996).[8]

8. The following plans participate in the First Plaza Group Trust:

(a) General Motors Hourly Rate Employees Pension Plan, a defined benefit plan which had 609,669 participants and approximately $40 billion in assets as of December 31, 1996;

(b) General Motors Retirement Plan for Salaried Employees, a defined benefit plan with 218,299 participants and approximately $24 billion in assets as of December 31, 1996;

(c) Saturn Individual Retirement Plan for Represented Team Members, a defined contribution plan with 7,315 participants and approximately $103 million in assets as of December 31, 1996;

(d) Saturn Personal Choices Retirement Plan for Non-Represented Team Members, a defined benefit plan with 2,445 participants and approximately $11.5 million in assets as of December 31, 1996;

(e) Employees' Retirement Plan for GMAC Mortgage Corporation, a defined benefit plan with 2,700 participants and approximately $38.8 million as of December 31, 1996;

(f) National Car Rental System, Inc. Hourly Paid Employees' Pension Plan, a defined benefit plan with 2,716 participants and approximately $4.3 million as of December 31, 1996; and

(g) National Car Rental system, Inc. Salaried Employees' Pension Plan, a defined benefit plan with 1,718 participants and approximately $27.6 million in assets as of December 31, 1996.

9. The Deer Creek Parcel is subject to the Leases, two existing oil and gas leases with Enerfin, an affiliate of JH. These Leases are the result of arm's-length negotiations between the prior fee owners of the Deer Creek Parcel and Enerfin's predecessor in interest and were entered into prior to any discussion by JH regarding the purchase of the timberland. As is typical of oil and gas leases, the Leases are long-term leases. While the Leases may terminate if Enerfin fails to develop the mineral rights, if those rights are developed the Leases will continue as long as the Deer Creek Parcel is producing oil or gas. The Leases, which were originally granted in 1985 and 1988, have an approximate current fair market value of $109,000 to the holder of the mineral rights. This value was determined by an appraisal conducted on April 30, 1996 by Forrest A. Garb and Associates (Garb), International Petroleum Consultants of Dallas, Texas, an independent appraiser, which set a total value of $607,000 for all the mineral rights subject to Enerfin leases. On February 11, 1997, at the request of GMIMCo, Garb reviewed the April 30, 1996 appraisal and concluded that the fair market value allocated to the Deer Creek Parcel mineral interests was $109,000.

10. In order to avoid a potential prohibited transaction prior to the granting of the exemption proposed herein, JH purchased for the FPGT Account Willamette's interest in the Deer Creek Parcel exclusive of the Oil and Gas Rights. Closing on the purchase took place on February 14, 1997, pursuant to the agreement between JH and Willamette (see rep. 6, above). Ownership of the Deer Creek Oil and Gas Rights will remain with Willamette. The $52,052,432 purchase price originally established between

[8] The applicant represents that JH and GMIMCo did not purport to rely on PTE 96–23 for the transactions which are the subject of the exemption proposed herein because such reliance may have required GMIMCo to exercise a level of discretion with respect to the transactions that would be inappropriate given the fiduciary structure of the separate account and could adversely impact the parties' compliance with other applicable law.

Willamette and JH for the Deer Creek Parcel was reduced by the fair market value of the Oil and Gas Rights because it originally included such rights. Once the exemption proposed herein is granted, JH on behalf of the FPGT Account will purchase the Deer Creek Oil and Gas Rights from Willamette. The transfer of the Deer Creek Oil and Gas Rights to the FPGT Account will not in any way affect the obligations and rights of Enerfin or the lessor under the Leases. Following the transfer, the lease payments will be paid by Enerfin to the new lessor, JH (on behalf of the FPGT Account).

11. As part of its decision to enter into the separate account contract establishing the FPGT Account, GMIMCo has reviewed and approved the acquisition of the Deer Creek Oil and Gas Rights, including the purchase price and the underlying Enerfin Leases. GMIMCo will also monitor Enerfin's performance under the Leases, including any proposed modification of the Leases, and will take any steps necessary to protect the interest of the plans. It is not contemplated that any changes will be made to the Leases.

12. The applicant represents that denial of the exemption proposed herein would preclude the FPGT Account from taking advantage of the investment opportunity offered by the Deer Creek Parcel solely because of pre-existing and relatively insignificant Leases to a partnership owned by JH. The Leases were originally entered into between Enerfin's predecessor in interest and unrelated third parties and are arm's-length contracts that, if anything, add to the value of the Deer Creek Parcel. The Leases will provide additional cash flow income to the FPGT Account that was not taken into account at the time the purchase price for the Deer Creek Parcel was established.

13. In summary, the applicant represents that the proposed transactions satisfy the criteria contained in section 408(a) of the Act because: (a) the consideration to be paid for the Deer Creek Oil and Gas Rights has been determined by arm's-length negotiations between JH, acting on behalf of plans invested in the FPGT Account, and Willamette, and has been validated by an independent appraisal performed by Garb; (b) the Leases are pre-existing contracts that were negotiated at arm's-length between unrelated parties; (c) as part of its decision to enter into a separate account contract establishing the FPGT Account, a plan fiduciary unaffiliated with JH has reviewed and approved all terms of the acquisition of the Deer Creek Oil and Gas Rights, including the underlying Enerfin Leases; and (d) the independent fiduciary will monitor Enerfin's performance under the Leases to ensure that the plans' interests are protected.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

AmSouth Bank of Alabama (AmSouth) Located in Birmingham, Alabama

[Application No. D–10422]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I—Transactions

If the exemption is granted, the restrictions of section 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the receipt of fees by AmSouth from the AmSouth Mutual Funds, or any other diversified open-end investment companies registered under the Investment Company Act of 1940 (the Funds), for acting as an investment adviser for the Funds as well as for providing other services to the Funds which are ''Secondary Services'' as defined in Section III(h), in connection with the investment by the Client Plans in shares of the Funds, provided that the conditions set forth in Section II below are met.

Section II—Condition

(a) Each Client Plan satisfies either (but not both) of the following:

(1) The Client Plan receives a cash credit of such Plan's proportionate share of all fees charged to the Funds by AmSouth for investment advisory services, including any investment advisory fees paid by AmSouth to third party sub-advisers, no later than one business day after the receipt of such fees by AmSouth. The crediting of all such fees to the Client Plans by AmSouth is audited by an independent accounting firm on at least an annual basis to verify the proper crediting of the fees to each Plan; or

(2) The Client Plan does not pay any Plan-level investment management fees, investment advisory fees, or similar fees to AmSouth with respect to any of the assets of such Plan which are invested in shares of any of the Funds. This condition does not preclude the payment of investment advisory or similar fees by the Funds to AmSouth under the terms of an investment management agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the 1940 Act), nor does it preclude the payment of fees for Secondary Services to AmSouth pursuant to a duly adopted agreement between AmSouth and the Funds.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined in Section III(e), and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) AmSouth, including any officer or director of AmSouth, does not purchase or sell shares of the Funds from or to any Client Plan.

(d) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds and no redemption fees are paid in connection with the sale of shares by the Client Plans to the Funds.

(e) For each Client Plan, the combined total of all fees received by AmSouth for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(f) AmSouth does not receive any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by AmSouth.

(h) The Second Fiduciary receives, in advance of any initial investment by the Client Plan in a Fund, full and detailed written disclosure of information concerning the Funds, including but not limited to:

(1) A current prospectus for each Fund in which a Client Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, any secondary services as defined in Section III(h), and all other fees to be charged to or paid by the Client Plan and by the Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why AmSouth may consider such investment to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to AmSouth with respect to which assets of a Client Plan may be invested in the

Funds, and if so, the nature of such limitations; and

(5) Upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, if granted, once such documents are published in the **Federal Register**.

(i) After consideration of the information described above in paragraph (h), the Second Fiduciary authorizes in writing the investment of assets of the Client Plan in each particular Fund and the fees to be paid by such Funds to AmSouth.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to AmSouth are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by AmSouth of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) above (the Termination Form) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually; provided that the Termination Form need not be supplied to the Second Fiduciary pursuant to this paragraph sooner than six months after such Termination Form is supplied pursuant to paragraph (l) below, except to the extent required by such paragraph in order to disclose an additional service or fee increase. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by AmSouth of written notice from the Second Fiduciary; and

(2) Failure to return the Termination Form will result in continued authorization of AmSouth to engage in the transactions described in paragraph (i) on behalf of the Client Plan.

(k) For each Client Plan using the fee structure described in paragraph (a)(1) above with respect to investments in a particular Fund, the Second Fiduciary of the Client Plan receives full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by AmSouth to the Funds for investment advisory services, prior to the effective date of such increase.

(l)(1) For each Client Plan using the fee structure described in paragraph (a)(2) above with respect to investments in a particular Fund, an increase in the rate of fees paid by the Fund to AmSouth regarding any investment management services, investment advisory services, or similar services that AmSouth provides to the Fund over an existing rate for such services that had been authorized by a Second Fiduciary in accordance with paragraph (i) above; or

(2) For any Client Plan under this proposed exemption, an addition of a Secondary Service (as defined in Section III(h) below) provided by AmSouth to the Fund for which a fee is charged, or an increase in the rate of any fee paid by the Funds to AmSouth for any Secondary Service that results either from an increase in the rate of such fee or from the decrease in the number of kind of services performed by AmSouth for such fee over an existing rate for such Secondary Service which had been authorized by the Second Fiduciary of a Client Plan in accordance with paragraph (i) above;

AmSouth will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the additional service for which a fee is charged or of the increase in fees) to the Second Fiduciary of the Client Plan. Such notice shall be accompanied by a Termination Form with instructions as described in paragraph (j) above.

(m) On an annual basis, AmSouth provides the Second Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds in which the Client Plan invests and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds which contains a description of all fees paid by the Funds to AmSouth;

(2) A copy of the annual financial disclosure report prepared by AmSouth which includes information about the Fund portfolios as well as audit findings of an independent auditor within 60 days of the preparation of the report; and

(3) Oral or written responses to inquiries of the Second Fiduciary as they arise.

(n) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with AmSouth, AmSouth will provide the Second Fiduciary of such Plan at least annually with a statement specifying:

(1) The total, expressed in dollars, of brokerage commissions of each Fund that are paid to AmSouth by such Fund;

(2) The total, expressed in dollars, of brokerage commissions of each Fund that are paid by such Fund to brokerage firms unrelated to AmSouth;

(3) The average brokerage commissions per share, expressed as cents per share, paid to AmSouth by each Fund; and

(4) The average brokerage commissions per share, expressed as cents per share, paid by each Fund to brokerage firms unrelated to AmSouth.

(o) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Plans than dealings with other shareholders of the Funds.

(p) AmSouth maintains for a period of six years the records necessary to enable the persons described below in paragraph (q) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of AmSouth, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than AmSouth or an affiliate shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (q) below.

(q)(1) Except as provided below in paragraph (b)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (p) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service, (ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (q)(1)(ii) and (iii) shall be authorized to examine trade secrets of AmSouth, or commercial or financial information which is privileged or confidential.

Section III—Definitions

For purposes of this proposed exemption:

(a) The term ''AmSouth'' means AmSouth Bank of Alabama and any affiliate thereof as defined below in paragraph (b) of this section.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' shall include the AmSouth Mutual Funds or any other diversified open-end investment company or companies registered under the 1940 Act for which AmSouth serves as an investment adviser and may also serve as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, Fund accountant, or provide some other ''Secondary Service'' (as defined below in paragraph (h) of this Section) which has been approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to AmSouth. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to AmSouth if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with AmSouth;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner or employee of AmSouth (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this proposed exemption.

If an officer, director, partner or employee of AmSouth (or relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Sections I and II above, then paragraph (g)(2) of this section shall not apply.

(h) The term ''Secondary Service'' means a service other than an investment management, investment advisory, or similar service, which is provided by AmSouth to the Funds, including (but not limited to) custodian services, transfer and dividend disbursing agent services, administrator or sub-administrator services, accounting services, shareholder servicing agent services and brokerage services.

(i) The term ''Termination Form'' means the form supplied to the Second Fiduciary which expressly provides an election to the Second Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (i) of Section II. Such Termination Form may be used at will by the Second Fiduciary to terminate an authorization without penalty to the Client Plan and to notify AmSouth in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by AmSouth of the form; provided that if, due to circumstances beyond the control of AmSouth, the sale cannot be executed within one business day, AmSouth shall have one additional business day to complete such sale.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective as of April 16, 1997.

Summary of Facts and Representations

1. AmSouth is an Alabama banking corporation that serves as trustee, investment manager and/or custodian to a number of employee benefit plans. As of October 31, 1996, AmSouth and its affiliates—AmSouth Bank of Tennessee and AmSouth Bank of Florida—had approximately $20 billion in assets under administration, of which $6.4 billion were assets of employee benefits plans covered under the Act as well as other benefit plans. AmSouth and its affiliates are subsidiaries of AmSouth Bancorporation. References made herein to AmSouth are intended to refer both to AmSouth and its affiliates.

2. AmSouth acts as a trustee, directed trustee, investment manager, and/or custodian for the Client Plans. The Client Plans may include various pension, profit sharing, and stock bonus plans as well as voluntary employees' beneficiary associations, supplemental unemployment benefit plans, simplified employee benefit plans, retirement plans for self-employed individuals (i.e. Keogh Plans) and individual retirement accounts (IRAs). Some of the Client Plans may be participant-directed individual account plans.

As custodian of a Client Plan, AmSouth is responsible for maintaining custody over all or a portion of the Client Plan's assets, for providing trust accounting and valuation services, for asset and transaction reporting, and for execution and settlement of directed transactions. Where AmSouth serves as trustee or directed trustee, it is responsible for ownership of the assets of the Client Plan, and may provide additional trust services such as benefit payments, loan processing, and participant accounting. Where AmSouth is also acting as the investment manager, AmSouth has investment discretion over the Client Plan's assets and is responsible for implementing the Plan's funding policies and investment objectives within the guidelines established by the plan sponsor or named fiduciary.

The Client Plans pay fees in accordance with fee schedules negotiated with AmSouth. Fees for custodian, trustee and investment management services are based on a percentage of assets in the account, subject to certain minimum fee amounts. AmSouth also may provide other services to a Client Plan, as selected by the Client Plan sponsor or named fiduciary. Fees may be paid by the Client Plan or the Client Plan sponsor, depending on the particular circumstances.

The specific Client Plans of AmSouth for which this proposed exemption is being requested are those to which AmSouth or an affiliate is a fiduciary and whose assets either (i) are currently invested in the Funds, or (ii) may be invested in the Funds in the future.

However, AmSouth does not seek relief for investments in the Funds by any employee benefit plans maintained by AmSouth or an affiliate for its own employees (the Bank Plans).[9]

[9] AmSouth represents that it will comply with the requirements of Prohibited Transaction Exemption (PTE) 77–3, 42 FR 18734 (April 8, 1977), with respect to any investments in the Funds made by the Bank Plans. PTE 77–3 permits the acquisition or sale of shares of a registered, open-end

Continued

3. The AmSouth Mutual Funds, a Massachusetts business trust organized on October 1, 1987, are registered as an open-end investment company with the Securities and Exchange Commission (SEC) under the 1940 Act.

AmSouth Mutual Funds consist of eleven investment portfolios (each a ''Fund'') representing distinct investment vehicles, which have their own prospectuses or joint prospectuses with one or more other Funds. The shares of each Fund represent proportionate interests in the assets of that Fund.

The nine Funds currently available for investment by the Client Plans in connection with the transactions described herein are the following: (i) The AmSouth Equity Fund; (ii) the AmSouth Regional Equity Fund; (iii) the AmSouth Balanced Fund; (iv) the AmSouth Bond Fund; (v) the AmSouth Limited Maturity Fund; (vi) the AmSouth Government Income Fund; (vii) the AmSouth Prime Obligations Fund; (viii) the AmSouth U.S. Treasury Fund; and (ix) the AmSouth Tax Exempt Fund.[10]

The overall management of the Funds, including the negotiation of investment advisory contracts, rests with the Board of Trustees of the Funds, all of whose current members are independent of AmSouth and its affiliates. The Board of Trustees of each Fund is elected by the shareholders of the Fund.

AmSouth serves as the investment adviser to each Fund within the meaning of the 1940 Act. AmSouth receives investment advisory fees from the Funds that vary between 0.30 percent and 0.80 percent of a Fund's average net assets on an annual basis, depending on the particular Fund and subject to voluntary fee waivers by AmSouth.

AmSouth also serves as a sub-administrator for the Funds. As sub-administrator, AmSouth is responsible for assisting the administrator of the Funds in clerical, recordkeeping and administrative services relating to the legal compliance and day-to-day operations of the Funds. AmSouth receives fees from the administrator of the Funds for its services as the sub-administrator in accordance with an agreement between the Funds and the administrator. In addition, AmSouth was selected by the Funds to serve as custodian for the Funds, effective as of April 16, 1997, pursuant to the conditions of this proposed exemption. Thus, AmSouth receives fees for custody services provided to the Funds in accordance with custodial services agreements between itself and such Funds.

The other service providers to the Funds are currently independent of and unaffiliated with AmSouth. These service-providers include: (i) The administrator, ASO Services Company, Inc.; (ii) the distributor, BISYS Fund Services, L.P. (formerly the Winsbury Company); and (iii) the transfer agent and fund accountant, BISYS Funds Services of Ohio, Inc.

Purchases of shares of the Funds may be subject to a sales charge. However, sales charges are waived for investments by investors for whom AmSouth or an affiliate acts as a fiduciary, including the Client Plans. AmSouth and its affiliates also will not receive any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the transactions involving the Client Plans.

4. AmSouth represents that there are material advantages to the Client Plans from the use of the Funds as investment vehicles. AmSouth states that the Funds provide a means for Client Plans of all sizes to receive the benefits of AmSouth's investment management expertise and greater diversification than would be available through a separate account arrangement. The Funds are also valued on a daily basis. The daily valuation permits: (i) Immediate investment of Client Plan contributions in varied types of investments; (ii) greater flexibility in transferring assets from one type of investment to another; and (iii) daily redemption of investments for purposes of making distributions. Information concerning the investment performance of most of the Funds is available each day in newspapers of general circulation, which allows Client Plan sponsors and participants to monitor the performance of their investments on a daily basis. Fund shares can be given to participants in Client Plan distributions, thus avoiding the expense and delay of liquidating plan investments and facilitating roll-overs into IRAs.

Investments by Client Plans in the Funds occur through direct purchases of shares of the Funds on an ongoing basis. No sales commissions or redemption fees are charged in connection with the purchase or sale of Fund shares by Client Plan customers of AmSouth.

5. Because AmSouth is considered a fiduciary with respect to a Client Plan as to which it serves as trustee and serves as an investment adviser to the Funds (and receives fees for such investment advisory services), AmSouth has required that any Client Plan's investments in the Funds meet the conditions of Prohibited Transaction Exemption 77–4 (PTE 77–4, 42 FR 18732, April 8, 1977) to avoid engaging in a prohibited transaction in connection with such investments.[11]

In order to meet the conditions of PTE 77–4 that a Client Plan not pay duplicative fees for investment advisory services, AmSouth states that it has not charged a Client Plan any direct fees for investment management with respect to assets that are invested in the Funds. These Client Plans have paid fees to AmSouth solely for non-investment trust or custody services. AmSouth states that the fees it has received for investment management of a Client Plan's assets have come solely from the Funds in accordance with the respective advisory agreements between such Funds and AmSouth.

AmSouth states that Client Plans have not paid any commissions or other sales charges in connection with their investments in the Funds, as required under PTE 77–4. In addition, the applicant states that all of the other conditions of PTE 77–4, including advance written disclosure of information to a Client Plan regarding the fees to be received by AmSouth from each Fund and advance written authorization from an independent fiduciary of such Client Plan for investment in the Fund and the receipt of fees from the Fund by AmSouth, have been met.[12]

investment company by an employee benefit plan covering only employees of such investment company, employees of the investment adviser or principal underwriter for such investment company, or employees of any affiliated person (as defined therein) of such investment adviser or principal underwriter, provided certain conditions are met. The Department is expressing no opinion in this proposed exemption regarding whether any of the transactions with the Funds by the Bank Plans would be covered by PTE 77–3.

[10] The applicant states that the Client Plans generally do not invest in tax-free or tax-exempt Funds because the investment returns of such Plans are already tax-exempt.

[11] PTE 77–4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that, among other things, the plan does not pay an investment management, investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. Section II(c) of PTE 77–4 states that this condition does not preclude the payment of investment advisory fees by the investment company under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940. Section II(c) states further that this condition does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's pro rata share of investment advisory fees paid by the investment company.

[12] The Department is expressing no opinion in this proposed exemption as to whether the transactions with the Funds by Client Plans managed by AmSouth have met the conditions necessary for an exemption under PTE 77–4.

6. AmSouth is requesting an individual exemption that, like the relief provided by PTE 77–4, would permit the receipt of fees by AmSouth or an affiliate from the Funds for acting as investment adviser as well as for providing non-advisory services (i.e. ''Secondary Services'' as defined herein). The applicant states that the conditions of this proposed exemption are based on PTE 77–4. However, there are two differences between the conditions of PTE 77–4 and the conditions proposed herein:

(i) the use of a ''termination form'' under this proposed exemption would take the place of the PTE 77–4 requirement that an independent plan fiduciary (referred to therein as a ''Second Fiduciary'') affirmatively approve any changes in the rates of fees charged by the mutual funds; and

(ii) the Client Plans subject to this proposed exemption may, as an alternative to not paying a plan-level investment management fee to AmSouth for any assets invested in the Fund shares (referred to as an ''offset'' fee structure), receive a cash credit of such Plan's proportionate share of the Funds' investment advisory fees (referred to as a ''crediting'' fee structure).

AmSouth will charge investment advisory fees to the Funds in accordance with the investment advisory agreements between AmSouth and the Funds. These agreements will be approved by the independent members of the Board of Trustees of the Funds, in accordance with the applicable provisions of the 1940 Act, and any subsequent changes in the fees will have to be approved by such Trustees. These fees also will not be increased without the approval of the shareholders of the affected Funds. The fees will be paid monthly by the Funds. In addition, AmSouth will charge fees for custody services it provides to the Funds in accordance with custodial services agreements with the Funds.

AmSouth will avoid charging the Client Plans duplicative investment management fees by either: (a) crediting the Client Plan's pro rata share of the Fund advisory fees back to the Client Plan; or (b) waiving any investment management fee for the Client Plan at the Plan-level.

Crediting Fee Structure

7. The ''crediting'' fee structure will be designed to preserve the negotiated fee rates of the Client Plans so as to minimize the impact of the change to the Funds on a Client Plan's fees. AmSouth will charge a Client Plan its standard fees as applicable to the particular Client Plan for serving as trustee, directed trustee, investment manager or custodian. At the beginning of each month, and in no event later than one business day after the payment of investment advisory fees by the Funds to AmSouth for the previous month, AmSouth will credit to each Client Plan in cash its proportionate share of all investment advisory fees charged by AmSouth to the Funds for the previous month. The credit will include the Client Plan's share of any investment advisory fees paid by AmSouth to third party sub-advisors.

AmSouth states that the credit will not include the custodial fees or other fees for secondary services payable by the Funds to AmSouth because such services rendered at the Fund-level will not be duplicative of any services provided directly to the Client Plan. For example, the custodial services to the Funds will involve maintaining custody and providing reporting relative to the individual securities owned by the Funds. The services to the Client Plans will involve maintaining custody over all or a portion of the Client Plans' assets (which may include Fund shares, but not the assets underlying the Fund shares), providing trust accounting and participant accounting (if applicable), providing asset and transaction reporting, execution and settlement of directed transactions, processing benefit payments and loans, maintaining participant accounts, valuing plan assets, conducting non-discrimination testing, preparing Forms 5500 and other required filings, and producing statements and reports regarding overall plan and individual participant holdings. AmSouth states that these trust services will be necessary regardless of whether the Client Plans' assets are invested in the Funds. Thus, AmSouth represents that its receipt of fees for both secondary services at the Fund-level and trustee services at the Plan-level will not involve the receipt of ''double fees'' for duplicative services to the Client Plans because a Fund will be charged for custody and other services relative to the individual securities owned by the Fund, while a Client Plan will be charged for the maintenance of Plan accounts reflecting ownership of the Fund shares and other assets.[13]

AmSouth represents that for each Client Plan, the combined total of all fees it receives directly and indirectly from the Client Plans for the provision of services to the Plans and/or to the Funds will not be in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.[14]

8. AmSouth will maintain a system of internal accounting controls for the crediting of all fees to the Client Plans. In addition, AmSouth has retained the services of Ernst & Young LLP (the Auditor), an independent accounting firm, to audit annually the crediting of fees to the Client Plans under this program. Such audits will provide independent verification of the proper crediting to the Client Plans.

In its annual audit of the credit program, the Auditor will: (i) verify on a test basis the investment advisory fees paid by the Funds to AmSouth; (ii) verify on a test basis the daily factors used to determine the investment advisory fees; (iii) verify on a test basis the credits paid in total for a one-month period; (iv) recompute, on a test basis using the daily factors described above, the amount of the credit determined for selected plans; (v) verify on a test basis the proper assignment of identification fields for receipt of fee credits to the plans; and (vi) verify on a test basis that the credits were posted to the plans within one business day.

In the event either the internal audit by AmSouth or the independent audit by the Auditor identifies an error made in the crediting of fees to the Client Plans, AmSouth will correct the error. With respect to any shortfall in credited fees to a Client Plan, AmSouth will make a cash payment to the Client Plan equal to the amount of the error plus interest paid at money market rates offered by AmSouth for the period involved. Any excess credits made to a Client Plan will be corrected by an appropriate deduction from the Client Plan account or reallocation of cash during the next payment period after

[13] The Department notes that although certain transactions and fee arrangements are the subject of an administrative exemption, a Client Plan fiduciary must still adhere to the general fiduciary responsibility provisions of section 404 of the Act. Thus, the Department cautions the fiduciaries of the Client Plans investing in the Funds that they will have an ongoing duty under section 404 of the Act to monitor the services provided to the Client Plans to assure that the fees paid by the Client Plans for such services are reasonable in relation to the value of the services provided. Such responsibilities will include determinations that the services provided are not duplicative and that the fees are reasonable based on the level of services provided.

The Department also notes that AmSouth, as a trustee and investment manager for a Client Plan in connection with the decision to invest Client Plan assets in the Funds, will have a fiduciary duty to monitor all fees paid by a Fund to AmSouth, its affiliates, and third parties for services provided to the Fund to ensure that the totality of such fees will be reasonable and will not involve the payment of any ''double'' fees for duplicative services to the Fund by such parties.

[14] The Department is expressing no opinion in this proposed exemption as to whether the fee arrangements discussed herein will comply with section 408(b)(2) of the Act and the regulations thereunder (see 29 CFR 2550.408b–2).

discovery of the error to reflect accurately the amount of total credits due to the Client Plan for the period involved.

9. AmSouth represents that the use of the ''crediting'' fee structure will be available for investments made by Client Plans in the Funds in situations where: (i) the Client Plan sponsor wishes to pay all fees of the Client Plan, including investment management; and (ii) fees charged by AmSouth at the Plan-level are negotiated. With respect to (i) above, AmSouth states that the Client Plan sponsor would not be able to take over payment of the investment management fees if the ''offset'' structure (as discussed further below) were used because in such instances the investment management fees would be paid directly out of the Client Plan's investment in the Funds. With respect to (ii) above, AmSouth states that from time to time Plan-level fees are negotiated to amounts which are below AmSouth's published fee schedules due to competitive pressures in the marketplace. When the negotiated fees paid at the Plan-level are less than the investment advisory fees paid to AmSouth by the Funds, the ''credit'' method would be used as it would be the most beneficial and practical method available to accommodate these Client Plans.

The use of the ''crediting'' fee structure must be approved prior to the Client Plan's initial investment in the Funds by a Second Fiduciary acting for the Client Plan. The Second Fiduciary will receive full and detailed written disclosure of information concerning the Funds in advance of any investment by the Client Plan in the Funds, including the Fund prospectuses as well as a separate statement describing the crediting fee structure.

After consideration of such information, the Second Fiduciary will authorize in writing the investment of assets of the Client Plan in one or more specified Funds and the fees to be paid by the Funds to AmSouth. In addition, the Second Fiduciary of each Client Plan invested in a particular Fund will receive full written disclosure, in a statement separate from the Fund prospectus, of any proposed increases in the rates of fees charged by AmSouth to the Funds for secondary services which are above the rates reflected in the Fund prospectuses, at least thirty (30) days prior to the effective date of such increase.

In the event that AmSouth provides an additional secondary service for which a fee is charged or there is an increase in the rate of fees paid by the Funds to AmSouth for any secondary service, including any increase resulting from a decrease in the number or kind of services performed by AmSouth for such fees in connection with a previously authorized secondary service, AmSouth will, at least 30 days in advance of the implementation of such additional service or fee increase, provide written notice to the Second Fiduciary explaining the nature and the amount of the additional service for which a fee will be charged or the nature and amount of the increase in fees of the affected Fund.[15] Such notice will be made separate from the Fund prospectus and will be accompanied by a Termination Form. The Second Fiduciary also will receive full written disclosure in a Fund prospectus or otherwise of any increases in the rate of fees charged by AmSouth to the Funds for investment advisory services prior to the effective date of such increases, even though these fees will be credited to the investing Client Plans.

The authorizations made by a Second Fiduciary of any Client Plan will be terminable at will, without penalty to the Client Plan, upon receipt by AmSouth of written notice of termination. A form (the Termination Form) expressly providing an election to terminate the authorization, with instructions on the use of the form, will be supplied to the Second Fiduciary no less than annually. However, the Termination Form will not need to be supplied to the Second Fiduciary for an annual reauthorization sooner than six months after such Termination Form is supplied for an additional service or for an increase in fees (as discussed above), unless another Termination Form is required to disclose additional services or fee increases. The Termination Form will instruct the Second Fiduciary that the authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by AmSouth of written notice from the Second Fiduciary, and that failure to return the Termination Form will result in the continued authorization of AmSouth to engage in the subject transactions on behalf of the Client Plan.

The Termination Form will be used to notify AmSouth in writing to effect a termination by selling the shares of the Funds held by the Client Plan, requesting such termination within one business day following receipt by AmSouth of the form. If, due to circumstances beyond the control of AmSouth, the sale cannot be executed within one business day, AmSouth will be obligated to complete the sale within the next business day.

Offset Fee Structure

10. AmSouth represents that small and mid-size Client Plans that invest in the Funds would be offered an ''offset'' fee structure (i.e. a waiver of the investment management fee for the Client Plan at the Plan-level) rather than a ''crediting'' fee structure (i.e. a credit of the Client Plan's pro rata share of Fund-level advisory fees back to the Client Plan). These Client Plans typically would be so-called ''401(k)'' Plans (i.e. deferred compensation arrangements pursuant to section 401(k) of the Code) that are designed to be simple, standardized products using fixed fee arrangements. In addition, AmSouth typically would offer the ''offset'' fee structure for other plan products when Plan-level fees are not negotiated to an amount which is below AmSouth's published fee schedule.[16] In these cases, if the Second Fiduciary authorizes the ''offset'' fee structure under this proposed exemption, AmSouth will waive Plan-level investment management fees that would otherwise be charged for the Client Plan's assets invested in the Funds, so that the Plan-level fees will be ''offset'' and the Client Plan will pay only one investment management fee for those assets, at the Fund-level.[17] This ''offset''

[15] With respect to increases in fees, the Department notes that an increase in the amount of a fee for an existing secondary service (other than through an increase in the value of the underlying assets in the Funds) or the imposition of a fee for a newly-established secondary service shall be considered an increase in the rate of such fees. However, in the event a secondary service fee has already been described in writing to the Second Fiduciary and the Second Fiduciary has provided authorization for the fee, and such fee was temporarily waived, no further action by AmSouth would be required in order for the Bank to receive such fee at a later time. Thus, for example, no further disclosure would be necessary if AmSouth had received authorization for a fee for custodial services from Plan investors and subsequently determined to waive all or a portion of the fee for a period of time in order to attract new investors but later charged the full fee.

[16] AmSouth states that larger Client Plans often may negotiate Plan-level fees to amounts below AmSouth's published fee schedule. If, as a result of the negotiations, the Plan-level investment management fees are less than the Fund-level investment advisory fees, the Client Plan would benefit more from a Fund-level fee credit than an ''offset'' of the Plan-level fees for assets invested in the Funds.

[17] In this regard, the Department notes that when a Second Fiduciary authorizes a particular fee structure to prevent AmSouth from receiving ''double fees'' for investment management and investment advisory services, AmSouth's disclosures to the Second Fiduciary should, in a clear and concise manner, reveal sufficient information to the Second Fiduciary to enable such Fiduciary to determine the nature and extent of any differentials between the rates of fees charged at the Plan-level and the rates of fees charged at the Fund-level. Such information would enable the Second Fiduciary to adhere to its duties and responsibilities under section 404 of the Act to act prudently when

fee structure, which is similar to one of the fee structures described in PTE 77–4, will ensure that AmSouth does not receive any duplicative investment management, advisory or similar fees as a result of investments in the Funds by the Client Plans.

Disclosures, approvals, and notifications with regard to any changes in fees or secondary services will be handled in the same manner as for the ''credit'' fee structure described in paragraph 9 above, with one exception. The exception is that notifications with regard to increases in rates of investment advisory fees for the Funds will conform to the procedures for increases in rates of secondary service fees as described in paragraph 9. Therefore, in such instances, there will be prior written notification of the fee increase to the Second Fiduciary for the Client Plan, in a statement separate from the Fund prospectus, and a Termination Form will be provided. The reason for the exception is that the total fees paid by the Client Plan, under the ''offset'' fee structure, will be directly affected by any increases in the rates of Fund-level investment advisory fees because such fees will not be credited back to the Client Plan.

11. AmSouth states that a Second Fiduciary will always receive a written statement giving full disclosure of the fee structures prior to any investment in the Funds. The disclosure statement will explain why AmSouth believes that the investment of assets of the Client Plan in the Funds may be appropriate. The disclosure statement also will describe whether there are any limitations on AmSouth with respect to which Client Plan assets may be invested in shares of the Funds and, if so, the nature of such limitations.[18]

12. On an annual basis, the Second Fiduciary of a Client Plan investing in the Funds will receive copies of the current Fund prospectuses and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds as well as copies of the annual financial disclosure reports containing information about the Fund and independent auditor findings.

In addition, if the Funds obtain brokerage services in the future from any broker-dealers that are affiliates of AmSouth, AmSouth will provide at least annually to the Second Fiduciary of Client Plans investing in the Funds written disclosures indicating the following: (i) the total, expressed in dollars, of brokerage commissions of each Fund that are paid to AmSouth by such Fund; (ii) the total, expressed in dollars, of brokerage commissions of each Fund that are paid by such Fund to brokerage firms unrelated to AmSouth; (iii) the average brokerage commissions per share, expressed as cents per share, paid to AmSouth by each Fund portfolio; and (iv) the average brokerage commissions per share, expressed as cents per share, paid by each Fund portfolio to brokerage firms unrelated to AmSouth. All such brokerage services would be provided in accordance with section 17(e) of the 1940 Act and Rule 17e-1 thereunder. Such provisions require, among other things, that the commissions, fees or other remuneration for any brokerage services provided by an affiliate of an investment company's investment adviser be reasonable and fair compared to what other brokers receive for comparable transactions involving similar securities.

13. No sales commissions will be paid by the Client Plans in connection with the purchase or sale of shares of the Funds. In addition, no redemption fees will be paid in connection with the sale of shares by the Client Plans to the Funds. AmSouth states that it will not receive any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the transactions covered by this proposed exemption. AmSouth states further that all other dealings between the Client Plans and the Funds will be on a basis no less favorable to the Client Plans than such dealings will be with the other shareholders of the Funds.

14. In summary, AmSouth represents that the transactions described herein will satisfy the statutory criteria of section 408(a) of the Act because: (a) the Funds will provide the Client Plans with an effective investment vehicle without any duplicative investment management, advisory or similar fees paid to AmSouth; (b) AmSouth will require annual audits by an independent accounting firm to verify the proper crediting to the Client Plans of investment advisory fees charged by AmSouth to the Funds under the ''crediting'' fee structure; (c) with respect to any investments in a Fund by the Client Plans and the payment of any fees by the Fund to AmSouth, a Second Fiduciary will receive full written disclosure of information concerning the Fund, including a current prospectus and a statement describing the fee structure, and will authorize in writing the investment of the Client Plan's assets in the Fund and the fees paid by the Fund to AmSouth; (d) any authorizations made by a Client Plan regarding investments in a Fund and fees to be paid to AmSouth, or any increases in the rates of fees for secondary services which will be retained by AmSouth, will be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by AmSouth of written notice of termination from the Second Fiduciary; (e) no commissions or redemption fees will be paid by the Client Plan in connection with either the acquisition of Fund shares or the sale of Fund shares; (f) AmSouth will not receive any fees payable pursuant to Rule 12b-1 under the 1940 Act in connection with the subject transactions; and (g) all dealings between the Client Plans and the Funds will be on a basis which is at least as favorable to the Client Plans as such dealings are with other shareholders of the Funds.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all Second Fiduciaries of Client Plans that were invested in the Funds as of the effective date of the proposed exemption (i.e. April 16, 1997). In addition, notice of the proposed exemption shall be given to Client Plans that are currently invested in the Funds, as of the date the notice of the proposed exemption is published in the **Federal Register**, where AmSouth is providing services to the Funds and receives fees which would be covered by the proposed exemption, if granted.

Notice to interested persons shall be provided by first class mail within thirty (30) days following the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs all interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within sixty () days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

approving and monitoring the services provided to the Client Plan and would help ensure that the fees paid for such services are reasonable.

[18] See section II(d) of PTE 77–4 which requires, in pertinent part, that an independent plan fiduciary receive a current prospectus issued by the investment company and a full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including a discussion of whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations.

Alloy Die Casting Co. Employees' Profit Sharing Plan and Trust (the Plan) Located in Anaheim, California

[Application No. D–10439]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to the Alloy Die Casting Co./W.E. Holmes, Inc. (Alloy), the Plan sponsor and a party in interest with respect to the Plan, of units (the Units) in the Krupp Insured Plus-II Limited Partnership (the Partnership), provided: (a) the sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; and (c) the Plan will receive the greater of: (1) $13.05 per Unit, or (2) $1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale.

Summary of Facts and Representations

1. Alloy, an Anaheim, California corporation, is the sponsor of the Plan. The Plan is a profit sharing plan which had 148 participants and aggregate assets with an approximate fair market value of $3,873,829 as of December 31, 1996.

2. On July 21, 1987, the Plan bought 51,282 Units in the Partnership for $1 million. The Plan's cost basis was $19.50 per Unit. Through February 27, 1997, the Plan had received distributions from the Partnership in the amount of $14.88 per Unit. Consequently, the unrecovered cost to the Plan of the Units is currently $4.62 per Unit.

3. Alloy was sold in 1996, and the Plan is in the process of being terminated and liquidated. All assets of the Plan, with the exception of the Units, have been converted into cash or short-term equivalents.

4. The Partnership is a Massachusetts limited partnership which invests primarily in federally insured mortgages on multi-family residential properties through the purchase of mortgage-backed securities. Krupp Insured Plus Corp. (Krupp) and Mortgage Services Partners Limited Partnership are the general partners of the Partnership. The applicant represents that the Units cannot be converted into short-term cash equivalents because transfers of the Units are subject to certain restrictions whereby Unit holders are not able to liquidate their investment.[19] As a result of these restrictions, it is not administratively feasible for the Plan to distribute the Units to the participants; instead, it must sell the Units in order to distribute each participant's pro-rata share of the value of such Units in cash.

5. The applicant represents that there is no established market for the Units. Alloy has therefore requested the exemption proposed herein to purchase the Units from the Plan for cash. The applicant represents that no commissions will be paid in connection with the transaction. Alloy has offered to pay the Plan $1.15 per Unit in excess of the fair market value of the Units as determined by the highest bid price at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale. The applicant states that Krupp has represented that the most recent sealed bid auction took place on February 14, 1997, at which time the average price paid per Unit was $11.55, and the highest price paid per Unit was $11.90. Thus, Alloy has offered to pay the Plan the higher of: (a) $13.05 per Unit, or (b) $1.15 per Unit above the highest bid price for the Units at the most recent sealed bid auction which has occurred prior to the date of the sale.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) the sale would be a one-time transaction for cash, and no commissions or other expenses would be paid by the Plan in connection with the transaction; (b) the transaction will provide liquidity for the Plan which is currently being terminated; c) the purchase price for the Units will exceed the Plan's original cost for the Units less distributions received from the Partnership; and (d) the Plan will receive not less than $1.15 more per Unit than the highest bid price at the most recent sealed bid auction for the Units.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

[19] The Department notes that the decisions to acquire and hold the Units are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department herein is not proposing relief for any violations of Part 4 of the Act which may have arisen as a result of the acquisition and holding of the Units.

Signed at Washington, DC, this 18th day of June, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–16361 Filed 6–20–97; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–33; Exemption Application No. D–10011]

Grant of Individual Exemption to Make Permanent as Modified Prohibited Transaction Exemption (PTE) 91–8 Involving Equitable Life Assurance Society of the United States and its Affiliates (Equitable) and Equitable Real Estate Management, Inc. (ERE)[1], Located in New York, New York

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Grant of individual exemption to make permanent as modified PTE 91–8, which involves Equitable and ERE.

SUMMARY: This document contains a final individual exemption to make permanent as modified the temporary relief provided by PTE 91–8 (56 FR 1411/1419, January 14, 1991). PTE 91–8 is a temporary exemption which expired January 13, 1996. This exemption makes permanent as modified PTE 91–8 and provides relief for the provision of property management and/or leasing services by ERE to an Account (as defined in Section IV below), provided that the conditions set forth in Section II are met.

EFFECTIVE DATE: The Department of Labor is extending the temporary exemptive relief provided under PTE 91–8 until the date the final exemption is published in the **Federal Register**. However, effective January 13, 1996 until the date the final exemption is published in the **Federal Register**, Equitable and ERE have a period of up to 90 days after the end of each calendar year to prepare the annual report required by this exemption pursuant to Section II(4)(a).

Thereafter, PTE 91–8, as modified and made permanent, is effective on the date the final exemption is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan, Office of Exemption Determinations, U.S. Department of Labor, telephone (202) 219–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 6, 1996, the Department of Labor (the Department) published in the **Federal Register** (61 FR 47205/47214) a notice of proposed exemption to make permanent as modified PTE 91–8 (the Notice). PTE 91–8 provides an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code.

This exemption to make permanent PTE 91–8 was requested in an exemption application by Equitable and ERE pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption to make permanent PTE 91–8 is being issued solely by the Department.

The Notice gave interested persons an opportunity to comment on the proposed exemption and to request a hearing. The Department received five written comments. Three comments and an additional clarifying comment were filed by the representatives of certain pension plans that currently participate in one or more of the Accounts to which ERE provides property management and/or leasing services as described herein. The comments generally raised issues about certain aspects of the Notice, and were subsequently sent by the Department to Equitable and ERE for their response. Set forth below in paragraph 2 is a list of each of the points made by the commentators together with the responses to those points from Equitable and ERE and Jackson Cross Company as the Independent Fiduciary for the transactions described herein.

The fourth and fifth comment were filed by Equitable and ERE and generally request clarifications and modifications to the Notice.

Accordingly, upon consideration of the entire record, including the written comments, the Department has determined to grant the exemption subject to certain modifications. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on September 6, 1996 at 61 FR 47205/47214.

A summary description of PTE 91–8 and this exemption; a discussion of the comments; and the Department's modifications are addressed below.

1. Description of PTE 91–8 and of this exemption

This exemption makes permanent as modified PTE 91–8. PTE 91–8 was a temporary individual exemption which permits the provision of certain real estate property management and, in some instances, leasing services by EREIM[2], affiliates of EREIM and Tishman Speyer Properties[3], to various real estate separate accounts (the Accounts) in which employee benefit plans participate. The Accounts are managed by Equitable, EREIM or subsidiaries thereof. PTE 91–8 also permitted the provision, by the law department of Equitable, of certain legal services to the Accounts required in connection with individual properties held by the Accounts[4]. This exemption to make permanent as modified PTE 91–8 was requested by Equitable and ERE pursuant to Paragraphs IX and X of the notice of proposed exemption relating to PTE 91–8 that was published in the **Federal Register** on February 28, 1990 at 55 FR 7057/7069. Furthermore, pursuant to Paragraphs IX and X of the notice of proposed exemption relating to PTE 91–8, the application for a

[1] By letter dated April 23, 1997, the applicants have informed the Department that Equitable has agreed to sell ERE to Lend Lease Corporation Limited, effective on or about June 10, 1997. Lend Lease Corporation Limited is an Australian-based real estate and financial management company with substantial business operations in the United States. Also, see the comment submitted by Equitable and ERE regarding the status of ERE under this exemption.

[2] At the time PTE 91–8 was granted, ERE or Equitable Real Estate Investment Management, Inc. was known as EREIM, and was an indirect wholly owned subsidiary of Equitable.

[3] In the Notice, Equitable represented that Tishman Speyer Properties (TSP), a partnership in which Equitable had a 50 percent ownership interest at the time PTE 91–8 was issued, is no longer affiliated with Equitable, and requested that this exemption be inapplicable to TSP. Accordingly, the Department determined that this exemption will not apply to TSP.

[4] In the Notice, Equitable represented that under PTE 91–8 the exemption for the provision of legal services to the Accounts by Equitable's in-house law department was never implemented. Therefore, Equitable requested that this exemption eliminate reference to the relief for the provision of legal services by the law department to the Accounts. Accordingly, in this exemption the Department eliminates relief for the provision of legal services by the law department to the Accounts.

permanent exemption was to include a report from the Independent Fiduciary expressing such fiduciary's views and rationales with respect to making PTE 91–8 permanent, and whether the Independent Fiduciary under PTE 91–8 believes that cost savings have been achieved for the Accounts. In this regard, Jackson Cross Company (Jackson Cross), as the Independent Fiduciary for property management and leasing services under PTE 91–8, prepared a report regarding cost savings achieved by the Accounts (the Report). In the Report, Jackson Cross stated that the property management and leasing services rendered by Compass Management and Leasing and Compass Retail, two wholly-owned subsidiaries of ERE, to the Accounts resulted in substantial savings for the benefit of the Accounts.

As stated briefly above, this exemption will permit, on a permanent basis, the provision of property management and/or leasing services by ERE to an Account, provided that the conditions set forth in Section II are met. These conditions require extensive structural safeguards intended to ensure that the transactions described in this exemption operate in the interests of the Accounts and the plans participating therein.

Although PTE 91–8 expired on January 13, 1996, the Department has determined to extend the temporary exemptive relief provided under PTE 91–8 from January 13, 1996, until the date the final exemption is published in the **Federal Register**. Thereafter, PTE 91–8, as modified and made permanent, is effective on the date the final exemption is published in the **Federal Register**.

2. Discussion of the Comments

a. Annual Reconfirmation of the Independent Fiduciary

One of the modifications to PTE 91–8 proposed by the Department provided for a procedure pursuant to which authorizing fiduciaries of the plans participating in the Accounts which do not vote in the annual reconfirmation of the Independent Fiduciary would be deemed to support continuation of that Independent Fiduciary. The commentators assert that ''the right to vote in favor or against reconfirmation is an important investor privilege,'' but add that the right to vote ''should not be given up simply by the passage of time.'' Consequently, the commentators urge that a lack of a timely response from investors (within 30 days) should not be interpreted as a vote in favor of reconfirmation of the Independent Fiduciary.

Equitable and ERE agree that the annual reconfirmation procedure is an important protective element of this exemption, but do not believe that a requirement for an affirmative vote is needed to preserve the integrity of this procedure. In administering the multiple services program under PTE 91–8, Equitable and ERE have learned that the authorizing fiduciaries sometimes delay returning, or simply fail to return, the ballot for reconfirmation even though they do not object, and in fact support, the continued service of the Independent Fiduciary. This can be detrimental not only to the plan represented by such an authorizing fiduciary, but also to all the other plans that participate in the Accounts. An authorizing fiduciary's failure to respond to the reconfirmation request by returning the ballot in a timely fashion creates uncertainty as to whether the exemption will continue to be available for ERE and its affiliates to continue providing property management and leasing services to the Accounts. Therefore, in the event Equitable and ERE do not receive a requisite number of affirmative votes, there is a risk that the multiple services program will have to be discontinued and, accordingly, the savings to the Accounts will be lost. It is the view of Equitable and ERE that the commentators have not given sufficient attention to this risk.

Equitable and ERE believe that there is an acceptable alternative to the affirmative reconfirmation procedure envisioned by the commentators. Equitable and ERE propose instituting additional procedures to assure that each authorizing fiduciary has an opportunity to vote and that the implications of a vote or a failure to vote are made clear. These procedures would include: (i) A requirement that each authorizing fiduciary be provided a ballot by certified mail (or another method of delivery pursuant to which confirmation of receipt is provided); (ii) a requirement that the ballot clearly indicate that the authorizing fiduciary may vote for or against continuation of the Independent Fiduciary; (iii) a requirement that the ballot must be accompanied by a statement that failure to return the ballot within 45 days after receipt of the ballot will be counted as a ''for'' vote; and (iv) a requirement that 30 days after Equitable or ERE mails the ballot to the authorizing fiduciary, Equitable and ERE must make at least one follow-up contact with the authorizing fiduciary that has not previously returned the ballot prior to treating the unreturned ballot as a ''for'' vote. If Equitable or ERE does not receive a response from the authorizing fiduciary within 15 days after initiating contact with the authorizing fiduciary, Equitable and ERE may treat the unreturned ballot as a vote for reconfirmation. The reconfirmation would be effective on the earlier of the date affirmative ballots are obtained from the holders of a majority of the units of beneficial interests in the Accounts, or 45 days following the authorizing fiduciaries' receipt of the ballots (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation).

Therefore, to address the commentators' concern regarding the right to vote and the integrity of the voting process, Equitable and ERE believe that the following paragraph should be substituted in place of the language that is currently in paragraph (b) at the end of Section II(4), such that the new Section II(4)(b) should read as follows:

''Equitable or ERE implements procedures to ensure each authorizing fiduciary has an opportunity to vote on the reconfirmation of the Independent Fiduciary. These procedures require that Equitable or ERE: (i) Provide each authorizing fiduciary with a ballot by certified mail (or another method of delivery pursuant to which confirmation of receipt is provided); (ii) ensure that the ballot clearly indicates that the authorizing fiduciary may vote for or against continuation of the Independent Fiduciary; (iii) ensure that the ballot must be accompanied by a statement that failure to return the ballot within 45 days following the authorizing fiduciaries' receipt of the ballots will be counted as a ''for'' vote (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation); and (iv) 30 days after Equitable and ERE mails the ballot to the authorizing fiduciary, Equitable and ERE must make at least one follow-up contact with the authorizing fiduciary that has not previously returned the ballot prior to treating the unreturned ballot as a ''for'' vote. If Equitable or ERE does not receive a response from the authorizing fiduciary within 15 days after initiating contact with the authorizing fiduciary, Equitable and ERE may treat the unreturned ballot as a vote for reconfirmation. The reconfirmation will become effective on the earlier of the date affirmative ballots are obtained from the holders of a majority of the units of beneficial interests in the Accounts, or 45 days following the

authorizing fiduciaries' receipt of the ballots (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation.)''

In this way, it will be confirmed that each of the authorizing fiduciaries has received a hard copy of the ballot, and that each authorizing fiduciary has the right to exercise its voting power if it so desires.

The Department concurs with this suggestion and has incorporated the language stated above into a new paragraph (b) at the end of Section II(4) of this exemption.

b. The 90-day Annual Reporting Time Frame

The Notice specified that Equitable and ERE would have a period of up to 90 days after the end of each calendar year to prepare the annual report required by this exemption. The commentators object to this modification, although they recognize Equitable and ERE's need for additional time to produce the annual report, and therefore indicate that they are less averse to ''* * * some additional time for this type of special report (e.g., 60 days after quarter end) * * *''.

Equitable and ERE note that with respect to the annual reports previously prepared, Equitable had to frequently rely on estimated, rather than actual data. When Equitable relied only on estimated data it could meet the 45-day time frame provided by PTE 91–8. However, Equitable and ERE believe it would be in the interest of the Accounts and the plans participating therein, to receive an annual report which is based on actual financial information.[5]

Equitable and ERE believe that it would be appropriate for the Accounts to wait a modest amount of time in order to obtain a more accurate annual report. However, in response to the commentators' concerns, the applicants propose that Equitable and ERE would have a period of 75 days after the end of each calendar year to prepare the annual report required by this exemption. The 75-day period is necessary because: (i) The preparation of the annual report involves two different entities, ERE and the Independent Fiduciary, which have manually-intensive computation responsibilities; and (ii) the extensive financial information that ERE must compile is a major part of an annual report, and such information is not generally available until sometime early in the second month following year-end. Thus, Equitable and ERE cannot even initiate the process for preparing an annual report containing actual data until after that time.

Furthermore, ERE's responsibilities include preparing a separate package of information with respect to each property. This package includes information extracted from the property's year-end financial results, budget projections, an analysis of market conditions, ERE's internal valuations, and projections for management and leasing fees. At this stage, the appropriate ERE manager reviews for accuracy the data compiled manually for each package and tests overall property and portfolio limitations. ERE then finalizes each package of information by including additional property-specific information.

In this regard, the Department concurs with Equitable and ERE's arguments as set forth herein, and has determined to modify Section II(4)(a) of the Notice by substituting ''75 days'' for ''90 days'', such that Section II(4)(a) of this exemption should read, in relevant part: ''* * * with the Annual Report containing the information described in this paragraph, not less frequently than once a year and not later than 75 days following the end of the period to which the report relates.''

c. Increase of Investment Limitation for Equitable In-House Plans

The Notice proposed to increase the investment limitation for Equitable in-house plans from 5 percent to 10 percent, and thus, Equitable in-house plans may invest up to 10 percent of its assets in any Accounts covered by PTE 91–8. The commentators approve of the increase, but maintain that Equitable in-house plans should not receive the same voting rights as those granted to the other investors.

In their response to these comments, Equitable and ERE state that the commentators recognize that ''* * * the right to vote * * * is an important investor privilege.'' (See discussion at 2.a., above). Accordingly, Equitable and ERE maintain that Equitable in-house plans, and the participants and beneficiaries of such plans, should not be denied their right to vote on issues affecting operation of such plans simply because of their relationship with Equitable.

Moreover, Equitable and ERE propose and represent that Equitable's in-house plans continue to have voting rights equivalent to other non-Equitable plan investors. However, to address the concerns of the commentators, Equitable and ERE represent that the votes of Equitable's in-house plans will not be taken into account if such votes are outcome-dispositive with respect to any issue, including the annual reconfirmation of the Independent Fiduciary, a matter that was of particular concern to the commentators. Therefore, Equitable and ERE propose that the following language be added as a new paragraph(d) in Section II(10) of this exemption:

''Equitable in-house plans shall have the same voting rights as those given to non-Equitable plan investors. However, the votes of Equitable in-house plans shall be disregarded if such votes are outcome-dispositive with respect to any issue.''

The Department concurs with this suggestion and has modified Section II(10) of this exemption by adding new paragraph (d).

d. Proposed Increase in Maximum Leasing Commission

The Notice proposes an increase in the fee ceiling amount to ERE for leases involving outside brokers from 1 percent to 2.75 percent of the lease amount. The commentators suggest that ''the proposed fee increase is substantial and the maximum fee appears high.'' The commentators also maintain that because leasing structures vary by market, they desire to review the leasing commission survey prepared by Equitable to evaluate the reasonableness of the proposed threshold.

The preamble to the Notice explained that Equitable and ERE have determined that the 1 percent limitation was not consistent with the current practice of establishing leasing commissions for transactions involving outside brokers. Equitable and ERE further determined that in most leasing markets, such co-broker leasing fees for the project leasing broker are computed at fifty percent (50%) of the normal new or renewal lease commission fee, which is typically between four (4%) and seven (7%) percent of the total lease payments. Before requesting an increase in the fee limitation, Equitable and ERE obtained an opinion from Jackson Cross, the Independent Fiduciary for property management and leasing services. Accordingly, Mr. Charles F. Seymor, CRE, MAI and chairman of Jackson Cross, stated that based on their experience and studies, leasing fees vary with building size and the competitive situation in individual markets. In most markets, the project leasing broker received 50% of the normal new or releasing commission. Jackson Cross concluded that because the normal full

[5] However, the annual report would still contain some information garnered from estimated data, but such information would be minimal and in conformance with standard accounting procedures.

leasing commission is typically in the range of 4% to 7% of the one year lease amount, the project leasing broker usually received 2% to 3.5% of the annual lease amount. Accordingly, Jackson Cross concluded that restricting ERE to a maximum fee of 1% does not provide adequate compensation and that a higher fee may be required to adequately compensate the responsible agent. Jackson Cross recommended that this ceiling be raised to 2.75%,[6] still subject to the requirement that the Independent Fiduciary must certify an economic benefit to the Accounts before the terms of each contract for leasing and management services are approved. Mr. Seymor of Jackson Cross explained that the proposed maximum 2.75% fee is ample enough to provide adequate incentive to ERE for co-brokered transactions, while providing an economic advantage to the Accounts, when viewed against market data. Furthermore, Jackson Cross reviewed their own and outside contractual fees negotiated for leasing services, derived from data covering 92 properties in 33 separate markets in 24 states. Also, Jackson Cross reviewed additional relevant market data and consulted with established real estate professionals in the relevant market areas. However, to address the commentators' concerns, the applicants represent that during regular business hours, the Independent Fiduciary will provide access to, or copies of, the survey prepared by Equitable to the authorizing fiduciaries upon their request. The Independent Fiduciary may assess a reasonable charge to the authorizing fiduciaries for costs associated with providing access to, or copies of, the survey.

Furthermore, Mr. Seymor reiterates, as alluded to in the Notice, that Jackson Cross as the Independent Fiduciary, will certify that an economic advantage to the Accounts exists before the terms of any leasing or management service contract is approved (61 FR 47210). Equitable and ERE also emphasize herein that the fee limitation of 2.75% is merely a ceiling, and the Independent Fiduciary would consider a fee up to this ceiling only in cases where the market conditions dictate that a fee higher than 1% would be warranted.

To clarify this point, Equitable and ERE suggest that the following new language be added at the end of Section II(13)(b)(3):

''(The Independent Fiduciary must certify that an economic advantage to the Accounts exists before consummation of any leasing or management service contract).''

The Department concurs with this suggestion and has added this new language at the end of Section II(13)(b)(3) of this exemption.

e. Property Management and Leasing Fees

In the notice of proposed exemption relating to PTE 91–8 published in the **Federal Register** on February 28, 1990 (55 FR 7057/7069), Equitable represented that property management and leasing fees charged by the unaffiliated property management firms generally ranged from 4 to 5 percent of gross receipts and average approximately 4.5 percent of the gross receipts. Paragraph X of the notice of proposed exemption relating to PTE 91–8 provided that Equitable, in a future application to the Department for a permanent exemption, demonstrate that the aggregate annual property management and leasing fees charged to each Account (including the allocable cost of the Independent Fiduciary under the exemption) were less than 4.5 percent of the gross receipts earned during each year that ERE or TSP has provided property management and leasing services pursuant to the exemption.[7] Also, the notice of proposed exemption relating to PTE 91–8 specifically stated that if such fees are less than 4.5 percent of the gross receipts, Equitable believes the Department can be assured that the exemption has operated in the best interest of the Accounts. In this regard, the Independent Fiduciary's cost savings report submitted to the Department in the exemption application to make PTE 91–8 permanent demonstrated that the fees charged to the Accounts under PTE 91–8 were in fact less than the 4.5 percent benchmark (61 FR 47207).

Two commentators suggest that the Department should not rely on the 4.5% threshold which was established in the notice of proposed exemption relating to PTE 91–8. Alternatively, the commentators would prefer to see separate thresholds established for property management and leasing fees because these fees are typically calculated off different bases (i.e., leasing commissions are generally based on the total lease payments, and property management fees are based on gross property revenues). Additionally, the commentators desire to review the survey of leasing commissions and property management fees to evaluate the reasonableness of these thresholds.

In the notice of proposed exemption relating to PTE 91–8, a 4.5 percent benchmark was the test for the initial period following the grant of PTE 91–8. This reviewing standard was subject to change during the period PTE 91–8 was in effect. However, under this exemption, the 4.5 percent benchmark will not, necessarily, be the standard for periods after the expiration of PTE 91–8. The Notice proposes certain cost saving procedures (Cost Saving Procedures) to assure continued savings to the Accounts. Pursuant to the Cost Saving Procedures, the Independent Fiduciary will be required to determine a typical range of annual fees for property management and leasing services for the Accounts. The Independent Fiduciary will also establish a new benchmark rate for comparison for each subsequent five-year period following the grant of this exemption.

Equitable and ERE state in their response that the approach reflected in the Cost Saving Procedures is appropriate for arriving at a reasonable range of property management and leasing fees, and, ultimately, a new benchmark. In fact, as noted in the notice of proposed exemption relating to PTE 91–8 (55 FR 7065), these procedures are rather conservative because a zero dollar value is assigned to the quality of property management and leasing services provided by ERE, even when the Independent Fiduciary is mandated to take the anticipated quality of services into account in approving ERE to provide property services.

Furthermore, the Cost Saving Procedures require the Independent Fiduciary to determine and document whether the Accounts have received an economic benefit during each five-year period. In the event the Independent Fiduciary concludes that such a benefit has not been achieved for the Accounts, it will not approve any additional service arrangements pursuant to the property services policy until Equitable and ERE have demonstrated to the Independent Fiduciary that policies to assure cost savings to the Accounts have been implemented by Equitable and ERE (61 FR 47208 and 47213).

The Independent Fiduciary explains that, as part of its responsibilities, it has surveyed (and as required by the Cost Saving Procedures will continue to periodically survey) management and leasing fees. Such surveys will be based upon a review of market information, property performance, and outside leasing and management fees. Additionally, each year the Independent Fiduciary reinspects approximately one-third of the properties, and compares

[6] It is represented that 2.75% is the median point between the typical project leasing broker commission range of 2% to 3.5%.

[7] 4.5 percent is the median point in the range.

contract leasing and management fees to other fees in the market area. In this regard, the Independent Fiduciary acknowledges that it has fiduciary responsibilities directly to the Accounts and the plans participating therein.

However, Equitable and ERE and the Independent Fiduciary state that they will meet, if requested, with the representatives of any affected plan to answer any questions and explain the basis for the Independent Fiduciary's conclusions. Furthermore, during regular business hours, the Independent Fiduciary will provide access to, or copies of, the survey prepared by Equitable to the auhorizing fiduciaries upon their request. The Independent Fiduciary may assess a reasonable charge to the authorizing fiduciaries for costs associated with providing access to, or copies of, the survey.

f. Original PTE 91–8

The commentators noted that a copy of PTE 91–8 was not provided in the materials distributed with the investor notification pursuant to the Notice. Equitable has since provided each of the commentators with a copy of PTE 91–8.

g. Data on Benchmark Fees

As stated above, the Notice contains the Cost Saving Procedures which require ERE to prepare a survey of property management and leasing fees for the properties that have similar geographic location and property types to those held by the Accounts . The survey will include data regarding the fees that have been charged to the Accounts by real estate investment management firms that are unaffiliated with Equitable and ERE. The Independent Fiduciary will review ERE's internal survey, and will verify the accuracy of the data by independently reviewing a sampling of the properties to which such fees apply.

The commentators express concern over Equitable and ERE establishing a benchmark amount against which its own activities will be judged. Alternatively, the commentators suggest that Equitable and ERE use independent data obtained from the Internal Revenue Service (IRS) transfer pricing database or certain national real estate organizations.

In this regard, Equitable and ERE state that the transfer pricing database referred to by the commentators, relates to the pricing of goods and services between related and commonly controlled entities, and would not be helpful in determining property management and leasing fees that are described in the Notice. Furthermore, the Independent Fiduciary confirms that there is no publicly available standard similar to the transfer pricing database for Equitable and ERE to use for leasing and property management service fees.

In its response, the Independent Fiduciary explained that it relies on ERE to gather data with respect to property management and leasing fees. However, the gathering of additional data and the verification and interpretation of all data are the responsibility of the Independent Fiduciary. Also, the Independent Fiduciary represents that it knows of no public resources which provide adequate independent benchmarks similar to the IRS's transfer pricing database against which to judge fees for property management and leasing services. In fact, individual practitioners are prohibited from sharing this information with competitors to avoid any action which might be construed to restrict free market competition for fees and charges. National real estate organizations do not have this information. The response submitted by the Independent Fiduciary concludes that it does not believe that it would be appropriate to limit itself to one source of data but, instead, use its own professional resources to obtain additional market data and to verify and interpret all the data received.

In addition, the exemption contains comprehensive safeguards, including a qualified Independent Fiduciary to oversee the transactions related thereto. Equitable and ERE therefore represent that these safeguards effectively eliminate any risk that services provided to the Accounts and fees charged under the exemption would be excessive or unnecessary.

The Department concurs with the argument set forth by Equitable, ERE and the Independent Fiduciary and has determined that no modification is necessary regarding data on benchmark fees.

3. Discussion of Equitable's and ERE's Comments

a. Sale of ERE to the Lend Lease Corporation Limited

By letter dated April 23, 1997, Equitable and ERE have notified the Department that on April 10, 1997, Equitable has agreed to sell ERE to Lend Lease Corporation Limited (Lend Lease), an Australian-based real estate and financial management company with substantial business operations in the United States (the Sale). The Sale is expected to close on or about June 10, 1997. The transaction is contingent on the receipt of various regulatory approvals and the satisfaction of various conditions. As part of the Sale, Lend Lease will also purchase Compass Management and Leasing, Inc. and Compass Retail, Inc. (collectively; Compass), wholly-owned subsidiaries of ERE. As a result of the Sale, ERE will cease to be a wholly-owned subsidiary of Equitable.

After consummation of the Sale, Equitable anticipates that ERE will continue to serve as investment advisor to Equitable in connection with the performance by Equitable of its duties as investment manager for the Accounts as described herein. Thus, the responsibilities of Equitable and ERE with respect to the Accounts will be unchanged in all material respects after consummation of the Sale. The exemption is still needed because Equitable will continue to rely on ERE to select persons to provide property management and related services permitted by the exemption, and in many cases, ERE may determine that ERE or an affiliate is best suited to provide those services. As is presently the case, ERE may be considered to be acting as a fiduciary in these circumstances and, therefore, could be viewed as engaging in certain prohibited transactions under the Act with respect to such selections unless the exemption is granted.

Although Equitable and ERE are bringing the Sale to the Department's attention in order to assure that the record in this exemption proceeding is complete, they believe that the Sale will have absolutely no effect on the standards and conditions established by the Notice. The potential prohibited transactions that would be covered by the exemption remain the same and the scope of the exemption remains the same. The Independent Fiduciary will continue to be responsible for the selecting the property managers and for monitoring the extent to which, and in the manner which, ERE makes use of the exemption to provide additional services to the Accounts.

After the Sale, each covered service provision will still be reviewed and approved by the Independent Fiduciary whose appointment is confirmed by the plans participating in the Accounts, the Independent Fiduciary will still be required to certify that the multiple service transactions result in the savings to the Accounts, each affected plan will continue receiving reports describing the multiple services transactions and will continue to be given the opportunity to object to the continued provision of multiple services pursuant to this exemption.

Equitable and ERE also note that PTE 91–8 was granted, and this exemption is

proposed to be granted to both Equitable and ERE. Therefore, no significant restructuring of the Notice will be required on the account of the Sale. This exemption should continue to be applicable to both Equitable and ERE because it must cover the period retroactive to January 13, 1996 through the date of closing of the Sale and beyond.[8]

In this regard, Equitable and ERE suggest that the Department eliminate any identification of ERE as Equitable's wholly-owned subsidiary, and include the following language (or language substantially similar) in this exemption:

''The applicants have informed the Department that Equitable has agreed to sell ERE to the Lend Lease Corporation, effective on or about June 10, 1997.''

The Department concurs with this comment and has added this language to this exemption. The Department also eliminated any identification of ERE as Equitable's wholly-owned subsidiary in this exemption.

b. Equitable's and ERE's Comments Regarding the Notice

In another written comment submitted to the Department, Equitable and ERE have requested that certain aspects of the Notice be clarified. The requested clarifications are as follows:

a. Page 47206 of the Notice contained a section titled PTE 91–8. The first sentence of the second paragraph of that section should have read, ''Equitable is a stock life insurance company organized under the laws of the State of New York''.

While Equitable was a mutual life insurance company at the time PTE 91–8 was originally issued, pursuant to a plan of reorganization adopted by Equitable on November 27, 1991, Equitable became a stock life insurance company. The Department concurs with this comment.

b. Pages 47207/47208 of the Notice contain a section titled Permanent Exemption for Transactions Under PTE 91–8, which describes how the Cost Saving Procedures will be carried out. Page 47213 of the Notice in Section II—Conditions also contains the Cost Saving Procedures as condition (12). The Cost Saving Procedures require, among other things, that, at the end of each five year period during which property management and leasing services are performed under the exemption, Equitable and ERE demonstrate to the Independent Fiduciary that the aggregate fees charged to each Account for the provision of property management and leasing services are less than the fees that would have been charged using a benchmark rate established at the beginning of the five-year period. In order to determine the benchmark pursuant to which cost savings will be determined, the Notice states that the Cost Saving Procedures require, in relevant part, that ''After the fifth anniversary of the grant of the exemption, and after the beginning of each subsequent five-year period, ERE will prepare a survey of property management and leasing fees for the properties * * *''

Equitable and ERE comment that the literal application of this language will allow ERE a five-year grace period before the Cost Saving Procedures are required to be applied. Equitable and ERE believe that such a grace period was unintended by the Department and, accordingly, Equitable and ERE propose that the language be modified to ensure that the Cost Saving Procedures will be initiated shortly after the final exemption is issued by the Department. In order to ensure this result, Equitable and ERE request that the following language, ''Within one-year of the grant of this exemption * * *'' be substituted for ''After the fifth anniversary of the grant of this exemption * * *'' at the beginning of condition 12(a). The Department concurs with this comment, and has modified condition 12(a) in Section II of this exemption accordingly.

c. Equitable and ERE also comment that the definition of Accounts which is contained in the Notice in Section IV—Definitions on page 47214 should not include Separate Account Nos. 16-IV and 16-VII and Separate Accounts Nos. 136, 141, 149 and 174 for the IBM Retirement Plan, as being covered by the exemption. In this regard, Equitable and ERE state that these accounts either are not covered by the Employee Retirement Income Security Act of 1974, or Equitable and ERE do not provide services to these accounts pursuant to the exemption. In order to clarify this point, Equitable and ERE propose that the definition of Accounts be modified as follows:

''The Accounts—The Accounts are Equitable's Separate Account No. 8, Separate Account No. 16-I, Separate Account No. 16-II, Separate Account No. 16-III, Investment Management Account No. 230 for the Westinghouse Electric Corporation Pension Plan; and such other pooled or single-customer accounts, joint ventures, general or limited partnerships or other real estate investment vehicles that may be established by Equitable for the investment of employee benefit plan assets in real estate related investments to the extent disposition of its assets is subject to the discretionary authority of Equitable.''

The Department concurs with this comment and has modified definition of Accounts in Section IV—Definitions in this exemption accordingly.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply, and to the extent jurisdiction exists under Title I of the Act, the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code, e.g., the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of proposed exemption, the Department makes the following determinations:

(a) The exemption set forth herein is administratively feasible;

(b) It is in the interest of the plans investing in the Accounts and their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of the plans.

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions which are the subject of this exemption;

(5) The availability of this exemption is subject to the express condition that the summary of facts and representations set forth in the notice of proposed exemption relating to PTE 91–8 (40 FR 7057/7069), as amended by a notice of proposed exemption to make

[8] It is represented that there is a slight possibility that the Sale might not be completed.

permanent as modified PTE 91–8 (61 FR 47205/47214) accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption;

(6) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(7) This exemption is applicable to particular transactions only if the transactions satisfy the conditions specified in the exemption.

Exemption

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).

Section I—Covered Transactions

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the provision of property management and/or leasing services by ERE [9] to an Account (as defined in Section IV), provided that the conditions set forth in Section II are met.

Section II—Conditions

(1) The arrangement under which the covered transactions are performed is subject to the prior authorization of an independent plan fiduciary with respect to each plan whose assets are invested in an Account, following disclosure of information in the manner described in paragraph (2) below. For plans which have previously authorized their participation in the Accounts under PTE 91–8, no reauthorization will be required. [10] In the case of a plan whose assets are proposed to be invested in an Account subsequent to implementation of the property management and leasing services (the Property Services Policy), the plan's investment in the Account is subject to the prior written authorization of an independent plan fiduciary following disclosure of the information described in paragraph (2). The requirement that the authorizing fiduciary be independent of Equitable shall not apply in the case of plans maintained by Equitable on behalf of its employees.

(2) In the event Equitable proposes to implement the Property Services Policy for any additional Account, not less than 45 days prior to the implementation of the Property Services Policy, Equitable or ERE shall furnish the authorizing plan fiduciary with any reasonably available information which Equitable or ERE believes to be necessary to determine whether such approval should be given, as well as such information which is reasonably requested by the authorizing plan fiduciary. Such information will include: a description of the services to be performed by ERE; identification of properties for which services will be required; an estimate of the fees that would be paid to ERE if it is selected to provide such services; an explanation of the potential conflicts of interest involved in selecting ERE; an explanation of the selection process; and a description of the terms upon which a plan may withdraw from an Account.

(3) In the event an authorizing plan fiduciary of any plan whose assets are invested in an Account submits a notice in writing to Equitable or ERE at least 15 days prior to implementation of the Property Services Policy, objecting to the implementation of the Property Services Policy, the plan on whose behalf the objection was tendered will be given the opportunity to terminate its investment in the Account, without penalty. With the exception of a plan which has invested in a closed-end Account under which the rights of withdrawal from the Account may be limited as provided in the plan's written agreement to invest in the Account, if written objection to the Property Services Policy is submitted to Equitable or ERE any time after 15 days prior to implementation of the Property Services Policy (or after implementation), the plan must be able to withdraw without penalty, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans. However, Equitable or ERE need not discontinue operating pursuant to the Property Services Policy, once implemented, by reason of a plan electing to withdraw after 15 days prior to the scheduled implementation date of the Property Services Policy. Any plan which has a discretionary asset management arrangement with Equitable may terminate such arrangement and withdraw from an Account at any time.

(4)(a) Equitable or ERE shall furnish the authorizing plan fiduciary and the Independent Fiduciary acting on behalf of the plans participating in the Account with the Annual Report containing the information described in this paragraph, not less frequently than once a year and not later than 75 days following the end of the period to which the report relates. Such Annual Report shall disclose the total of all fees incurred by the Account during the preceding year under contracts with ERE; include a description of the properties and the services that have been performed by ERE for an Account; and delineate the fees that are anticipated to be paid to ERE in the coming year for services provided by these entities in connection with properties held by an Account. The Annual Report will contain a description of a method for the termination of the multiple services arrangement (see Section II(5)), and for the confirmation and/or removal of the Independent Fiduciary by investing plans in the Accounts. The Annual Report will also contain a ballot regarding reconfirmation of the Independent Fiduciary, which is to be returned to Equitable. In this respect, at the time of delivery of each Annual Report, Equitable will specifically indicate to each plan that the Independent Fiduciary may be terminated by a vote in favor of such termination by the holders of a majority of the units of beneficial interests in the Account and will request such plan to confirm the Independent Fiduciary's appointment. Following a plan's receipt of the Annual Report, Equitable may treat a plan's failure to return the ballot within forty five (45) days after receipt of a request for reconfirmation as a vote in favor of continued retention of the Independent Fiduciary (see procedures described in Section II(4)(b)).

(b) Equitable or ERE implements procedures to ensure each authorizing fiduciary has an opportunity to vote on the reconfirmation of the Independent Fiduciary. These procedures require that Equitable or ERE: (i) Provide each authorizing fiduciary with a ballot by certified mail (or another method of delivery pursuant to which confirmation of receipt is provided); (ii) ensure that the ballot clearly indicates that the authorizing fiduciary may vote for or against continuation of the Independent Fiduciary; (iii) ensure that the ballot must be accompanied by a statement that failure to return the ballot within 45 days following the

[9] See Footnote 1, *supra*.

[10] However, during the notification of interested persons period, Equitable provided to all interested parties, including the plans participating in the Accounts, a copy of the notice of the proposed exemption. Accordingly, the plans were given the opportunity to submit written comments on the pending exemption during the comment period.

authorizing fiduciaries' receipt of the ballots will be counted as a ''for'' vote (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation); and (iv) 30 days after Equitable or ERE mails the ballot to the authorizing fiduciary, Equitable and ERE must make at least one follow-up contact with the authorizing fiduciary that has not previously returned the ballot prior to treating the unreturned ballot as a ''for'' vote. If Equitable or ERE does not receive a response from the authorizing fiduciary within 15 days after initiating contact with the authorizing fiduciary, Equitable and ERE may treat the unreturned ballot as a vote for reconfirmation. The reconfirmation will become effective on the earlier of the date affirmative ballots are obtained from the holders of a majority of the units of beneficial interests in the Accounts, or 45 days following the authorizing fiduciaries' receipt of the ballots (unless holders of a majority of the units of beneficial interests in the Accounts have voted against reconfirmation.)

(5) The multiple services arrangement for an Account shall be subject to annual confirmation following receipt of the Annual Report, pursuant to which the arrangement shall be terminated by a vote in favor of such termination by the holders of a majority of the units of beneficial interests in the Account. In the event of a vote to terminate the arrangement, Equitable shall cease submitting to the Independent Fiduciary (as defined in Section IV) any new proposals to engage in covered transactions and Equitable will not renew or extend any covered transactions. Moreover, within 180 days after the vote of the contract holders, Equitable shall cease engaging in any existing covered transactions.

(6)(a) Each transaction shall be reviewed and approved by an Independent Fiduciary. However, prior to proposing a transaction to the Independent Fiduciary, Equitable or ERE shall first determine that such transaction is in the best interests of the Account.

(b) The Independent Fiduciary shall negotiate the contracts for the provision of services by ERE. The Independent Fiduciary shall also consider the cost to the Account of such fiduciary's involvement in connection with its consideration of whether to approve the particular transaction.

(c) The Independent Fiduciary shall review, as applicable, the performance of ERE under each of its contracts with the Accounts at least once each year and shall instruct Equitable and ERE of any action which should be taken by Equitable on behalf of the Accounts with respect to the continuation, termination or other exercise of rights available to the Account under the terms of the contracts. Equitable will carry out such instruction from the Independent Fiduciary to the extent it is legal and permitted by the terms of the service provision arrangement.

(7)(a) The terms of each such arrangement shall be in writing and must be reviewed by the Independent Fiduciary prior to implementation.

(b) If Equitable or ERE hold Account properties and general account properties in the same real estate market during a period when there is leasing competition between those properties, ERE will hire, during such period, a third party leasing agent for Account properties.

(c) In the case of any emergency circumstances, ERE may provide property services to an Account for a period not exceeding 90 days, but no compensation may be paid by an Account for such services without the prior approval of the Independent Fiduciary.

(8)(a) Equitable and ERE shall furnish the Independent Fiduciary with any reasonably available information which Equitable reasonably believes to be necessary or which the Independent Fiduciary shall reasonably request to determine whether such approval of the transactions described above should be given or to accomplish the Independent Fiduciary's periodic reviews of the performance of ERE under the contracts.

(b) With respect to ERE, such information will include: A description of the Property Services Policy for the Account and the plan clients investing therein; a description of the real estate services which are required; the qualifications of ERE to do the job; a statement, supported by appropriate factual representations, of the reasons for Equitable's belief that ERE is qualified to provide the services; a copy of the proposed arrangement for services and the terms on which ERE would provide the services; the reasons why Equitable believes the retention of ERE would be in the best interests of the Account; information demonstrating why the fees and other terms of the arrangement are reasonable and comparable to fees customarily charged by similar firms for similar services in comparable locales; the identities of non-affiliated service providers and the terms under which these service providers might perform the services; and in any case that it is determined that the property manager will also provide leasing services, Equitable will disclose whether any affiliated property manager under consideration by the Independent Fiduciary is a property manager to any properties that are in competition for tenants with the property for which ERE is under consideration.

(9) Seventy-five percent or more of the units of beneficial interests in an Account must be held by plans or other investors having total assets of at least $50 million. In addition, 50 percent or more of the plans investing in an Account must have assets of at least $50 million. For purposes of the 50 percent test above, a group of plans will be counted as a single plan if either the decision to invest in the Account (or the decision to make investments in the Account available as an option for an individually directed account) is made by a fiduciary other than Equitable who exercises such discretion with respect to plan assets in excess of $50 million.

(10)(a) Not more than 10 percent of the assets of a plan covering employees of Equitable will be invested in an Account. Notwithstanding the foregoing, this percentage requirement will continue to be satisfied by any plan that exceeds the 10 percent limitation of this subsection provided that no portion of any excess results from an increase in the assets transferred by such plan to the Accounts.

(b) Not more than 10 percent of the assets of an Account will be represented by the plans covering employees of Equitable.

(c) For other plans, not more than 20 percent of the assets of each such plan can be invested in the Accounts. Notwithstanding the foregoing, this percentage requirement will continue to be satisfied by any plan that exceeds the 20 percent limitation of this subsection provided that no portion of any excess results from an increase in the assets transferred by such plan to the Accounts. Moreover, this 20 percent limitation shall not apply to any plan which, as of February 28, 1990, the date of the proposed exemption relating to PTE 91–8, had more than 20 percent of its assets invested in the Accounts provided that the plan makes no additional contribution to such Accounts subsequent to that date.

(d) Equitable in-house plans shall have the same voting rights as those given to non-Equitable plan investors. However, the votes of Equitable in-house plans shall be disregarded if such votes are outcome-dispositive with respect to any issue.

(11) At the time the transactions are entered into, the terms of the transactions must be at least as favorable to the Accounts as the terms generally

available in arm's length transactions between unrelated parties. In addition, the compensation paid to ERE for services under its contracts with any Account must not exceed payments in an arm's length transaction between unrelated parties for comparable properties in similar locales, and shall not be in excess of reasonable compensation within the meaning of section 408(b)(2) of the Act and regulation 29 CFR 2550.408b-2.

(12)(a) Within one-year of the grant of this exemption, and after the beginning of each subsequent five-year period, ERE will prepare a survey of property management and leasing fees for the properties that have similar geographic location and property types to those held by the Accounts. The survey will include data regarding the fees that have been charged to the Accounts by several property management firms that are unaffiliated with Equitable or ERE for services that are contemplated by the exemption during the one year period prior to the beginning of the new five-year period. Also, the survey will include data as to the fees paid by Equitable or ERE for such services performed for the properties not held by the Accounts during the same period and other market data regarding the cost of property management and leasing services by geographic location and property types.

(b) The Independent Fiduciary will review ERE's internal survey referred to in (a) above, and will verify the accuracy of the data by independently reviewing a sampling of the properties to which such fees apply. Based upon its review of the survey and its own professional resources and expertise, the Independent Fiduciary will determine a typical range of annual fees for property management and leasing services for the Accounts. The average of the range, as determined from such survey, will serve as the basis of comparison for determining for the next five-year period whether continuation of the property management and leasing services policy (the Property Services Policy) has provided cost savings to the Accounts.

(c) Equitable and ERE will demonstrate to the Independent Fiduciary at the end of the applicable five-year period that the aggregate property management and leasing fees charged to each Account pursuant to the Property Services Policy plus the cost of the services of the Independent Fiduciary under the exemption that are allocated to the Accounts, are less than the fees that would have been charged using the benchmark rate established at the beginning of the five year period.

(d) The Independent Fiduciary will review the data supplied by ERE and, to the extent considered necessary by the Independent Fiduciary, data collected from the Independent Fiduciary's own surveys, and will document its findings and analysis of such cost savings in a report to be delivered to each of the plans participating in the Accounts within 75 days after the end of the five year period and each subsequent five-year period and prior to the implementation of the annual confirmation procedure described in paragraph (5) of Section II with respect to such period. In the event the Independent Fiduciary finds that cost savings have not been achieved for the Accounts, it will not approve any additional services arrangements pursuant to the Property Services Policy until Equitable and ERE have demonstrated to the satisfaction of the Independent Fiduciary that policies intended to assure cost savings to the Accounts have been implemented by Equitable and ERE. The survey, the Independent Fiduciary's report reviewing the survey, and the final report of the Independent Fiduciary analyzing whether cost savings had been achieved during the five year period to which the survey relates, will be maintained by Equitable or ERE in accordance with the recordkeeping requirements of Section III.

(13)(a) The fees paid to ERE and/or its affiliates for property management services provided in connection with a property held for an Account shall not exceed for any one year period: (1) In the case of property management services which include leasing services, 7 percent of the overall gross receipts of the property; and (2) in the case of property management services which do not include leasing services, 4 percent of the overall gross receipts of the property.

(b) Where a property manager is separately compensated for leasing services; (1) The fee for new leases will not exceed 7 percent of the lease amount; (2) the fee for renewal leases will not exceed 2 percent of the lease amount; and (3) the fee for leases in which outside brokers are involved will not exceed 2.75 percent of the lease amount (the Independent Fiduciary must certify that an economic advantage to the Accounts exists before consummation of any leasing or management service contract).

Section III—Recordkeeping

(1) Equitable or ERE will maintain for a period of six years from the date of the transaction, the records necessary to enable the persons described in paragraph (2) of this section to determine whether the conditions of this exemption have been met. Included in these records maintained by Equitable or ERE will be written records of the Independent Fiduciary which had been periodically furnished by the Independent Fiduciary to ERE or Equitable and the records described in paragraph (12) of Section II. Such records are described in Parts III and VI of the summary of facts and representations of the notice of proposed exemption relating to PTE 91–8 and in paragraph (12) of Section II. However, a prohibited transaction will not be considered to have occurred if, due to circumstances beyond Equitable's or ERE's control, the records are lost or destroyed or the records of the Independent Fiduciary are not maintained or produced prior to the end of the six-year period.

(2)(a) Except as provided in subsection (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this section are unconditionally available at their customary location for examination during normal business hours by:

(1) Any duly authorized employee or representative of the Department and the Internal Revenue Service;

(2) Any fiduciary of a plan who has authority to acquire or dispose of the interests of the plan in the Accounts or any duly authorized employee or representative of such fiduciary;

(3) Any contributing employer to any plan that has an interest in the Accounts or any duly authorized employee or representative of such employer;

(4) Any participant or beneficiary of any plan participating in the Accounts, or any duly authorized employee or representative of such participant or beneficiary; and

(5) The Independent Fiduciary.

(b) None of the persons described in subparagraphs (2)–(5) of this paragraph shall be authorized to examine trade secrets of Equitable, ERE or commercial or financial information which is privileged or confidential.

Section IV—Definitions

(1) The Accounts—The Accounts are Equitable's Separate Account No. 8, Separate Account No. 16–I, Separate Account No. 16–II, Separate Account No. 16-III, Investment Management Account No. 230 for the Westinghouse Electric Corporation Pension Plan; and such other pooled or single-customer accounts, joint ventures, general or limited partnerships or other real estate investment vehicles that may be

established by Equitable for the investment of employee benefit plan assets in real estate related investments to the extent disposition of its assets is subject to the discretionary authority of Equitable.

(2) Equitable—For purposes of this exemption, the term Equitable includes Equitable and/or affiliates of Equitable as defined in paragraph (4) of this section which act as investment managers with respect to an Account.

(3) ERE—For purposes of this exemption, the term ERE includes ERE and/or affiliates of ERE as defined in paragraph (4) of this section, which provides services to an Account pursuant to this exemption.

(4) An affiliate of a person means any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person.

(5) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(6) Independent Fiduciary—A person who:

(a) Is not an affiliate [as defined in Section IV(4)] of Equitable or ERE;

(b) Is not an officer, director, employee of, or partner in, Equitable or ERE [or affiliates thereof as defined in Section IV(4)];

(c) Is not a corporation or partnership in which Equitable or ERE has an ownership interest or is a partner;

(d) Does not have an ownership interest in Equitable or ERE, or its affiliates;

(e) Is not a fiduciary with respect to any plan participating in an Account; and

(f) Has acknowledged in writing acceptance of fiduciary obligations and has agreed not to participate in any decision with respect to any transaction in which the Independent Fiduciary has an interest that might affect its best judgment as a fiduciary.

For purposes of this definition of Independent Fiduciary, no organization or individual may serve as an Independent Fiduciary for any fiscal year if the gross income received by such organization or individual (or partnership or corporation of which such organization or individual is an officer, director, or 10 percent or more partner or shareholder) from Equitable or ERE, or their affiliates, (including amounts received for services as Independent Fiduciary under any prohibited transaction exemption granted by the Department) for that fiscal year exceeds 5 percent of its or his annual gross income from all sources for such fiscal year.

In addition, no organization or individual who is an Independent Fiduciary, and no partnership or corporation of which such organization or individual is an officer, director or 10 percent or more partner or shareholder, may acquire any property from, sell any property to or borrow any funds from Equitable or ERE, their affiliates, or any Account maintained by Equitable or ERE, their affiliates, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of 6 months after such organization or individual ceases to be an Independent Fiduciary or negotiates any such transaction during the period that such organization or individual serves as Independent Fiduciary.

This exemption is subject to the express condition that the summary of facts and representations set forth in the notice of proposed exemption relating to PTE 91–8 (40 FR 7057/7069), as amended by the notice of proposed exemption to make permanent as modified PTE 91–8 (61 FR 47205/47214) and the written comments submitted in response thereto, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, DC, this 18th day of June, 1997.

Ivan Strasfeld,

Director of the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–16362 Filed 6–20–97; 8:45 am]

BILLING CODE 4510–29–U

NUCLEAR REGULATORY COMMISSION

Docket No. 50–368

In the Matter of Entergy Operations, Inc. (Arkansas Nuclear One, Unit 2)

Exemption I

Entergy Operations, Inc. (the licensee) is the holder of Facility Operating License No. NPF–6, which authorizes operation of Arkansas Nuclear One, Unit 2 (ANO–2). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized water reactors, Arkansas Nuclear One, Units 1 and 2, located at the licensee's site in Pope County, Arkansas.

II

In its letter dated December 23, 1996, the licensee requested an exemption from certain requirements in Title 10 of the Code of Federal Regulations, Part 50, Appendix R, Section III.O, for ANO–2.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''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. * * * ''

10 CFR Part 50, Appendix R, Section III.O requires that the reactor coolant pump (RCP) shall be equipped with an oil collection system if the containment is not inerted during normal operation. The oil collection system shall be so designed, engineered, and installed that failure will not lead to fire during normal or design basis accident conditions and that there is reasonable assurance that the system will withstand the Safe Shutdown Earthquake. The underlying purpose of 10 CFR Part 50, Appendix R, Section III.O is to ensure that leaking oil will not lead to a fire which could damage safe shutdown systems during normal or design basis accident conditions.

On the basis of the enclosed safety evaluation, the U. S. Nuclear Regulatory Commission (NRC) staff concluded that the design of the oil filling system and the level of protection provided by the licensee through the use of certain compensatory measures during oil fill operations provides reasonable assurance that a lube oil fire will not occur. The staff also concluded that a worst-case postulated fire, due to not having a lube oil collection system for the RCP lube oil fill lines, would be of limited magnitude and extent. In addition, such a fire would not cause significant damage in the containment building and would not prevent the operators from achieving and maintaining safe shutdown conditions. The staff concluded, therefore, that the lack of an oil collection system for the RCP lube oil fill lines is an acceptable exemption from the technical

requirements of 10 CFR Part 50, Appendix R, Section III.O.

IV

Therefore, contingent on the use of the compensatory measures that are itemized in the licensee's December 23, 1996, exemption request, the NRC staff has concluded that the licensee's proposed use of the remote oil addition system will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present, as specified in 10 CFR 50.12(a)(2), in that application of 10 CFR Part 50, Appendix R, Section III.O is not necessary in order to achieve the underlying purpose of this regulation.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR Part 50, Appendix R, Section III.O to the extent that the RCP lube oil fill lines are required to be protected with a collection system.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (62 FR 19632).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 14th day of June 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16382 Filed 6–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 70–7001]

Notice of Amendment to Certificate of Compliance GDP–1 for the U.S. Enrichment Corporation Paducah Gaseous Diffusion Plant; Paducah, KY

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination the staff concluded that: (1) There is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs. The basis for this determination for the amendment request is shown below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security, and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue an amendment to the Certificate of Compliance for the Paducah Gaseous Diffusion Plant. The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfies the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** Notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the Decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) The interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the Decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** notice.

A petition for review must be filed with the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

For further details with respect to the action see: (1) The application for amendment and (2) the Commission's Compliance Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room.

Date of amendment request: March 4, 1997.

Brief description of amendment: The proposed amendment will revise the Compliance Plan and the Fundamental Nuclear Materials Control (FNMC) Plan so that they are consistent in the area of dimensional measurement calculations to determine system volumes.

Basis for finding of no significance:

1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

There are no effluent releases associated with this change, the proposed changes will not affect the effluent.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

The proposed changes do not relate to controls used to minimize occupational radiation exposures, therefore, the changes will not increase exposure.

3. The proposed amendment will not result in a significant construction impact.

The proposed changes will not result in any construction, therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

The proposed changes do not involve a change to any previously analyzed

accident. Therefore, the changes will not result in significant increase in the potential for, or radiological or chemical consequences from previously evaluated accidents.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

The proposed changes would not create new operating conditions or a new plant configuration that could lead to a new or different type of accident.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

The use of dimensional measurement calculations to determine system volumes is the manner in which the plant has historically determined system volumes. There is no reduction in any margin of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs.

Implementation of the proposed changes will not change the safety or security programs. The proposed change to the FNMC Plan and the Compliance Plan will not decrease the effectiveness of the FNMC Plan. Use of dimensional measurement calculations to determine system volumes reflects current and approved practices. The FNMC Plan and the Compliance Plan item are being revised so that the documents will be consistent. The effectiveness of the safety, safeguards, and security programs is not decreased.

Effective date: This amendment will become effective upon signature of the Director, NMSS.

Certificate of Compliance No. GDP–1: Amendment will revise the FNMC Plan and the Compliance Plan to be consistent in the discussion of dimensional measurement calculations used to determine system volumes.

Local Public Document Room location: Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003.

Dated at Rockville, Maryland, this 12th day of June 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–16381 Filed 6–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures, Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 8, 1997, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, July 8, 1997—12:00 Noon until 1:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the qualifications of candidates for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: June 17, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–16345 Filed 6–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee On Reactor Safeguards Subcommittee Meeting On Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Probabilistic Risk Assessment will hold a meeting on July 7 and 8, 1997, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, July 7, 1997—8:30 a.m. until the conclusion of business.

The Subcommittee will review matters included in the Staff Requirements Memorandum dated May 27, 1997: 1) acceptance criteria for plant-specific safety goals and deriving lower-tier acceptance criteria; and 2) the use of uncertainty versus point values in the PRA-related decisionmaking process.

Tuesday, July 8, 1997—8:30 a.m. until the conclusion of business.

The Subcommittee will review the proposed Standard Review Plan (SRP) section and the associated Regulatory Guide for risk-informed, performance-based inservice inspection.

The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary

views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: June 17, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–16346 Filed 6–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Joint Meeting of the ACRS Subcommittees on Plant Operations and on Fire Protection; Notice of Meeting

The ACRS Subcommittees on Plant Operations and on Fire Protection will hold a joint meeting on July 18, 1997, at the NRC Region IV Office, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas. The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, July 18, 1997—8:00 a.m. until the conclusion of business

The Subcommittees will meet with Region IV personnel to discuss Region IV activities and other items of mutual interest, including significant operating events and fire protection issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the Region IV personnel and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Amarjit Singh (telephone 301/415–6899) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: June 17, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–16347 Filed 6–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on July 21–22, 1997, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

Most of the meeting will be closed to public attendance to discuss Westinghouse Electric Corporation proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Monday, July 21, 1997—8:30 a.m. until the conclusion of business

Tuesday, July 22, 1997—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the results of the Westinghouse (*W*) Test and Analysis Programs being conducted in support of the AP600 design certification. Specifically, the Subcommittee will continue its review of the Westinghouse Phenomena Identification and Ranking Table (PIRT) and Scaling Report pertaining to the AP600 primary system. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Westinghouse Electric Corporation, the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the scheduling of sessions which are open to the public, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: June 17, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–16348 Filed 6–20–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumlative Report on Rescissions And Deferrals

June 1, 1997.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of June 1, 1997, of ten rescission proposals and seven deferrals contained in three special messages for FY 1997. These messages were transmitted to Congress on December 4, 1996, and on February 10 and March 19, 1997.

Rescissions (Attachments A and C)

As of June 1, 1997, ten rescission proposals totaling $407 million had been transmitted to the Congress. Attachment C shows the status of the FY 1997 rescission proposals.

Deferrals (Attachments B and D)

As of June 1, 1997, $2,551 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1997.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report is printed in the editions of the **Federal Register** cited below:

61 FR 66172, Monday, December 16, 1996

62 FR 8045, Friday, February 21, 1997

62 FR 14478, Wednesday, March 26, 1997

Franklin D. Raines,

Director.

Attachments

BILLING CODE 3110–01–P

ATTACHMENT A
STATUS OF FY 1997 RESCISSIONS
(in millions of dollars)

	Budgetary Resources
Rescissions proposed by the President	407.1
Rejected by the Congress	---
Amounts rescinded	---
Currently before the Congress	407.1

ATTACHMENT B
STATUS OF FY 1997 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President	3,544.3
Routine Executive releases through June 1, 1997	-993.0
(OMB/Agency releases of $993.0 million.)	
Overturned by the Congress	---
Currently before the Congress	2,551.3

ATTACHMENT C

Status of FY 1997 Rescission Proposals - As of June 1, 1997
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF AGRICULTURE								
Foreign Agricultural Service								
P.L. 480 grants -- Titles I (OFD), II, and III.....	R97-1		3,500	2-10-97	3,500	4-30-97		
P.L. 480 program account.....	R97-2		46,500	2-10-97	46,500	4-30-97		
DEPARTMENT OF DEFENSE - MILITARY								
Operation and Maintenance								
Operation and maintenance, Defense-wide.....	R97-4		10,000	2-10-97	10,000	4-28-97		
Procurement								
National Guard and Reserve equipment.....	R97-5		62,000	2-10-97	62,000	4-28-97		
DEPARTMENT OF ENERGY								
Energy Programs								
Strategic petroleum reserve.....	R97-6		11,000	2-10-97	11,000	4-28-97		
Clean coal technology.....	R97-11	10,000		3-19-97				
Power Marketing Administrations								
Construction, rehabilitation, operation and maintenance, Western Area Power Administration.....	R97-7		2,111	2-10-97	2,111	4-28-97		

ATTACHMENT C

Status of FY 1997 Rescission Proposals - As of June 1, 1997
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing Programs								
Annual contributions for assisted housing.....	R97-8		250,000 1/	2-10-97	1/			
DEPARTMENT OF JUSTICE								
General Administration								
Working capital fund.....	R97-9		6,400	2-10-97	*			
GENERAL SERVICES ADMINISTRATION								
General Activities								
Expenses, Presidential transition.....	R97-10		5,600 2/	2-10-97	2/			
TOTAL RESCISSIONS.....		**10,000**	**397,111**		**135,111**		**0**	

1/ Funds are not available for obligation pursuant to section 218 of P.L. 104-208.
2/ Funds are not available for obligation pursuant to 2 USC 102 (note).
* Funds were never withheld from obligation.

ATTACHMENT D
Status of FY 1997 Deferrals - As of June 1, 1997
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 6-1-97
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D97-1	1,258,292		12-4-96	719,161				539,131
Foreign military financing program	D97-2	1,412,375		12-4-96	101,655				1,310,720
Foreign military financing loan program	D97-3	60,000		12-4-96					60,000
Foreign military financing direct loan financing account	D97-4	540,000		12-4-96					540,000
Agency for International Development									
International disaster assistance, Executive	D97-5	147,800		12-4-96	119,166				28,634
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D97-6	118,486		12-4-96	53,000				65,486
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D97-7	7,365		12-4-96					
	D97-7A		4	2-10-97					7,369
TOTAL, DEFERRALS		**3,544,318**	**4**		**992,982**			**0**	**2,551,340**

[FR Doc. 97–16335 Filed 6–20–97; 8:45 am]
BILLING CODE 3110–01–C

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Extension:

Rule 20a–1 SEC File No. 270–132 OMB Control No. 3235–0158

Rule 489 and Form F–N SEC File No. 270–361 OMB Control No. 3235–0411

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget request[s] for extension of the previously approved collection[s] of information discussed below.

Rule 20a–1 requires that the solicitation of a proxy, consent or authorization with respect to a security issued by a registered fund be in compliance with Regulation 14A (17 CFR 240.14A–1), Schedule 14A (17 CFR 240.14a–101), and all other rules and regulations adopted under section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)). Rule 20a–1 also requires a fund's investment adviser, or a prospective adviser, to transmit to the person making a proxy solicitation the information necessary to enable that person to comply with the rules and regulations applicable to the solicitation.

Regulation 14A and Schedule 14A establish the disclosure requirements applicable to the solicitation of proxies, consents and authorizations. In particular, Item 22 of Schedule 14A contains extensive disclosure requirements for registered investment company proxy statements. Among other things, it requires the disclosure of information about fund fee or expense increases, the election of directors, the approval of an investment advisory contract and the approval of a distribution plan.

The Commission requires the dissemination of this information to assist investors in understanding their fund investments and the choices they may be asked to make regarding fund operations. The Commission does not use the information in proxies directly, but reviews proxy statement filings for compliance with applicable rules.

It is estimated that approximately 1,000 registered investment companies are required to file one proxy statement annually. The total annual reporting and recordkeeping burden of the collection of information is estimated to be approximately 96,200 hours (1,000 responses × 96.2 hours per response).

Rule 489 and Form F–N requires certain entities that are excepted from the definition of investment company by virtue of rules 3a–1, 3a–5, and 3a–6 under the Investment Company Act of 1940 to file Form F–N to appoint a United States agent for services of process when making a public offering of securities in the United States.

It is estimated that approximately 21 entities are required by rule 489 to file Form F–N. The total estimated annual burden of complying with the filing requirement is approximately 25 hours.

General comments regarding the above information should be directed to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 16, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16269 Filed 6–20–97; 8:45 am]

BILLING CODE 6712–02–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC—22713; 812–10572]

J.P. Morgan Index Funding Company I, et al.; Notice of Application

June 17, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: J.P. Morgan Index Funding Company I, J.P. Morgan Index Funding Company II, J.P. Morgan Index Funding Company III, J.P. Morgan Index Funding Company IV, and J.P. Morgan Index Funding Company V.

RELEVANT ACT SECTION: Order requested under section 6(c) of the Act that would exempt applicants from all provisions of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to sell their preferred beneficial interests and use the proceeds to finance the business activities of their parent company, J.P. Morgan & Co. Incorporated (''J.P. Morgan''), and certain subsidiaries of J.P. Morgan.

FILLING DATES: The application was filed on March 12, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 14, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, c/o J.P. Morgan, 60 Wall Street, New York, NY 10260.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Staff Attorney (202) 942–0562, or Mercer E. Bullard, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Applicants were organized as Delaware business trusts on December 12, 1996. J.P. Morgan, a Delaware corporation, owns all of the outstanding beneficial voting interests of applicants. J.P. Morgan is the holding company for a group of global subsidiaries that provide financial services to corporations, governments, financial institutions, institutional investors, professional firms, privately held companies, nonprofit organizations, and financially sophisticated individuals. The financial services that J.P. Morgan provides include finance and advisory services, sales and trading, asset and liability management, and equity investments. J.P. Morgan's largest subsidiary, Morgan Guaranty Trust Company of New York (''Morgan Guaranty''), is a New York State chartered bank. Morgan Guaranty is subject to restrictions on loans and extensions of credit to J.P. Morgan and

certain other affiliates and on certain other types of transactions with them or involving their securities.

2. Applicants were organized to engage in financing activities that will provide funds for use in the operations of J.P. Morgan, Morgan Guaranty, and certain subsidiaries of either. Applicants' primary function will be to obtain funds through the offer and sale of their preferred beneficial interests in U.S., European, and other overseas markets, and to lend the proceeds to J.P. Morgan, Morgan Guaranty and direct or indirect subsidiaries of either.

3. Applicants expect that the securities they issue will consist initially of preferred beneficial trust interests. Due to the nature of capital markets, applicants may issue beneficial interests in amounts exceeding the amounts required by J.P. Morgan, Morgan Guaranty and their subsidiaries at the time. In accordance with rule 3a–5(a)(5) under the Act, an applicant will loan at least 85% of the cash or cash equivalents raised by that applicant to J.P. Morgan, Morgan Guaranty or their subsidiaries as soon as practicable, but in no event later than six months after that applicant's receipt of such cash or cash equivalents.

4. In the event that applicants borrow amounts in excess of the amounts required by J.P. Morgan, Morgan Guaranty, and their subsidiaries, applicants will invest such excess in temporary investments pending lending the money to J.P. Morgan, Morgan Guaranty and their subsidiaries. In accordance with rule 3a–5(a)(6), all applicants' investments will be made in government securities, securities of J.P. Morgan, Morgan Guaranty or a company controlled by J.P. Morgan or Morgan Guaranty (or, in the case of a partnership or joint venture, the securities of the partners or participants in the joint venture), or securities which are exempt from the provisions of the Securities Act of 1933 by section 3(a)(3) of the Act.

5. Before applicants issue any beneficial interests, J.P. Morgan will enter into a guarantee agreement with applicants (the ''Guarantee Agreement'') under which J.P. Morgan will unconditionally guarantee the payment of principal and dividends on the beneficial interests when due. The Guarantee Agreement also will fulfill the requirements of the rule 3a–5(a)(2) under the Act, as interpreted by the SEC.[1]

6. Applicants believe that the Guarantee Agreement provides assurance that the holders of each applicant's beneficial interests will be able to look to J.P. Morgan for payment. The Guarantee Agreement will give each holder of beneficial interests issued by an applicant a direct right of action against J.P. Morgan to enforce J.P. Morgan's obligations under the Guarantee Agreement without first proceeding against the applicant. J.P. Morgan and an applicant may amend or modify the Guarantee Agreement by agreement, but amendments or modifications will apply only prospectively and will not relieve J.P. Morgan of any of its obligations under the Guarantee Agreement with respect to beneficial interests outstanding on the effective date of the amendment or modification or adversely affect the beneficial interest holders' rights. Neither an applicant nor J.P. Morgan may terminate the Guarantee Agreement unless all beneficial interests issued and guaranteed under it have been redeemed or paid in full.

Applicants' Legal Analysis

1. Applicants request an exemption from all provisions of the Act. Applicants note that the SEC has stated that it generally is appropriate to exempt a finance subsidiary from all provisions of the Act where the primary purpose of the finance subsidiary is to finance the business operations of its parent or other subsidiaries of its parent and where any purchaser of the finance subsidiary's securities ultimately looks to the parent for repayment and not to the finance subsidiary.[2]

2. Rule 3a–5 provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies. Under rule 3a–5(b)(2), a ''parent company'' is one that derives its non-investment company status from section 3(a) of the Act, or rules thereunder, or section 3(b) of the Act. Applicants believe that J.P. Morgan may not qualify as a ''parent company'' under rule 3a–5(b)(2) because it derives its non-investment company status from section 3(c)(6) of the Act.

3. Under rule 3a–5(b)(3), a ''company controlled by the parent company'' may only be a company that derives its non-investment company status from section 3(a), or rules thereunder, or section 3(b). Applicants initially will loan funds to Morgan Guaranty, which derives its non-investment company status from section 3(c)(3) of the Act, and may loan funds to certain subsidiaries which derive their non-investment company status from section 3(c) of the Act. Consequently, applicants believe that Morgan Guaranty does not, and certain of the subsidiaries to which applicants may loan funds may not, qualify as a ''company controlled by the parent company'' under rule 3a–5(b)(3).

4. Applicants note that, in the release adopting rule 3a–5, the SEC stated that it may be appropriate to grant exemptive relief to the finance subsidiary of a section 3(c) issuer, upon examination of all relevant factors.[3] Applicants submit that the SEC also identified in the release its concern that a company may be considered a non-investment company under section 3(c) but still be engaged primarily in investment company activities.[4] Applicants state that J.P. Morgan is a bank holding company whose primary activities involve managing the activities of its banking and permitted non-banking subsidiaries. Applicants submit that, because J.P. Morgan is highly regulated by the Federal Reserve and various state banking agencies, regulation under the Act is neither warranted nor relevant.

5. Section 6(c) of the Act provides that the SEC, by order upon application, may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act 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 submit that the exemptive relief requested meets the standards of section 6(c).

Applicants' Condition

Applicants agree that the order granting the requested relief shall be subject to the condition that each applicant will comply with all of the provisions of rule 3a–5 under the Act, except: (a) J.P. Morgan will not meet the portion of the definition of ''parent company'' under rule 3a–5(b)(2)(i) solely because it is excluded from the definition of investment company under section 3(c)(6) of the Act; (b) Morgan Guaranty will not meet the portion of the definition of ''company controlled by the parent company'' in rule 3a-5(b)(3)(i) solely because it is excluded from the definition of investment company under section 3(c)(3) of the Act; and (c) each applicant will be

[1] *See, e.g., Chieftain International Funding Corp.,* (pub. avail. Nov. 3, 1992); *Cleary, Gottlieb, Stein & Hamilton,* (pub. avail. Dec. 23, 1985).

[2] Investment Company Act Release No. 14725 (December 14, 1984) (adopting rule 3a–5).

[3] *Id.*

[4] *Id.*

permitted to invest in or make loans to corporations, partnerships, and joint ventures that do not meet the portion of the definition of ''company controlled by the parent company'' in rule 3a–5(b)(3)(i) solely because they are excluded from the definition of investment company by section 3(c)(2), 3(c)(3), 3(c)(4) or 3(c)(6) of the Act, provided that any such entity excluded from the definition of investment company under section 3(c)(6) will not be engaged primarily, directly or through majority owned subsidiaries in one or more of the businesses described in section 3(c)(5) of the Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16338 Filed 6–20–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1639/803–106]

KPMG Investment Advisors; Notice of Application

June 17, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

APPLICANT: KPMG Investment Advisers (''KPMGIA'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to continue to be registered with the SEC as an investment adviser.

FILING DATES: The application was filed on March 7, 1997, and amended on June 5, 1997. By letter dated June 17, 1997, applicant's counsel stated that an additional amendment, the substance of which is incorporated herein, will be filed during the notice period.

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 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 5th Street, N.W., Washington, D.C. 20549. Applicant, 4200 Norwest Center, 90 South Seventh Street, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Jennifer S. Choi, Special Counsel, at (202) 942–0725 (Division of Investment Management, Task Force on Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a general partnership owned by KPMG Peat Marwick LLP (''KPMG''). KPMG provides accounting and related services to individuals and entities in the private and public sectors throughout the United States.

2. Since December 13, 1994, applicant has been registered with the SEC as an investment adviser. Applicant's principal place of business is in Minneapolis, Minnesota, and it has approximately 32 registered advisory representatives conducting business from 19 offices located in 13 states and Puerto Rico.

3. Applicant is responsible for the investment advice component of the personal financial planning services offered by KPMG. Applicant supervises the delivery of investment advice by partners and professional employees of KPMG in connection with personal financial planning services offered by KPMG to its clients, and the scope, content and delivery of such advice is subject to quality control standards prescribed and monitored by applicant.

4. Applicant does not manage or exercise discretionary authority over clients' accounts or maintain custody of clients' funds or securities. In instances where clients seek or would benefit from specific advice on securities investments, applicant may present the client with a list of investment advisers that specialize in providing such advice from which the client may choose.

5. Applicant provides generic advice on securities of all types but does not recommend specific securities. At the request of a client, applicant would provide an analysis of the attributes of a specific security without recommendation as to whether a client should buy, sell or hold the security. With regard to mutual funds, applicant may assist a client in identifying categories of funds that match the client's individual profile. Applicant does not select mutual funds for clients. If a client's needs dictate, applicant would, using published ranking data, assist the client in selecting several mutual funds in each investment category for further consideration. The client would then have the opportunity to compare the investment philosophy, past performance, and other features and services of the funds before making the investment decision. Applicant would discuss the use of professional money managers with clients with an investable asset base in excess of $250,000. Applicant also provides asset allocation services and ongoing performance evaluations.

6. Applicant's fees are generally based on actual or estimated hourly charges, which vary according to the staff classification, experience and location of the individual providing the service.

Applicant's Legal Analysis

1. Under section 203A(a) of the Advisers Act, which would become effective July 8, 1997, as a consequence of the enactment on October 11, 1996 of the National Securities Markets Improvement Act of 1996,[1] an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business is prohibited from registering with the SEC unless the adviser (i) has assets under management of not less than $25 million (or such higher amount as the SEC may, by rule, deem appropriate), or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940, as amended. The SEC is directed by section 203(h) of the Advisers Act to cancel the registration of any adviser that no longer meets the criteria for registration.

2. Applicant states that it does not meet the statutory test of having $25 million of assets under management. Applicant also states that it does not act as an investment adviser to any registered investment company. Applicant also states that it would not qualify for exemption from the prohibition on SEC registration as provided in rule 203A–2 under the Advisers Act. Applicant states that it would not be able to rely on the rule to relieve the burden of multi-state registration because it does not qualify

[1] The effective date of the National Securities Markets Improvement Act of 1996, originally April 9, 1997, was extended to July 8, 1997 by Pub. L. No. 105–8 (Mar. 31, 1997).

for any of the four exemptions listed in rule 203A–2. Applicant, therefore, requests exemptive relief.

3. Under section 203A(c), the SEC has the authority to permit an investment adviser to register with the SEC if the application of the prohibition would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A. For the reasons discussed below, applicant believes that the standards for exemptive relief under section 203A(c) are met.

4. Applicant believes that Congress in adopting section 203A intended the SEC to grant these exemptions to advisers having a ''national or multistate practice'' and that ''[l]arger advisers, with national businesses, should be registered with the [SEC] and be subject to national rules.''[2] Applicant notes that the Advisers Act gives the SEC primary responsibility to regulate advisers that remain registered with the SEC by preempting certain state laws with respect to those advisers.

5. Applicant notes that the SEC's release adopting the rules implementing the Coordination Act stated that Congress recognized that ''some advisers that do not have $25 million of assets under management may still have national businesses.''[3] As a result, the SEC was given the ''authority to exempt advisers from the prohibition on [SEC] registration if the application of the prohibition would be unfair, a burden on interstate commerce or otherwise inconsistent with the purposes of section 203A.''[4]

6. Applicant submits that the nature of its business consists of a national or multistate practice that Congress intended to be regulated by the SEC and not at the state level. Applicant states that it currently supervises services provided through 19 offices in 13 states by approximately 32 advisory representatives. Applicant believes that although it does not provide discretionary management services to its clients, the services provided are national in scope.

7. Applicant asserts that the purpose of the $25 million test was to limit SEC regulation of advisers likely to be subject to multiple state registration requirements. Applicant believes that if the requested relief is not granted, it would continue to be subject to a multitude of state requirements, a result which is inconsistent with the purpose of section 203A to preempt certain state laws insofar as they relate to advisers with a multi-state practice.

8. Applicant further submits that the national de minimis standard embodied in section 222(d) of the Advisers Act provides little or no relief from the burdens of multi-state registration. Pursuant to section 222(d), a state may not require applicant to register as an investment adviser if applicant does not have a place of business located within that state and, during the preceding 12 month period, had fewer than 6 clients who are residents of that state. Applicant states that it has had, during the past 12 months, at least 6 state-resident clients in each of the 17 states and the District of Columbia in which applicant does not currently maintain an office. As a result, applicant believes that it currently would be required to register in 30 states and the District of Columbia, including the 13 states in which applicant maintains an office. Even after giving effect to all state-adopted exemptions that are more liberal than the national de minimis standard, applicant represents that, as of July 8, 1997, it would be required to register in 30 states and the District of Columbia.

9. Finally, applicant also submits other grounds for granting an exemption under section 203A. Applicant believes that prohibiting it from registering with the SEC would be unfair or a burden on interstate commerce in that advisers with fewer clients and a much more local practice than applicant's national presence would enjoy the benefits of state law preemption, while applicant would be compelled to expend the considerable resources required to constantly monitor and enforce compliance with the state regulations to which it would be subject.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16336 Filed 6–20–97; 8:45 am]

BILLING CODE 8010–01–M

[2] S. Rep. No. 293, 104th Cong. 2d Sess. 5 (1996).

[3] *Rules Implementing Amendments to the Investment Advisers Act of 1940,* Investment Advisers Act Rel. No. 1633 (May 15, 1997), 62 FR 28112 (May 22, 1997).

[4] *Id.*

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22712; 811–5210]

The Stanger Fund, L.P.; Notice of Application

June 17, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: The Stanger Fund, L.P.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: .The applicant was filed on April 14, 1997, and an amendment thereto on June 13, 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 11, 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, 1129 Broad Street, Shrewbury, N.J. 07702.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Elizabeth G. Osterman, Assistant Director, 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 organized as a limited partnership under the laws of the State of Delaware. SEC records indicate that on June 17, 1987, applicant filed a notification of registration on Form N–8A pursuant to section 8(a) of the Act.

2. Applicant abandoned its intention to operate before it received any assets. Applicant never issued securities.

3. Applicant does not have securityholders, debts, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant is not engaged, nor does it propose to engage, in any business

activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16337 Filed 6–20–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting; Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of June 23, 1997.

A closed meeting will be held on Tuesday, June 24, 1997, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402 (a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 24, 1997, at 2:30 p.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: June 18, 1997.

[FR Doc. 97–16429 Filed 6–18–97; 4:41 pm]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2562]

Advisory Committee on Religious Freedom Abroad; Public Meeting

The Department of State announces a meeting of the Secretary of State's Advisory Committee on Religious Freedom Abroad on Tuesday, July 2, 1997 at 9:00 a.m. in the Loy Henderson auditorium at the U.S. Department of State, 2201 C Street, N.W., Washington, D.C. The Advisory Committee will consider topics related to eliminating religious persecution, supporting religious freedom and promoting reconciliation and conflict resolution.

The Advisory Committee members will elaborate on a report which they will prepare over the course of the year to be delivered to the Secretary of State and the President. The report will focus on two issues: (1) religious persecution and (2) the role of religious groups in promoting conflict resolution, reconciliation and conditions that permit respect for religious freedom and other human rights. In preparing the report, the members will draw on the discussions and information presented at the July 2 meeting, and gathered or presented to them individually throughout the year.

Members of the public wishing to attend the meeting or otherwise desiring information should contact Ms. Raynell Bowling, Advisory Committee on Religious Freedom Abroad, Bureau of Democracy, Human Rights, and Labor, Department of State, Washington, D.C. 20520, telephone: (202) 647–1422. In order to attend the meeting, please RSVP by June 30 and provide your date of birth and social security number to facilitate entry to the State Department. Please bring a photo identification to enter the State Department.

Dated: June 18, 1997.

John Shattuck,

Chairman, Advisory Committee on Religious Freedom Abroad.

[FR Doc. 97–16518 Filed 6–19–97; 2:10 pm]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Dedicated Short Range Communication Systems; Applications for Frequency Assignments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA invites any party interested in making use of spectrum in the 5850 to 5925 megahertz (MHz) radio frequency band for dedicated short range communication (DSRC) systems to request an application package for frequency assignment. The use of these frequencies will be limited to certain applications and subject to technical constraints. This spectrum was allotted to the FHWA on an experimental basis for 15 years and is intended to be used by the FHWA to develop applications for the Intelligent Transportation Systems (ITS) program.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Arnold, Intelligent Systems and Technologies Division, (703) 285–2974, or Ms. Beverly Russell, Office of the Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On May 23, 1996, the FHWA was granted shared use of spectrum in the 5850–5925 MHz radio frequency band for development and testing of DSRC. The authorization was granted through a Certificate of Spectrum by the National Telecommunications and Information Administration (NTIA), the agency responsible for management of Federal spectrum. This spectrum was allotted to the FHWA on an experimental basis for 15 years and is intended to be used by the FHWA to develop applications for the ITS program. The FHWA invites parties interested in making use of these frequencies for ITS applications to request an application package as indicated below.

The national ITS program encompasses the use of advanced and emerging technologies in such fields as information processing, communications, control and electronics to increase the safety and efficiency of the Nation's intermodal transportation system. One way in which the FHWA facilitates the development of ITS is through research and testing of enabling technologies for ITS. DSRC is one such technology, identified as being critical to the future nationwide interoperability of intelligent transportation systems applications in the National ITS Architecture Final Report (June 1996). DSRC systems consist of short-range communication devices that are capable of transferring large amounts of data over a wireless interface between mobile or stationary vehicles and normally structure-mounted or handheld stationary devices at the roadside. When

used, each DSRC application, like all other radio frequency systems, requires some specific, unused portion of the electromagnetic spectrum.

The FHWA intends to share the use of its recently acquired spectrum with public and private organizations in selected ITS projects involving applications that are broadly consistent with the following: In-Vehicle Signing, Highway-Rail Intersection, Commercial Vehicle Operations (CVO) Electronic Clearance*, CVO Automated Roadside Inspection*, Fleet Management, Intermodal Freight Management, Hazardous Material Incident Response, CVO Off-line Verification, Intersection Collision Avoidance, Emergency Vehicle Signal Preemption, Transit Vehicle Signal Priority, Transit Vehicle Data Transfer, High-occupancy Vehicle (HOV) Access Clearance, Traffic Network Performance Monitoring, Traffic Information Dissemination, Automated Highway System to Vehicle Communications, Electronic Toll Collection*, and Parking Payments. The functions marked with an asterisk are likely to be limited to the 5850–5875 MHz portion of the radio frequency band. A full description of these services is included in the frequency assignment application package (see *Applications for Frequency Assignments* below).

Objectives

The FHWA has several objectives related to the experimental use of this spectrum. The first objective is to foster the development of a single nationwide standard system for DSRC. Such a standard implies a minimum level of interoperability of the communication link such that a single in-vehicle unit will meet all known user requirements. Since this communication link has not been fully defined, there exists an opportunity for the DSRC community and the FHWA to jointly develop a single communications link for DSRC systems. This definition of standards in the DSRC area is currently being conducted under the auspices of the American Society of Testing and Materials (ASTM) and the Institute of Electrical and Electronics Engineers (IEEE).

The second, and related, FHWA objective is to develop a DSRC system that is compatible with existing users of the band. Much of the information concerning electromagnetic compatibility (EMC) of DSRC systems and other systems is not available to the general public. The FHWA can assist DSRC users to identify and resolve potential EMC issues.

The third objective is to develop a DSRC system that is not only sufficiently robust to meet existing requirements of the applications identified above, but is also capable of expanding to include applications that are as yet unknown. Future application requirements may be difficult to define, but must be considered if this DSRC system is to have a service life sufficient to warrant deployment nationwide. Applications may be proposed that have not yet been considered but which involve innovative uses of the spectrum to meet user requirements and provide significant societal benefits.

Finally, the FHWA encourages organizations interested in using this spectrum to apply as soon as possible. As mentioned above, this spectrum has been specifically allotted for experimental work that will aid in developing early products for a nationwide and compatible DSRC system.

Terms of Use

Under the terms of this authorization (a *Stage 2 Experimental Certificate of Spectrum Support* from the NTIA), the FHWA must maintain administrative control over the use of these frequencies, which is accomplished through a contract or memorandum of understanding between the FHWA and the party applying for use of this spectrum. Several terms of the Certificate of Spectrum support apply to the FHWA or any party with whom the FHWA enters into an agreement, and are stated as follows:

(1) There is an absolute prohibition against interfering with existing users of the spectrum in the 5850–5925 MHz and surrounding bands (see number 2 below). If such interference takes place, the FHWA must demand that the interfering entity either cease operation or take other appropriate action. The right of the FHWA to make such a demand, and the obligation of the interfering entity to immediately comply, will be written in all contracts or memoranda of understanding for use of the spectrum.

(2) The Federal Communications Commission (FCC) and the NTIA share jurisdiction over this Mhz radio frequency band. The FCC has allocated this spectrum on a primary basis to fixed satellite earth-to-space applications, and on a secondary basis to amateur radio operations. The NTIA has allocated this spectrum to government radiolocation and the band is used for military radar applications. Experimental DSRC systems must, therefore, defer to these types of systems. As part of the agreement to allow experimental use of this band it was pointed out by the NTIA that: (i) The band is allocated to the radiolocation service, and is the subject of ongoing reallocation efforts; (ii) the FCC issued a final rule at 62 FR 4649 on January 31, 1997, to provide for unlicensed National Information Infrastructure (U–NII) devices in the 5150–5350 and 5725–5875 MHz bands (47 CFR part 15, subpart E); (iii) this system may suffer harmful interference from adjacent and co-channel high power Department of Defense (DoD) systems in this band, in addition to harmonics of 2700–2900 MHz radar operations; (iv) the DSRC system may not be deployed (i.e., be made available to the general public) until the FHWA performs an analysis that identifies techniques to mitigate the electromagnetic interference potential from and to other co and adjacent-band users, and all parties agree that electromagnetic compatibility exists.

(3) The FHWA is required further by NTIA to: (i) Conduct an analysis to determine potential worst-case interference distances for a set of emitters identified by the DoD; (ii) perform coordinated testing in areas indicated by the analysis [that] pose the greatest interference threat to either the DoD systems or [DSRC systems], and provide copies of the test results to DoD for review; and (iii) limit [DSRC system] operations to areas that are determined to be free from interference either to or from the emitters identified by the DoD. Again, any agreement entered by the FHWA with another party applying for use of this spectrum must aim to ensure that these recommendations are upheld.

Additional Terms of Use—Technical Limitations

Bandwidth: The power emission shall be attenuated below the highest power contained within the authorized channel according to the following schedule:

3 dB Bandwidth—1.0 MHz
20 dB Bandwidth—2.2 MHz
60 dB Bandwidth—10.0 Mhz

Power: The maximum permissible effective radiated power (ERP) for base and mobile, is 10 watts.

Modulation: The final digital modulation type that will be authorized on these frequencies is currently under study. It will be a digital modulation, with a spectral efficiency such that channel data rates in the vicinity of 600 kilobits per second (kbps) will be supported. This will yield a user data rate of between 300 and 400 kbps. For any specific field experiments that want to use the frequencies prior to the

determination of a standard modulation scheme, the FHWA will grant authorization for a period not to exceed one year for alternative modulations that meet the overall bandwidth limitations (attenuation vs. frequency displacement) specified above.

Frequency Stability: Base and Mobile stations shall maintain the carrier frequency within 0.1 ppm.

Hardware type Acceptance: If the equipment has received an FCC Type Acceptance Number, this should be stated in connection with any application for an experimental license.

Applications for Frequency Assignments

To request an application package or additional information, parties interested in using these frequencies should contact the following: James A. Arnold, Intelligent Systems and Technologies Division, HSR–10, 6300 Georgetown Pike, McLean, VA 22101–2296, (703) 285–2974. Generally, frequency assignments will be made for one to three years with potential for renewal.

(Authority: 23 U.S.C 307 note)

Issued on: June 13, 1997.

Jane Garvey,

Acting Administrator for the Federal Highway Administration.

[FR Doc. 97–16251 Filed 6–20–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 548X)]

CSX Transportation, Inc.—Abandonment Exemption—in Monroe County, IN

On June 3, 1997, CSX Transportation, Inc. (CSXT), 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 known as the Monon Subdivision, extending from railroad milepost Q–217.67 at Hunters to railroad milepost Q–213.41 at the end of track at Ellettsville, which traverses U.S. Postal Service ZIP Codes 47427 and 47401, a distance of 4.26 miles, in Monroe County, IN. The line for which the abandonment exemption request was filed includes the station of Ellettsville, milepost Q–213.

The line does not contain federally granted rights-of-way. Any documentation in CSXT'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 19, 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).

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. 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 14, 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–55 (Sub-No. 548X) 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) Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

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 12, 1997.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16373 Filed 6–20–97; 8:45 am]

BILLING CODE 4915–00–P

federal register

Monday
June 23, 1997

Part II

Department of Housing and Urban Development

Notice of Fiscal Year 1997 Funding for the Section 8 Rental Certificate and Rental Voucher Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4220–N–01]

Notice of Fiscal Year 1997 Funding for the Section 8 Rental Certificate and Rental Voucher Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Fiscal Year (FY) 1997 funding for the Section 8 Rental Certificate and Rental Voucher Programs.

SUMMARY: This notice provides general information about the Section 8 certificate and voucher program budget authority made available by HUD's FY 1997 Appropriations Act and additional carryover budget authority that is available for use in FY 1997. This notice also describes the application process for making these Section 8 funds available to public housing agencies (HAs), including Indian housing authorities, during FY 1997 (October 1, 1996 to September 30, 1997).

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–8000, telephone (202) 708–0477. Persons with hearing or speech impairments may call HUD's TTY number (202) 708–4594, or the Federal Information Relay Service at (800) 877–8339. (With the exception of the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of related HUD NOFAs, other than those specifically mentioned above, that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

In addition to today's notice of funding, HUD has recently published four other NOFAs regarding housing revitalization. On April 14, 1997 (62 FR 18242), HUD published in the **Federal Register** the NOFA for the Revitalization of Severely Distressed Public Housing (HOPE VI). On May 1, 1997 (62 FR 23928), HUD published the NOFA for the Comprehensive Improvement Assistance Program. On June 3, 1997, HUD published the Lead-based Paint Hazard Reduction NOFA (62 FR 30380) and the Public Housing Demolition NOFA (62 FR 30402).

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. HUD may consider additional steps on NOFA coordination for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

I. FY 1997 Section 8 Certificate and Voucher Unit Funding Categories and Amounts

This notice provides general information about the Section 8 certificate and voucher program budget authority made available by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, approved September 26, 1996; 110 Stat. 2874, 2882) and additional carryover budget authority that is available for use in fiscal year (FY) 1997. The following are the categories for which Section 8 certificate and voucher funds will be offered during FY 1997 (October 1, 1996 to September 30, 1997): (1) Relocation units for families currently living in public housing (a) for which the HA has submitted a demolition/disposition application, or (b) subject to the distressed public housing conversion requirements of section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, approved April 26, 1996), hereafter referred to as distressed public housing conversion units; (2) Replacement units in exchange for the recapture of unused public housing development funds (including major reconstruction of obsolete projects (MROP) or comprehensive improvement assistance program (CIAP) funds approved by HUD for conversion to development usage); (3) Replacement units for (a) public housing approved by HUD for demolition/disposition, or (b) distressed public housing conversion units; (4) Units for families currently living in a Section 23 leased housing project with an HA lease (or HAP contract if under the Section 23 housing assistance payments program) expiring during FY 1997; (5) Units for the family unification program; (6) Family self-sufficiency (FSS) service coordinators; (7) Units for the relocation of witnesses involved in law enforcement and criminal prosecution; (8) Units for persons with disabilities in support of designated public housing allocation plans and preferences for nonelderly disabled families in certain project-based Section 8 projects; (9) Units for the mainstream program for persons with disabilities; (10) Units for families currently living in HUD-owned, Section 8 project-based HAP contract termination, Section 8 project-based opt-out, and FHA insured prepayment projects; (11) Counseling to achieve broader housing opportunities; (12) Units for litigation; (13) Certificate and voucher renewals; and (14) Certificate cost amendments. The approximate amount of funds and Section 8 units for each category, identification of the sources for application information, and the application due dates are summarized in the chart below.

Funding category	Approx. funding amount	Approx. No. of units	Application info source	Application due date
1. Public housing relocation	Category 1, 2 & 3: $147.5M ($77.5M 2-yr carryover BA & $70M 1-yr HOPE VI BA).	12,400 units	This notice	3 p.m. (local FO time) August 22, 1997.
2. Public housing development funds recapture exchange.	See funding category 1.	See funding category 1.	This notice	3 p.m. (local FO time) August 22, 1997.
3. Public housing replacement	See funding category 1.	See funding category 1.	This notice	3 p.m. (local FO time) August 22, 1997.
4. Sec. 23 conversions	$2.8M	645 units	HUD FO	n/a.
5. Family unification	$58.8M	6,400 units	4/18/97 NOFA	3 p.m. (local FO time) 6/17/97.
6. FSS coordinators	$15M	n/a	5/1/97 NOFA	3 p.m. (local FO time) 6/2/97.
7. Witness relocation	$2M	300 units	Notice PIH–96–83(HA) dated 10/11/96.	n/a.
8. Designated public housing alloc plans & Sec. 8 project-based disabled preferences.	$50M	8,400 units	4/10/97 NOFA	None, unless later estab.
9. Mainstream program for persons with disabilities.	$48.5M 5-yr BA	2,000 units	4/10/97 NOFA	3 p.m. (local FO time) 6/9/97.
10. HUD-owned, Sec. 8 project-based termin & opt-outs, & prepayment relocation.	$176M	26,800 units	HUD FO	n/a.
11. Counseling	$12.4M carry-over 2-yr BA.	n/a	HUD HQ	n/a.
12. Litigation	$30M carryover 2-yr BA.	1,700 units	HUD HQ	n/a.
13. Renewals	$2.5B	n/a	HUD FO	n/a.
14. Cost amendments	$152.2M	n/a	HUD FO	n/a.

II. Applications for Funding Category 1 (Public Housing Relocation), Funding Category 2 (Public Housing Development Funds Recapture Exchange), and Funding Category 3 (Public Housing Replacement)

A. Eligibility for Funding Category 1 (Public Housing Relocation) and Funding Category 3 (Public Housing Replacement)—Prohibition Against Receiving Section 8 Relocation or Replacement Assistance if HA Has Received Other Relocation or Replacement Funds for the Same Unit

To be eligible for funding categories 1 and 3 relocation/replacement assistance, the HA must not have received Section 8 funds, public housing development funds, MROP, vacancy consolidation funds, Revitalization of Severely Distressed Public Housing Grant Program (hereafter referred to as the HOPE VI program) funds, condemnation proceeds, or replacement insurance funds for relocation or replacement housing for the public housing units that are the subject of the application. For example, if an HA received Section 8 funding for relocation of a public housing resident living in a public housing unit to be demolished, the HA is not eligible to receive Section 8 replacement funding for the same unit. Similarly, if an HA received public housing development funds to replace a demolished public housing unit, the HA is not eligible to receive either Section 8 relocation or replacement funding for the same unit.

Receipt of Section 8 relocation assistance does not affect the eligibility of the HA to receive subsequent HOPE VI replacement construction funding for the same units.

B. Eligibility for Funding Category 1 (Public Housing Relocation), Funding Category 2 (Public Housing Development Funds Recapture Exchange), and Funding Category 3 (Public Housing Replacement)—Requirement to Submit a Demolition/Disposition Application and Use Section 8 Funding by September 30, 1998

To be eligible for funding categories 1 and 3 relocation/replacement assistance other than the conversion of distressed public housing units: if a demolition/disposition application has not been previously submitted or the application previously submitted was incomplete, the HA must simultaneously submit copies of the initial or amended demolition/disposition application to the HUD field office and the appropriate HUD processing center. The demolition application must be complete and in accordance with 24 CFR part 970. (A demolition/disposition application is not required for public housing developments that meet the statutory requirements for the mandatory conversion of distressed public housing units, as certified by the HA under the terms of this notice.) To be eligible for funding categories 1, 2, and 3 relocation/replacement assistance, the HA must demonstrate that the Section 8 certificates or vouchers will be issued by September 30, 1998 or provide good cause justification for an exception to this deadline.

C. Eligibility for Funding Category 1 (Public Housing Relocation), Funding Category 2 (Public Housing Development Funds Recapture Exchange), and Funding Category 3 (Public Housing Replacement)—Ineligibility Due to Civil Rights, Litigation, Inspector General, and Management Review Findings or Actions

HUD will not process applications that fall into any of the following categories:

1. There is a pending civil rights suit against the HA instituted by the Department of Justice, or there is a pending administrative action for civil rights violations instituted by HUD.

2. There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or

compliance agreement designed to correct the areas of noncompliance.

3. There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

4. HUD has denied application processing under Title VI of the Civil Rights Act of 1964 and HUD regulations (24 CFR 1.8) or procedures (HUD Handbook 8040.1), the Attorney General's Guidelines (28 CFR 50.3), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

5. The HA has: (a) Serious unaddressed, outstanding Inspector General audit, Fair Housing and Equal Opportunity monitoring and compliance review, or HUD management review findings for its certificate or voucher programs; (b) serious underutilization of certificates or vouchers or certificates not attributable to the 3-month statutory delay for the reissuance of rental vouchers and certificates; or (c) significant program compliance problems, unless the HA application designates a subcontractor acceptable to HUD to administer the new funding increment on behalf of the HA. The HA's application must include: (i) An agreement by the subcontractor to administer the new funding increment and a statement that outlines the steps the HA is taking to resolve the program findings, or (ii) a proposal for management improvements that the HA will implement to remedy the program findings. Immediately after the publication of this Notice, the HUD field office will notify, in writing, those HAs that are not eligible to apply without a subcontractor acceptable to HUD or a proposal for management improvements acceptable to HUD.

6. HUD determines that any pending litigation described in this section II.C. of this notice may seriously impede the ability of the HA to administer the certificates or vouchers.

HA Responsibilities: HAs that receive certificate or voucher funds must affirmatively further fair housing by conducting activities such as explaining the advantages of moving to an area that does not have a high concentration of poor families if the family is currently living in a high poverty census tract in the HA's jurisdiction.

D. Application Deadline for Funding Category 1 (Public Housing Relocation), Funding Category 2 (Public Housing Development Funds Recapture Exchange), and Funding Category 3 (Public Housing Replacement)

Section 8 applications for public housing relocation and replacement funding categories 1 through 3 must be submitted to the HUD field office on or before 3 p.m. (local field office time) on August 22, 1997.

E. Application Content for Funding Category 1 (Public Housing Relocation), Funding Category 2 (Public Housing Development Funds Recapture Exchange), and Funding Category 3 (Public Housing Replacement)

1. Application Requirements for all Funding Category 1 (Relocation) and Funding Category 3 (Replacement) Applications

A Section 8 application for funding categories 1 and 3 must include: (a) Form HUD–52515, Funding Application for Section 8 Tenant-Based Assistance dated 9/95; (b) identification of each public housing development by name, project number, and the number of units by development being demolished, disposed, or subject to the distressed public housing conversion requirements; (c) the time schedule for the issuance of certificates/vouchers and relocation of the public housing tenants, or the public housing demolition or disposition and the issuance of certificates/vouchers; (d) except for distressed public housing conversion applications, the submittal date of the HA's demolition/disposition application and the actual or anticipated date of approval of the HA demolition/disposition request; (e) a statement indicating whether Section 8 funding for relocation or replacement was previously provided for the public housing units for which the HA is submitting an application; (f) identification of any funds committed to the development that could be used for hard replacement of the units; and (g) a statement indicating whether there is any, and the amount of, Section 8 funding previously provided by HUD to the HA for relocation or replacement of any public housing development that is no longer needed.

2. Requirements for Funding Category 2 Public Housing Development Funds Recapture Exchange

A Section 8 application for funding category 2 must include: (1) Form HUD–52515, Funding Application for Section 8 Tenant-Based Assistance dated 9/95; (2) identification of each public housing development from which development funds will be recaptured by name, project number, the number of units and the date that HUD approved the funds (the HUD field office can assist the HA in determining this date); (3) the status of development fund usage; (4) an HA Executive Director agreement that the remaining development funds may be recaptured by HUD if Section 8 replacement units are provided; and (5) the time schedule for the issuance of certificates/vouchers.

3. Additional Application Requirements for Funding Category 1 (Relocation) Applications

For relocation applications, the following information is also required: an assessment of the availability of vacant public housing units which could be used for relocation, and the extent to which the HA will use public housing vacancies and Section 8 certificates and vouchers for relocation.

4. Additional Application Requirements for Funding Category 3 (Replacement) Applications

For replacement applications, the following information is also required: a statement indicating whether the public housing units were occupied or vacant at the time of the demolition/disposition approval or the date of the certification that the development meets the statutory requirement for distressed public housing conversion (see discussion on conversion applications below).

5. Additional Application Requirements for Funding Category 1 and Funding Category 3 Distressed Public Housing Conversion Applications

For conversion-related applications only, the following information is also required: (a) A dated HA Executive Director certification that the Section 8 units are being requested for distressed public housing units that the HA has determined are subject to the conversion requirements of section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; and (b) an HA Executive Director certification that the distressed public housing units that are the subject of the replacement housing application will be replaced with Section 8 certificate or voucher assistance and will not be rehabilitated and reoccupied as public housing or replaced with new or acquired public housing units.

6. Additional Application Requirements for Funding Category 1 and Funding Category 2 Applications When the HA Has a Pending HOPE VI Proposal

For applications related to pending (submitted but not yet funded) HOPE VI proposals only, the following information is also required: A statement indicating whether the demolition, disposition, or conversion plans are contingent upon receipt of HOPE VI funds (i.e., whether these plans will proceed if the HOPE VI program application is not funded).

F. HUD Approval Process for Funding Category 1 (Public Housing Relocation), Funding Category 2 (Public Housing Development Funds Recapture Exchange), and Funding Category 3 (Public Housing Replacement)

1. HUD Field Office Review Actions

Immediately after publication of this notice, the HUD field office must notify any PHA that is ineligible to apply for certificates or vouchers unless there is an agreement by a subcontractor acceptable to HUD to administer the funding increment or a proposal for management improvements acceptable to HUD. The HUD field office must complete a Section 8 fund reservation worksheet for each Section 8 application received, and forward each worksheet to the Operations Division in the Office of Rental Assistance in Headquarters with a cover memorandum indicating the status of the HA demolition/disposition request or distressed public housing conversion; a target date for completion of the HUD processing center review of any demolition/disposition request and whether the application is complete, both as confirmed by contacting Ainars Rodins at (212) 264–1945; an assessment of the reasonableness of the HA time schedule for issuing certificates/vouchers and whether it is likely that certificates or vouchers will be issued by September 30, 1998; an assessment of the reasonableness of the HA justification of the need for Section 8 relocation resources and whether the description of public housing vacancies which could be used as relocation resources is accurate; and an assessment of the accuracy or reasonableness of any other information submitted by the HA. No further HUD field office review of the Section 8 application is necessary except for initiating the Section 213 local government comment process for funding categories 2 and 3 public housing replacement applications. (Section 213 reviews are not required for funding category 1 public housing relocation applications.)

2. HUD Headquarters Funding Actions

HUD headquarters will award the Section 8 funds to HAs for category 1 applications until all category 1 applications are funded, or all the funds are awarded. If there are insufficient Section 8 funds to approve all category 1 applications, funding preference will first be given to relocation applications with the earliest certificate/voucher issuance date that HUD determines the HA is likely to achieve.

If any funds are remaining after the category 1 fund awards are decided, HUD will award funds for category 2 applications until all category 2 applications are funded or all the funds are awarded. If there are insufficient Section 8 funds to approve all category 2 applications, funding preference will first be given to applications with the earliest date of public housing development fund approval and, second, to applications with the earliest certificate/voucher issuance date that HUD determines the HA is likely to achieve.

If any funds are remaining after the category 2 fund awards are decided, HUD will award funds for category 3 applications until all category 3 applications are funded, or all the funds are awarded. If there are insufficient Section 8 funds to approve all category 3 applications, funding preference will be given first to applications for replacement units for public housing occupied at the time of the demolition/disposition approval or the date of the certification that the public housing development in question meets the statutory distressed public housing conversion requirements, and second to applications with the earliest certificate/voucher issuance date that HUD determines the HA is likely to achieve and HA need as determined by HUD.

If any funds targeted for funding categories 1, 2, and 3 are remaining after the category 3 fund awards are decided, HUD will determine whether to invite additional Section 8 applications (e.g., for HOPE VI or distressed public housing conversion relocation/replacement needs) or award the excess funds for other HOPE VI program purposes. HUD does not intend to award any remaining category 1, 2, or 3 funds for funding categories 4 through 14 purposes.

3. Rejection or Partial Funding of Applications

HUD may reject an HA Section 8 application if: (a) The application is incomplete; (b) the application does not meet the category eligibility criteria specified in this Notice or is otherwise deficient; or (c) HOPE VI funds were not approved and the HA has indicated that the demolition, disposition, or conversion plans are contingent upon receipt of HOPE VI funds. HUD may reject or partially fund an HA Section 8 application if HUD determines that the HA will not be able to provide the Section 8 rental assistance to the affected public housing residents in a timely manner, funds were committed for hard replacement of the units, the HA has Section 8 funding previously provided to the HA for public housing relocation/replacement that is no longer needed, or the HA otherwise does not need the additional funds (e.g., the HA has vacant public housing units suitable for relocation). If Section 8 funding previously reserved for relocation or replacement is no longer needed or will not be used in a timely manner, the FY 1997 Section 8 funding requests may be offset by such amount.

4. Early Approval of Funding Category 1 Relocation Applications

HUD may approve a funding category 1 relocation application prior to making all funding categories 1, 2, and 3 funding awards when there is a compelling reason to provide the relocation units quickly.

Summary of Funding Categories 1, 2, and 3 Application Requirements

The funding categories 1, 2, and 3 application requirements are summarized in the chart below.

Funding category	Eligibility threshold summary	Application content checklist
1. Public housing relocation	HA cannot have previously received relocation or replacement $ for same units; except for distressed conversions, must have submitted a complete demo/dispo applic; must demonstrate that C/V will be issued by 9/30/98; unless meet any exception criteria, must not have civil rights, litigation, IG, & mgt review findings described in this Notice.	Form HUD–52515; ID proj name, #, & # units; C/V issuance, demo/dispo, & relocation schedule; demo/dispo applic dates & approval letter; statement re: prior Sec. 8 funding for same units; ID prior replacement $; ID prior unneeded Sec. 8 $; statement re: occupancy status when demo/dispo approved or distressed conversion certif submitted;

Funding category	Eligibility threshold summary	Application content checklist
		ID PH relocation resources; certif that units meet statutory distressed conversion requirements & certif that units will not be reoccupied or replaced with new public housing; HOPE VI statement.
2. Public housing development funds recapture exchange.	Must demonstrate that C/V will be issued by 9/30/98; unless meet any exception criteria, must not have civil rights, litigation, IG, & mgt review findings described in this Notice.	Form HUD–52515; ID proj name, proj #, # units & date $ approved; PH dev $ usage status; recapture agreement; C/V issuance schedule.
3. Public housing replacement.	HA cannot have previously received reloc or replacement $ for same units; except for distressed conver, must have submitted a complete demo/dispo applic; must demonstrate that C/V will be issued by 9/30/98; unless meet any exception criteria, must not have civil rights, litigation, IG, & mgt review findings described in this Notice.	Form HUD–52515; ID proj name, #, & # units; C/V issuance, demo/dispo, & relocation schedule; demo/dispo applic dates & approval letter; statement re: prior Sec. 8 funding for same units; ID prior replacement $; ID prior unneeded Sec. 8 $; statement re occupancy status when demo/dispo approved or distressed conversion certif submitted; Certif that units meet statutory distressed conversion requirements & certif that units will not be reoccupied or replaced with new public housing; HOPE VI statement.

III. Applications for Funding Category 4, Section 23 Conversions

Headquarters will allocate certificate funds directly to the HUD field offices to assist tenants of Section 23 leased housing for which leases (or HAP contracts, if under the Section 23 housing assistance payments program) are expiring during FY 1997. An HA that has a Section 23 leased housing project with a lease or HAP contract expiring during FY 1997 should submit a Section 8 application to the HUD field office. Funds under this category will be provided on a first-come, first-served basis.

IV. Applications for Funding Category 5, Family Unification Program

On April 18, 1997 (62 FR 19208), HUD published a NOFA detailing the application procedures for requesting Section 8 funding for the family unification program. The FY 1997 competition has been extended nationwide.

V. Applications for Funding Category 6, FSS Service Coordinators

On May 1, 1997 (62 FR 23912), HUD published a NOFA detailing the application procedures for requesting funding for Section 8 Family Self-Sufficiency program coordinators.

VI. Applications for Funding Category 7, Relocation of Witnesses Involved in Law Enforcement and Criminal Prosecution

HUD will provide funding for vouchers to accommodate requests from law enforcement agencies for relocation assistance to families that have cooperated in efforts to combat crime in public, Indian, and other assisted housing. Notice PIH–96–83(HA), issued October 11, 1996, specifies the process for obtaining Section 8 funding for witness relocation purposes.

VII. Applications for Funding Category 8, Designated Public Housing Allocation Plans and Section 8 Project-Based Disabled Preferences

HUD will provide certificates and vouchers to HAs in connection with allocation plans for designated public housing developments, and in connection with certain Section 8 project-based projects. On April 10, 1997 (62 FR 17672), HUD published a NOFA detailing the procedures for requesting Section 8 funding for these purposes.

VIII. Applications for Funding Category 9, Mainstream Program for Persons With Disabilities

On April 10, 1997 (62 FR 17666), HUD published a NOFA detailing the procedures for requesting funding for general mainstream tenant-based rental assistance for persons with disabilities.

IX. Applications for Funding Category 10, Relocation of Families Living in HUD-Owned, Section 8 Project-Based Termination, Section 8 Opt-Out, and FHA Insured Prepayment Projects

HUD Headquarters will assign funds for Section 8 tenant-based assistance directly to the HUD field offices for eligible families living in these projects. HUD field office requests to Headquarters for funding under this category will be approved on a first-come, first-served basis.

X. Funding Category 11, Section 8 Counseling to Achieve Broader Housing Opportunities

HUD Headquarters may provide Section 8 counseling funding to provide special counseling or housing search assistance to certificate and voucher holders. In addition, HUD may provide a portion of the funding available for Section 8 counseling activities to achieve broader housing opportunities. Housing agencies that are eligible for the special administrative fees for counseling activities will be notified by HUD.

XI. Applications for Funding Category 12, Litigation

HUD will continue to provide funds for settlement of litigation. When negotiations of the litigation settlement are complete, HUD Headquarters will notify the HUD field offices of the number of vouchers/certificates to be provided to the HA. The HUD field office will invite Section 8 applications from the HAs eligible for these funds.

XII. Funding Category 13, Section 8 Certificate and Voucher Renewals

HUD Headquarters will allocate funds directly to the HUD field offices for the renewal of certificate and voucher funding increments expiring in FY 1997. Renewal funding will be provided on an ''as-needed'' basis.

XIII. Funding Category 14, Section 8 Certificate Cost Amendments

HUD Headquarters will allocate certificate cost amendments within the original 15-year term of the ACCs to provide budget authority increases to HA certificate programs. HUD Headquarters will allocate the funds on an ''as needed'' basis.

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

This Notice provides funding under, and does not alter environmental requirements of, regulations in 24 CFR part 882 subparts A, B, C and F; part 887; and part 982; which have been previously published in the **Federal Register**. This Notice provides funding only for tenant-based assistance, which is a categorical exclusion not subject to the individual compliance requirements of the Federal laws and authorities cited in § 50.4, and therefore those regulations do not contain environmental review requirements. Accordingly, under 24 CFR § 50.19(c)(5), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of HUD, the States, and local governments, including HAs.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the certificate and voucher programs are 14.855 and 14.857.

Dated: June 16, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–16249 Filed 6–20–97; 8:45 am]

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federal register

Monday
June 23, 1997

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 21

Migratory Bird Permits; Proposed Depredation Order for the Double-Crested Cormorant; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018-AE11

Migratory Bird Permits; Proposed Depredation Order for the Double-Crested Cormorant

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service) proposes to implement a depredation order for the double-crested cormorant. In those States in which double-crested cormorants have been shown to be seriously injurious to commercial freshwater aquaculture, and when found committing or about to commit depredations upon aquaculture stock, persons engaged in the production of aquaculture commodity stocks would be allowed, without a Federal permit, to take or cause to be taken such double-crested cormorants as might be necessary to protect aquaculture stocks.

DATES: Comments must be submitted on or before August 22, 1997.

ADDRESSES: Comments may be mailed to Chief, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW, Washington, D.C. 20240. Comments will be available for public inspection during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, MBMO, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Background

Double-crested cormorant populations are at an all-time high in the modern era, and commercial aquaculturists (especially catfish farmers) in many parts of the country are experiencing economic losses due to cormorant depredation. Three avenues currently are available to aquaculturists for dealing with cormorant depredation problems: (1) birds can be harassed (with shotgun blasts, fire crackers, propane cannons, or other scare devices) without a Federal permit; (2) ponds can be fitted with physical barriers (or exclusionary devices) such as wire or mesh netting that prevent birds from landing; and (3) private aquaculturists and State-operated fish hatcheries can apply to the Service for a permit to kill cormorants.

The Service is the Federal agency with the primary responsibility for managing migratory birds. The Service's authority is based on the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703–711), which implements conventions with Great Britain (for Canada), the United Mexican States (=Mexico), Japan, and the Soviet Union (=Russia). The double-crested cormorant is afforded Federal protection by the 1972 amendment to the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States—Mexico, as amended, 50 Stat. 1311, T.S. No. 912, as well as, the Convention Between the United States of America and the Union of Soviet Socialist Republics [=Russia] Concerning the Conservation of Migratory Birds and Their Environment, November 26, 1976, 92 Stat. 3110, T.I.A.S. 9073 (16 U.S.C. 703, 712). The take of double-crested cormorants is strictly prohibited except as may be permitted under regulations implementing the MBTA. In addition to, Federal statutes, the double-crested cormorant may also be protected by State regulations.

Regulations governing the issuance of permits for migratory birds are authorized by the MBTA and subsequent regulations (Title 50, Code of Federal Regulations, Parts 13 and 21). Regulations in Subpart D of Part 21 deal specifically with the control of depredating birds. Section 21.41 outlines procedures for issuing permits. Sections 21.43 through 21.46 deal with special depredation orders for specific species of migratory birds to address particular problems in specific geographical areas, establishing a precedent for species and geographic treatments in the permitting process. Service policies for issuing depredation permits for aquaculture were described by Trapp et al. (1995).

Federal responsibility for the management of injurious wildlife, including migratory birds, lies with the Animal Damage Control (ADC) program of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. The primary authority for ADC activities is the Animal Damage Control Act of 1931, as amended, 46 Stat. 1468 (7 U.S.C. 426–426c). Animal Damage Control activities are conducted at the request of, and in cooperation with, other Federal, State, and local agencies; private organizations; and individuals. Management responsibilities of ADC in the cormorant-aquaculture conflict were reviewed by Acord (1995).

Commercial Aquaculture Industry

Aquaculture, the cultivation of finfish and invertebrates in captivity, has grown exponentially in the past several decades (Price and Nickum 1995). The five principal aquaculture fish species in the United States are catfish, trout, salmon, tilapia, and hybrid striped bass. There are also two categories of non-food fish: baitfish and ornamental fish (U.S. Department of Agriculture 1995). While each of these industries has its own unique set of bird depredation problems, they all share a basic concern for developing and implementing the best methods for protecting fish stocks from predation.

The market for channel catfish (*Ictalurus punctatus*) is the largest segment of the aquaculture industry, and the one which is perhaps most susceptible to predation by cormorants. The catfish accounts for about one-half of the value of aquaculture in the United States.

The number of catfish farms in the United States increased 44 percent between 1982 and 1990 (from 1,494 to 2,155). Most of this increase occurred between 1982 and 1987. Growth was fairly steady throughout the 1980s, with production leveling off in the past few years. Production was estimated at 224,875 metric tons (247,933 short tons, or 496 million pounds, or 225 million kilograms) worth $353 million in 1993 and is expected to expand 5–7 percent annually due to increasing sales prices.

Mississippi is the center of catfish production, producing 75–80 percent of the United States output. Alabama, Arkansas, and Louisiana are also major producers. California, Florida, Illinois, Kentucky, Missouri, North Carolina, Oklahoma, South Carolina, Texas, and Virginia also produce catfish and all have, or will have, problems with fish-eating birds. In the four principal catfish-producing States, the number of farms increased 67 percent between 1982 and 1992 (from 794 to 1,193); increases in individual States were 24 percent in Alabama (327–405), 40 percent in Mississippi (316–442), 67 percent in Arkansas (115–191), and 330 percent in Louisiana (36–155).

The more than 64,300 hectares (158,840 acres) of catfish ponds in the United States in 1995 represented a 2.3-fold increase from about 28,300 hectares (69,900 acres) in production in the 1970s. The four principal catfish-producing States accounted for 93 percent of the total area, with Mississippi alone accounting for about 60 percent. Catfish ponds range in size from 4–14 hectares (10–35 acres) each, with a mean size of 5 hectares (12

acres). Farms with 100 hectares (247 acres) in production are not uncommon, and many are more than 400 hectares (990 acres). In the Delta region of Mississippi, catfish farms average about 100 hectares (247 acres) of ponds, with a typical rectangular pond size of 8 hectares (20 acres); ponds are shallow, ranging from 1–2 meters (3.3–6.6 feet) deep. The large size of the ponds makes them highly visible to fish-eating birds from the air, and the high stocking levels (from 5,000 to more than 150,000 fish/hectare [or 2,000 to more than 60,700 fish/acre], Glahn and Stickley 1995) make them especially attractive to cormorants. The catfish industry's practice of using large ponds developed in the early 1970s when cormorant numbers were low.

The physical dimensions of the ponds are the secret to the catfish farmers' success (as well as the source of today's predation problem). The most efficient production ponds are circular, but they can not be harvested as easily. So, the ponds are generally rectangular and can be as wide as 80–95 meters (262–312 feet). At harvest time, crews drag 100 meter (325 foot) wide seine nets strung between tractors on both sides of the rectangular ponds along the length of each pond. Undersize fish slip through the mesh and are harvested the next year. Because catfish farmers stock more than one year class of fish in a pond, it is not possible to drain the ponds and to reconfigure them to a size and shape that can be covered easily with bird-excluding nets. Also, the levees between the ponds are not wide enough to install extensive net structures and yet leave room for tractors to maneuver. Thus, several economic factors (e.g., low profit margin, the cost to modify the ponds, and a heavy investment in current harvest technologies) combine to preclude major changes in pond shape and size at the present time.

Population Status of the Double-crested Cormorant

The size of the North American breeding population of the double-crested cormorant was recently estimated at about 360,000 pairs (Hatch 1995). Using values derived from the published literature of 1–4 nonbreeding birds for each breeding pair yields an estimated total population of about 1–2 million birds (Hatch 1995).

The double-crested cormorant breeds widely throughout much of coastal and interior North America. As of 1992, it had been found breeding in 40 of the 50 United States, all 10 Canadian provinces, and in Mexico, Cuba, and the Bahamas (Hatch 1995). However, it is not uniformly distributed across this broad area. Sixty-one percent of the breeding birds belong to the Interior population, while another 26 percent belong to the Atlantic population. Two major areas of concentration are apparent in the vast range of the Interior population: (1) the prairie lakes of Alberta, Manitoba, and Saskatchewan (which account for 69 percent of the Interior population); and (2) the U.S. and Canadian Great Lakes (accounting for another 12 percent).

Seven political units account for 70 percent of the North American breeding birds, with Manitoba alone accounting for 36 percent. Thirty (52 percent) of the 58 political units listed by Hatch (1995) each harbor fewer than 100 breeding pairs. In the catfish-producing States identified by Price and Nickum (1995), only Florida and California have sizeable breeding populations.

In the south-central United States (Arkansas, Louisiana, Mississippi, and west Tennessee), the double-crested cormorant has been known since pre-colonial times and has been recorded as an occasional breeder throughout the swampy forests of the region since at least the early 1800s (Jackson and Jackson 1995). Jackson and Jackson predicted that (in the absence of major limiting factors) the cormorant will once again become a regular member of the mid-South breeding avifauna, with birds dispersed more widely because of reservoir construction and with concentrations expected in the vicinity of aquaculture facilities.

The double-crested cormorant has always been widely distributed as a breeding species. The only suspected instance of range expansion in the 20th century is in the United States and Canadian Great Lakes, which apparently were colonized by birds expanding eastward from the Canadian prairies beginning with Lake Superior about 1913 and ending with lakes Erie and Ontario in the late 1930s (Weseloh et al. 1995). It is possible, however, that these events represented recolonization of former (but previously undocumented) breeding localities from which the species was extirpated before 1912. For example, although Barrows (1912: 67) knew of no breeding records for Michigan, he noted that it was ''generally distributed over the State during the migrations'' (with specimens from almost every county) and speculated that ''probably there are few sheets of water any size within our limits which are not visited by this bird at least occasionally.''

The core of the wintering range (i.e., the regions of greatest density) did not change appreciably between 1959–1972 and 1959–1988 (Root 1988: 11, Sauer et al. 1996b). Cormorant wintering populations are concentrated in coastal States and Provinces, from North Carolina to Texas in the east and from California to British Columbia in the west. In the mid-South, there also are appreciable concentrations inland from the coast (e.g., east Texas, eastern Oklahoma, southeastern Arkansas, west-central Mississippi, and northeastern Alabama). Of the 9 catfish-producing States for which Christmas Bird Count data are available, 6 have indices of relative abundance that exceed the national mean; the median abundance in these 6 States (including the major catfish-producers of Alabama, Louisiana, and Mississippi) was 2.0 times the national mean (range: 1.4–9.6).

The scattered occurrence of early winter stragglers throughout much of the interior of the continent as far north as Minnesota and southern Saskatchewan (Sauer et al. 1996b) is probably a natural phenomenon of longstanding (i.e., it probably does not represent a northward expansion of the wintering range). As evidence of this, we find that 11 percent of 227 winter recoveries (December-February 1923–1988) of birds banded in Saskatchewan, Lake Huron, and eastern Lake Ontario were from latitudes north of the major catfish-producing States of Alabama, Arkansas, Louisiana, and Mississippi (Dolbeer 1991). Forty percent of these 227 winter recoveries are from 1° blocks of latitude and longitude that intersect the Gulf Coast and another 22 percent are from degree blocks that intersect the main stem of the Mississippi River. Analysis of 5,589 band recovery records for the period 1923–1988 (Dolbeer 1991) revealed that southward movement from areas north of latitude 42°N occurs primarily in October and November. Cormorants of all ages are at their greatest median distance from northern nesting areas—about 1,900 kilometers (1,200 miles)—from December through March.

Cormorants nesting in Canada and the northern United States from Alberta to the Gulf of St. Lawrence migrate in winter primarily to the southern United States between Texas and Florida. There is considerable mixing and overlap in winter of nesting populations from widely divergent areas. From 38 to 70 percent of the birds from Saskatchewan through the Great Lakes region winter in the lower Mississippi Valley (States of Arkansas, Louisiana, and Mississippi) as do 10 percent of the birds from such disparate areas as Alberta and the New England coast (Dolbeer 1991). In other words, the major catfish-producing States of the lower Mississippi may be envisioned as lying at the apex of an

inverted triangle, with cormorants from a 3,000 kilometer (1,860 mile) expanse of breeding range being funneled into the region in the winter by topographic features and the flow of the major rivers. In commenting on this funneling effect, Jackson and Jackson (1995) noted that ''It is a most unfortunate coincidence that the very heart of the catfish-farming industry is located in the Mississippi Delta at the confluence of the Arkansas and Mississippi rivers.''

Our knowledge of double-crested cormorant population trends before 1959 is based on fragmented and largely anecdotal accounts from scattered portions of the range. Syntheses of much of this information (Hatch 1995, Weseloh et al. 1995, and Jackson and Jackson 1995) reveal the following general patterns: (1) by 1900, cormorant numbers had been reduced, and their range possibly restricted, by human persecution and the extensive drainage and degradation of natural wetlands; (2) the widespread construction of reservoirs and impoundments (beginning in the 1920s), in concert with sport fish stocking programs and the creation of refuges and other conservation lands (beginning in the 1930s), had beneficial effects on cormorant numbers; (3) the widespread use of DDT and other pesticides (beginning in the 1940s) had devastating effects on cormorant reproductive success, with the result that populations reached their lowest point in the mid-1970s; (4) the ban on DDT in 1972 and the general decrease in levels of environmental contamination, in concert with development of the catfish industry in the mid-1970s, created a favorable environment for the growth of cormorant populations.

Quantitative information on double-crested cormorant population trends is available from three sources: (1) Breeding Bird Survey data (1966–1994), (2) Christmas Bird Count data (1959–1988), and (3) published accounts of censuses of breeding colonies. Trend information from these sources is discussed in the following paragraphs:

(1) Between 1966 and 1994, the continental breeding population increased at an estimated rate of 6.1 percent/year (Sauer et al. 1996a). The very high rate of growth in the early years (13.0 percent/year), and to a lesser extent for the entire period, is partly an artifact of the extremely small population in the early years of the survey period (late 1960s and early 1970s). Compared to the earlier (1966–1979) time period, the growth of the continental and Canadian populations appears to have slowed appreciably in the later (1980–1994) period; however, the U.S. population has continued to show a significant rate of increase in the 1980s and 1990s, apparently due primarily to the continued rapid growth of populations in the mountains and plains States. The only significant declines noted were in the West Coast region (1966–1994) and in North Dakota (1980–1994), although the West Coast trend appears to be contradicted by rather dramatic site-specific increases in British Columbia, Washington, and California (Carter et al. 1995). Most of the recent increase in numbers has occurred within the known historical breeding range (Hatch 1995).

(2) Between 1959 and 1988, the continental wintering population increased at an average rate of 7.3 percent/year (Sauer et al. 1996b); significant increases were registered for 17 of the 20 States or Provinces for which data were available. Trends are available for 9 of the primary catfish-producing States; 6 of these States (Alabama, Louisiana, Mississippi, Oklahoma, Texas, and Virginia) have trends (median 16 percent, range 12–19 percent) that are well above the continental average. Most of the localities in the mid-South for which information is available show dramatic population increases between the mid-1970s and the early 1990s, with the trends paralleling a similar magnitude of growth in the area of catfish ponds in the region during the same period (Jackson and Jackson 1995).

(3) Rather dramatic increases in breeding pairs are documented at colonies in the Great Lakes (Weseloh et al. 1995), the St. Lawrence River and associated waters (Chapdelaine and Bédard 1995), New England (Krohn et al. 1995), the West Coast (Carter et al. 1995), and elsewhere (Weseloh et al. 1995). The trends documented by these studies generally parallel those from the Breeding Bird Survey and the Christmas Bird Count.

Foraging Behavior of the Double-crested Cormorant at Aquaculture Facilities

Daily Movements and Activity Budgets. In the Mississippi Delta, cormorants fly an average of 16 kilometers (25 miles) from their night roosts to feeding sites. Each bird spends about 18 percent of daylight hours feeding; 88 percent of their foraging is done at catfish ponds and 12 percent near roost sites. The average cormorant forages for 60 minutes each day, but spends just 20 minutes underwater in actual pursuit of fish (King et al. 1995).

Feeding Rates. Feeding rates may be dependent on the size and abundance of the available fish and the metabolic demands of the birds, and can be quite variable. Actively feeding cormorants in commercial catfish ponds capture an average of about 5 fish/cormorant/hour (Stickley 1991, Stickley et al. 1992), but can vary from 0–28 (Schramm et al. (1984). Partly because of this variability, the rate of 5 fish/cormorant/hour reported by Stickley et al. (1992) is highly skewed; the median was only 2 fish/cormorant/hour, and the mean was equaled or exceeded at only 3 (21 percent) of the 14 ponds studied. Stickley et al. (1992) did not find a significant relationship between the mean number of cormorants present and the number of catfish consumed, but ponds with 40 or more cormorants generally had a feeding rate of 1 or fewer fish/cormorant/hour. Similarly, cormorant feeding rates were not related to the density of fingerling catfish, density of all catfish (all size classes combined), or mean length of fish .

Diet Composition. Cormorants eat a wide variety of prey items, and there is thus a great deal of variation in prey composition, both geographically and seasonally. Nearly all of the published information on diet composition at aquaculture facilities has been gathered in the vicinity of catfish farms in the southeastern United States (Bivings 1989, Conniff 1991, Glahn and Stickley 1992, Glahn et al. 1995, and Glahn and Brugger 1995). These studies show that, among birds actively feeding on catfish ponds, the average proportion of catfish in the winter diet (by number) is most commonly in the range of 50–55 percent. The proportion varies seasonally from less than 30 percent in October and November to more than 80 percent in February, March, and April.

Prey Size. Although cormorants are capable of taking catfish up to 42 centimeters (16 inches) in length (Campo et al. 1993), studies repeatedly have shown that the vast majority of catfish caught by cormorants at commercial facilities are in the range of 7–20 centimeters (3–8 inches), with most averaging about 10–15 centimeters (4–6 inches) (Schramm et al. 1984, Stickley 1991, Stickley et al. 1992). This range of prey sizes is remarkably close to that of prey taken by cormorants in natural freshwater habitats. In five such studies (Durham 1955, Hirsch 1986, Haws 1987, Hobson et al. 1989, Campo et al. 1993), prey size ranged from 6–21 centimeters (2–8 inches), with a median value of about 12 centimeters (5 inches).

Prey Preferences. Lacking a precise knowledge of the species composition and size distribution of the prey population, it is impossible to make definitive statements about prey preferences. However a few tendencies

are apparent. For example, the 10–15 centimeter (4–6 inch) fingerling catfish preferred by cormorants in one study represented about 64 percent of the catfish (by number) in the ponds (from Stickley et al. 1992), suggesting that the birds were merely preying on the most readily available fish. In this same study, 1 of the 14 ponds contained gizzard shad in addition to catfish. Nineteen shad were consumed for every catfish eaten, even though the pond contained about 5,100 fingerling catfish/hectare (2,100/acre). The apparent preference for gizzard shad in this instance may be related to their being more easily caught, handled, and swallowed by cormorants (the mean handling time for catfish was 6–7 times greater than that of gizzard shad).

Daily Food Consumption Rates. Estimates of daily food consumption rates of cormorants at or in the vicinity of aquaculture facilities in the southeastern United States vary widely, from 208–504 grams (7–17 ounces, or 0.4–1.1 pounds) (Schramm et al. 1984, Schramm et al. 1987, Bivings et al. 1989, Conniff 1991, Brugger 1993, Glahn and Brugger 1995). The most widely accepted figure is about 320 grams (11 ounces, or 0.7 pounds) of fish/day, of which about one-half (or 160 grams [5.5 ounces, or 0.35 pounds]) would be catfish (Brugger 1993).

Impacts of Double-crested Cormorants on Aquaculture

With the exception of catfish, quantitative accounts of the impacts of cormorants on freshwater aquaculture stocks generally are lacking. The fairly large body of literature that has developed in the past 12 years represents an attempt to assess the impacts of cormorants on the commercial catfish industry. Synopses of the pertinent literature are given in the following paragraphs.

In the past, cormorants have been reported only infrequently at fish hatcheries. For example, questionnaire surveys conducted in 1977 (Scanlon et al. 1979) and 1984 (Parkhurst et al. 1987) indicate that cormorants were considered to be problems at only 4–5 percent of these facilities nationwide. Of the more than 90 other (including non-avian) species mentioned as predators, 45–50 percent were listed more frequently than cormorants. Purported instances of cormorant damage to hatchery fish in Texas (Dukes 1987) include the loss of 90 percent of the smallmouth bass (*Micropterus dolomieui*) 2-year-old brood stock at the Jasper facility.

The frequency of occurrence of cormorants at a given catfish pond is a function of many interacting factors, including: (1) size of the regional cormorant population; (2) the number, size, and distribution of catfish ponds; (3) the size distribution, density, health, and species composition of fish populations in the catfish ponds; (4) the number, size, and distribution of ''natural'' wetlands in the immediate environs; and (5) the size distribution, density, health, and species composition of ''natural'' fish populations in the surrounding landscape. Cormorants are adept at seeking out the most favorable foraging sites. As a result, cormorants rarely are distributed evenly over a given region, but rather tend to be highly clumped or localized. For example, in 27 weekly surveys at 50 catfish ponds in Humphreys County, Mississippi, 1987–1988, cormorants were observed at only 9 of the 50 ponds and only on 14 occasions (Hodges 1989). Thus, it is not uncommon for many fish farmers in a region to suffer little or no economic damage from cormorants, while a few farmers experience exceptionally high losses.

Cormorants clearly respond in a positive way to the presence of shallow-water ponds stocked with high densities of easy-to-capture prey fish. For example, within two weeks of stocking 2 ponds in Hendry County, Florida, with 5–20 centimeter (2–8 inch) fingerling catfish, 12 cormorants were feeding in the ponds and roosting on nearby poles. A nearby 2.5 hectare (6 acre), 2.5-meter (8-foot) deep pond, stocked with 75,000 3–8 centimeter (1–3 inch) fish in August 1980, had attracted 13 cormorants by September. These birds continued to feed at the pond throughout the fall and winter, and in spring 1981 they nested in a nearby cypress dome. By November 1981, about 50 cormorants were feeding in the pond (Schramm et al. 1984). The positive response of cormorants to the presence of shallow-water ponds stocked with high densities of easy-to-capture prey fish (as illustrated above) is clearly a major factor responsible for their impacts in a variety of aquaculture situations (e.g., baitfish ponds in Minnesota, koi ponds in Missouri and elsewhere, ornamental fish ponds in Florida, and catfish pods in the southeastern United States and elsewhere).

Assuming averages of 5 fingerling catfish consumed/cormorant/hour and 30 cormorants/pond (a constant number of feeding birds present throughout an 8 hour day), the catfish population of a typical pond in the Mississippi Delta (51,000 fish/hectare in a 8-hectare pond, which is equivalent to 20,650 fish/acre in a 20-acre pond) would be halved in 167 days (Stickley et al. 1992). However, if actual values were nearer the median values of 2 fish/cormorant/hour and 15 birds/pond (from Stickley et al. 1992), the number of days required for the cormorants to reduce the population by half would be increased to 850 days (a 5-fold increase).

Of 281 catfish farmers queried on the Mississippi Delta in 1988 (Stickley and Andrews 1989), 87 percent felt that they had a bird problem. Moderate to heavy cormorant activity (defined as at least 25 birds/day) was reported by 57 percent of Delta farmers. Losses to birds (harassment costs plus value of fish lost) were estimated at $5.4 million (3 percent of total sales).

Overall, there appears to be little conflict between cormorants and the food- or game-fish industry in Florida (Brugger 1992), but losses of food fish, primarily catfish, can be locally severe (Brugger 1995); for example, cormorants were responsible for the loss of up to 50 percent of the fingerling catfish in open 0.125 hectare (0.31 acre) ponds during 1991 at the University of Florida.

Although fish of commercial value made up only a small percentage of the diet of cormorants collected in the vicinity of aquaculture facilities in central and southeast Arkansas from mid-October to early December, the finding of a few fish of very high value (e.g., grass carp with wholesale value of about $4.00 and koi worth $5.00–10.00 each) suggests that cormorant depredations can be locally or seasonally severe.

On the Mississippi Delta, cormorants consumed an estimated 18–20 million catfish during the winters of 1989–1990 and 1990–1991, which was equivalent to 842–939 metric tons (928–1,035 short tons, or 1.86–2.07 million pounds, or 844–939 thousand kilograms). Based on the cost of replacing these fish, annual losses to the catfish industry were estimated at $1.8–2.0 million, which corresponds to about 4 percent of the estimated catfish standing crop each year. Although losses were documented over a six-month period, the majority (about 64–67 percent) occurred in February and March (Glahn and Brugger 1995).

At catfish farms in Oklahoma (with about 324 hectares [800 acres] of surface water in production) in 1993, cormorants consumed an estimated 7,196 kilograms (15,900 pounds, or 7.9 short tons) of catfish valued at $14,000–36,000 (depending on size of the fish consumed), or about 3–7 percent of Oklahoma catfish sales (Simmonds et al. 1995).

Cormorant Depredation Permits

Depredation permits to take double-crested cormorants at commercial aquaculture facilities have been issued by the Fish and Wildlife Service since 1986. Composite data for a recent two-year period (1993–1994) show that about 8,200 cormorants were taken each year by 2,261 permit holders. Cormorants represented the majority (about 57 percent) of the total number of birds killed nationwide; two-thirds of the cormorants were taken in the southeastern region of the United States, with substantial numbers also taken in the southwest and the upper Midwest.

Between 1989 and 1996, the number of permits issued to take double-crested cormorants in the southeastern United States more than quadrupled, from 50 to 215 (Coon et al. 1996). The reported take of 4,000–8,000 birds annually has had no noticeable effect on the size of the regional wintering population.

Mastrangelo et al. (1995) noted that the reported take never exceeded 68 percent of the authorized take and attributed this to the frightening effect that lethal control has on bird behavior. Hess (1994) described a recent study in which catfish farmers at three complexes in Mississippi were authorized (under Fish and Wildlife Service permits) to remove as many as 2,500 cormorants in a 19-week period. Participants were supplied with ammunition and encouraged to kill as many birds as allowed by the permit. The fact that only 290 birds had been killed by the end of the project was attributed to a learned behavior by the birds to avoid areas where they might be shot (Hess 1994).

Environmental Consequences of Proposed Action

Cormorant Population. The proposed action (a depredation order) is expected to result in a moderate increase in the number of double-crested cormorants taken at aquaculture facilities. The impact is expected to be localized (e.g., possible reductions in the size of wintering populations in the immediate vicinity of catfish farms). To calculate the potential maximum harvest, we can assume that 42 cormorants (the average number reported taken by holders of depredation permits in the southeastern United States, 1989–1995; from Coon et al. 1996) will be shot at each of the about 2,200 catfish farms in the United States. The resultant annual take of 92,400 birds will represent about 5–10 percent of the continental population. This level of take will be more than offset by the recruitment of young birds into the population; a reproductive success of 1.7–3.2 young/nest (Duffy 1995) will equate to a minimum recruitment, at current population levels, of 612,000 young into the population each year. In reality, the proposed action is expected to result in only a modest increase in the number of double-crested cormorants taken at aquaculture facilities.

Socio-Economic. The proposed action is expected to reduce the direct economic losses caused by cormorants at commercial aquaculture facilities. It also will enhance the effectiveness of current nonlethal control programs, thus reducing overall damage control costs to producers. The proposed depredation order will reduce paperwork and costs associated with administering the current permit system and will promote quicker and more efficient depredation control operations by shifting responsibility to the individual aquaculturists. A depredation order will demonstrate cooperation between the Federal agency responsible for protecting and enhancing wildlife (Service), the Federal agency responsible for dealing with wildlife damage issues (ADC), and the individual producers in dealing with a problem that has the potential to expand far beyond the wildlife management arena.

Other Fish-Eating Birds. Although the proposed action does not authorize the taking of other fish-eating birds, it is possible that a few birds could be taken accidentally on occasion. The two species that are most likely to be confused with the double-crested cormorant are the neotropic cormorant (*Phalacrocorax brasilianus*) and the anhinga (*Anhinga anhinga*). These species have foraging habits very much like those of the double-crested cormorant and may occur on or in the vicinity of catfish ponds in the Gulf Coast States. The likelihood of other fish-eating birds being mistaken for double-crested cormorants and shot accidentally is not expected to increase above that which presently occurs . However, because of a projected increase in the number of producers conducting lethal control operations for cormorants, it is possible that there will be a slight to moderate increase in the actual number of other fish-eating birds (especially neotropic cormorants and anhingas) taken accidentally. Any negative effects on these species would be extremely localized, and long-term impacts on populations would be unlikely.

Endangered and Threatened Species. Negligible impacts to endangered or threatened species are expected under the proposed action. Few endangered or threatened species have ever been taken by aquaculturists with depredation permits. The likelihood of endangered or threatened species being taken by accident is not expected to increase under the proposed action.

Public Comments Invited

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposal to the location identified in the addresses caption. Comments must be received on or before August 22, 1997. Following review and consideration of the comments, the Service will issue a final rule on these proposed amendments.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, the Service has prepared an Environmental Assessment of the proposed action, and a Finding of No Significant Impact has been issued. Copies of these documents are available from the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, ms 634—ARLSQ, Arlington, VA 22203.

Endangered Species Act Consideration

Consultations will be initiated to ensure that actions resulting from this proposal will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final rule will reflect any such modifications.

Regulatory Flexibility Act, Executive Order (E.O.) 12866 and Paperwork Reduction Act

Based on the economic impacts discussed above, the Service has determined under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that this rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations and governmental jurisdiction. This rule was not subject to review by the Office of Management and Budget under E.O 12866.

The Service examined the proposed rule under the Paperwork Reduction Act of 1995 and found that it does not

contain information collection requirements.

Unfunded Mandates

The Service has determined and certifies, in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards found in Sections 3(a) and 3(b)(2) of Executive Order 12988.

References Cited

A complete list of all references cited herein is available upon request from John L. Trapp, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, ms 634—ARLSQ, Arlington, Virginia 22203.

Author

The primary author of this proposed rule is John L. Trapp, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 21, subpart D, of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—[AMENDED]

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

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

Subpart D—Control of Depredating Birds

2. Part 21, subpart D, is amended by adding §21.47 to read as follows:

§ 21.47 Depredation order for double-crested cormorants at aquaculture facilities.

In all States in the contiguous 48 States except Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, persons actually engaged in the production of aquaculture commodity stocks may, without a Federal permit, take double-crested cormorants when found committing or about to commit depredations to aquaculture stocks on the premises owned or occupied by such persons: *Provided that*:

(a) Double-crested cormorants may be taken only by shooting, and only when necessary to protect freshwater commercial aquaculture and State-operated hatchery stocks from depredation; none of the birds so taken may be sold or removed from the area where killed; and all dead birds must be buried or incinerated within this area, except that any specimens needed for scientific purposes as determined by the Director must not be destroyed.

(b) Double-crested cormorants may be shot at freshwater commercial aquaculture facilities or State-operated hatcheries only in conjunction with an established non-lethal harassment program approved by the Animal Damage Control program of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service.

(c) Double-crested cormorants may be shot only within the boundaries of freshwater commercial aquaculture facilities or State-operated hatcheries.

(d) No person operating under the provisions of this section may use decoys, taped calls, or other devices to lure birds within gun range.

(e) Any person exercising the privileges of this section must permit, at all reasonable times, Federal or State wildlife enforcement officers access to the premises on which the operations have been or are being conducted; and must furnish to the officers whatever information they may reasonably require concerning the operations, including a log of the number of double-crested cormorants killed.

(f) Nothing in this section authorizes the killing of double-crested cormorants contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State permits, when required.

(g) Unless specifically extended, the authority granted in this section will automatically expire on April 30, 2005.

Dated: June 9, 1997.

William Leary,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–16395 Filed 6–20–97; 8:45 am]

Billing Code: 4310–55–F

federal register

Monday
June 23, 1997

Part IV

Federal Retirement Thrift Investment Board

5 CFR Part 1603

Thrift Savings Plan Vesting; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1603

Thrift Savings Plan Vesting

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing final regulations governing vesting of amounts contributed to the Thrift Savings Plan (TSP) by or on behalf of an employee. These regulations conform the Board's vesting regulations to the Federal Employees' Retirement System Technical Corrections Act of 1988, update the terms used in these regulations to match those used throughout 5 CFR chapter VI, and clarify the language of several provisions of the interim regulations.

EFFECTIVE DATE: These final rules are effective June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest, (202) 942–1661.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514, codified, as amended, largely at 5 U.S.C. 8401–8479 (1994). The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. The vesting provisions of FERSA are found at 5 U.S.C. 8432(g) and 8432b.

On August 12, 1987, the Board published in the **Federal Register** (52 FR 29635) an interim rule with request for comments. The interim rule established 5 CFR part 1603 to implement the vesting provisions of FERSA. On January 7, 1991, the Board published in the **Federal Register** (56 FR 600) an amendment to the interim rule. The amendment to the interim rule revised the definition of ''separation from government service'' from a separation of more than three days to a separation of more than 30 days. On May 9, 1995, the Board published in the **Federal Register** (60 FR 24535) an interim rule with request for comment. The interim rule implemented section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA), Pub. L. 103–353, 108 Stat. 3149, 3170–73. Section 4 of USERRA added section 8432b to title 5 of the United States Code, providing that certain military service will count for TSP vesting purposes. Finally, on May 9, 1997, the Board published in the **Federal Register** (62 FR 25558) these regulations as proposed rulemaking with a request for comments. The Board received no comments on any of the preceding **Federal Register** publications.

Section 1603.2(b) provides that a TSP participant's first conversion contributions (which are defined in a new definition at proposed section 1603.1) are immediately vested. Under FERSA, first conversion contributions have always been excepted from the years-in-service vesting requirements. 5 U.S.C. 8432(g). However, previous Board regulations addressed this issue only by implication; an explicit treatment of the first conversion contributions issue could help avoid confusion.

Section 1603.2(d) conforms the TSP vesting regulations to section 115 of the Federal Employees' Retirement System, Technical Corrections Act (FERSTC), Pub. L. 100–238, 101 Stat. 1744, 1751 (1988) (codified at 5 U.S.C. 8432(g)), which provides that a participant's agency automatic (1%) contributions are not forfeited if the participant dies before completing the number of years in service that are normally required before such contributions are vested. Because the effective date of FERSTC was January 8, 1988, proposed section 1603.2(d) explains that the agency automatic (1%) contributions of participants who died before January 8, 1988, were subject to the years-in-service vesting requirements. The Board implemented the change required by section 115 of FERSTC on January 8, 1988.

Sections 1603.3 (a) and (b), and the new definitions of ''separation date'' and ''separation from Government service'' at section 1603.1, together explain that a participant does not separate from Government service for TSP vesting purposes unless he or she has a break in service of more than 30 calendar days. They also explain that a participant must have fulfilled the years-of-service requirement at the time of separation to avoid the forfeiture of agency automatic (1%) contributions and attributable earnings. Section 1603.3 (a) and (b) and the new definitions do not create new rules; they rewrite and reorganize the Board's regulations to make the current rules which govern the computation of years-of-service easier to understand.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104–4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. These regulations will not compel the expenditure in any one year of $100 million or more by any State, local, and tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board 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 United States prior to the publication of this rule in today's **Federal Register**. This interim rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1603

Employee benefit plans, Government employees, Pensions, Retirement.

Federal Retirement Thrift Investment Board.

Roger W. Mehle,

Executive Director.

For the reasons set out in the preamble, 5 CFR Part 1603 is amended as follows:

PART 1603—VESTING

1. The authority citation for part 1603 is revised to read as follows:

Authority: 5 U.S.C. 8432(g), 8432b(h)(1), 8474(b)(5) and (c)(1).

2. Section 1603.1 is revised to read as follows:

§ 1603.1 Definitions.

Terms used in this part shall have the following meaning:

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1);

CSRS means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, and any equivalent Federal Government retirement plan;

CSRS employee means any employee, Member, or participant covered by CSRS, including employees authorized to contribute to the Thrift Savings Plan under 5 U.S.C. 8351, or 5 U.S.C. 8440a to 8440d;

FERS means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, and any equivalent Federal Government retirement plan;

FERS employee means an employee, Member, or participant covered by FERS;

First conversion contributions refers to the retroactive agency contributions, including interest on these contributions, made under 5 U.S.C. 8432(c)(3)(C) to the TSP accounts of employees who were automatically converted to the Federal Employees' Retirement System on January 1, 1987;

Individual account means the total of all sums contributed to the Thrift Savings Plan by or on behalf of a CSRS employee or FERS employee, plus earnings allocated to the employee's account under 5 CFR part 1645;

Separation date means the effective date of an employee's separation from Government service;

Separation from Government service has the same meaning as provided in 5 CFR 1650.3;

Service means:

(1) Any non-military service that is creditable under either 5 U.S.C. chapter 83, subchapter III, or 5 U.S.C. 8411, provided however, that such service is to be determined without regard to any time limitations, any deposit or redeposit requirements contained in those statutory provisions after performing the service involved, or any requirement that the individual give written notice of that individual's desire to become subject to the retirement system established by 5 U.S.C. chapters 83 or 84; or

(2) Any military service creditable under the provisions of 5 U.S.C. 8432b(h)(1) and the regulations issued at 5 CFR part 1620, subpart H;

Vested means those amounts in an individual account which are nonforfeitable; and

Year of service means one full calendar year of service.

3. Section 1603.2 is amended by revising the section heading and paragraphs (b) and (c) and by adding a new paragraph (d) to read as follows:

§ 1603.2 Basic vesting rules.

* * * * *

(b) Except as provided in paragraph (c) of this section, all amounts in a FERS employee's individual account (including all first conversion contributions) are immediately vested.

(c) Except as provided in paragraph (d) of this section, upon separation from Government service without meeting the applicable service requirements of § 1603.3, a FERS employee's agency automatic (1%) contributions and attributable earnings will be forfeited.

(d) If a FERS employee dies (or died) after January 7, 1988, without meeting the applicable service requirements set forth in § 1603.3, the agency automatic (1%) contributions and attributable earnings in his or her individual account are deemed vested and shall not be forfeited. If a FERS employee died on or before January 7, 1988, without meeting those service requirements, his or her agency automatic (1%) contributions and attributable earnings are forfeited to the Thrift Savings Plan.

4. Section 1603.3 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 1603.3 Service requirements.

(a) Except as provided under paragraph (b) of this section, FERS employees will be vested in their agency automatic (1%) contributions and attributable earnings upon separating from Government only if, as of their separation date, they have completed three years of service.

(b) FERS employees will be vested in their agency automatic (1%) contributions and attributable earnings upon separating from Government service if, as of their separation date, they have completed two years of service and they are serving in one of the following positions:

* * * * *

[FR Doc. 97–16379 Filed 6–20–97; 8:45 am]

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●500–599	(869–028–00070–3)	28.00	Apr. 1, 1996
*●600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
●800–1299	(869–028–00072–0)	30.00	Apr. 1, 1996
●1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
22 Parts:			
●*1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
700–899	(869–028–00081–9)	13.00	May 1, 1996
900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
25	(869–032–00076–0)	42.00	May 1, 1997
26 Parts:			
§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
§§ 1.61–1.169	(869–028–00086–0)	34.00	Apr. 1, 1996
§§ 1.170–1.300	(869–028–00087–8)	24.00	Apr. 1, 1996
§§ 1.301–1.400	(869–028–00088–6)	17.00	Apr. 1, 1996
§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
§§ 1.501–1.640	(869–028–00091–6)	21.00	Apr. 1, 1996
§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996
2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–032–00092–1)	18.00	Apr. 1, 1997

Title	Stock Number	Price	Revision Date
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
43-end	(869-028-00107-6)	30.00	July 1, 1996
29 Parts:			
0–99	(869–028–00108–4)	26.00	July 1, 1996
100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–028–00110–6)	48.00	July 1, 1996
900–1899	(869–028–00111–4)	20.00	July 1, 1996
1900–1910 (§§ 1900 to 1910.999)	(869–028–00112–2)	43.00	July 1, 1996
1910 (§§ 1910.1000 to end)	(869–028–00113–1)	27.00	July 1, 1996
1911–1925	(869–028–00114–9)	19.00	July 1, 1996
1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–028–00116–5)	38.00	July 1, 1996
30 Parts:			
1–199	(869–028–00117–3)	33.00	July 1, 1996
200–699	(869–028–00118–1)	26.00	July 1, 1996
700–End	(869–028–00119–0)	38.00	July 1, 1996
31 Parts:			
0–199	(869–028–00120–3)	20.00	July 1, 1996
200–End	(869–028–00121–1)	33.00	July 1, 1996
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
400–629	(869–028–00124–6)	34.00	July 1, 1996
630–699	(869–028–00125–4)	14.00	[5] July 1, 1991
700–799	(869–028–00126–2)	28.00	July 1, 1996
800–End	(869–028–00127–1)	28.00	July 1, 1996
33 Parts:			
1–124	(869–028–00128–9)	26.00	July 1, 1996
125–199	(869–028–00129–7)	35.00	July 1, 1996
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
300–399	(869–028–00132–7)	27.00	July 1, 1996
400–End	(869–028–00133–5)	46.00	July 1, 1996
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–028–00137–8)	24.00	July 1, 1996
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
18–End	(869–028–00139–4)	38.00	July 1, 1996
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869-028-00144-1)	47.00	July 1, 1996
●61–71	(869–028–00145–9)	47.00	July 1, 1996
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–028–00148–3)	46.00	July 1, 1996
●87-135	(869–028–00149–1)	35.00	July 1, 1996
●136–149	(869–028–00150–5)	35.00	July 1, 1996
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–028–00155–6)	33.00	July 1, 1996
●425–699	(869–028–00156–4)	38.00	July 1, 1996
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–032–00047–6)	45.00	Jan. 1, 1997
Complete 1997 CFR set		951.00	1997
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1997
Individual copies		1.00	1997
Complete set (one-time mailing)		264.00	1996
Complete set (one-time mailing)		264.00	1995

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.