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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 62, No. 155
Tuesday, August 12, 1997

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–152–AD; Amendment 39–10102; AD 97–17–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 737–100 and –200 series airplanes, that requires replacement of certain outboard and inboard wheel halves with improved wheel halves. This amendment also requires cleaning and inspecting certain outboard and inboard wheel halves for corrosion, missing paint in large areas, and cracks; and repair or replacement of the wheel halves with serviceable wheel halves, if necessary. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent failure of the wheel flanges, which could result in damage to the hydraulics systems, jammed flight controls, loss of electrical power, or other combinations of failures; and consequent reduced controllability of the airplane.

DATES: Effective September 16, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 16, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Allied Signal Aerospace Company, Bendix Wheels and Brakes Division, South Bend, Indiana 46624; and Bendix, Aircraft Brake and Strut Division, 3520 Westmoor Street, South Bend, Indiana 46628–1373. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Herron, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2672; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737–100 and –200 series airplanes was published in the **Federal Register** as a supplemental notice of proposed rulemaking (NPRM) on March 14, 1997 (62 FR 12123). That action proposed to require replacement of certain outboard and inboard wheel halves with improved wheel halves. That action also proposed to require cleaning and inspecting certain outboard and inboard wheel halves for corrosion, missing paint in large areas, and cracks; and repair or replacement of the wheel halves with serviceable wheel halves, if necessary.

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

Support for the Proposal

Two commenters support the proposed rule.

Request To Withdraw the Proposal

One commenter states that review of the design of the flight control systems on Model 737 series airplanes occurred on a military aircraft, yet military airplanes are often subjected to harsh operating environments and possibly operate with a lower level of inspection than is found in commercial aviation. The commenter states that the existing inspection schedules and inspection techniques in accordance with the latest manufacturer's recommendations are adequate to prevent an unsafe condition. The FAA infers from these remarks that the commenter requests the proposed supplemental NPRM be withdrawn.

The FAA does not concur with the request to withdraw the supplemental NPRM.

The FAA did not propose rulemaking for the subject unsafe condition based solely on a single event. The FAA review of available service information and the close proximity to the wheels of certain types of equipment were contributing factors in the FAA's finding of the subject unsafe condition. Furthermore, the commenter did not provide any evidence to support its statement that military airplanes may have a lower level of inspection than is found in commercial aviation, nor did the commenter provide any substantiation for the statement that existing inspections schedules and techniques are adequate to prevent an unsafe condition.

Request to Remove Certain Airplanes From Applicability

One commenter, an operator, stated that its airplanes are equipped with BF Goodrich main wheels rather than Bendix wheels. The FAA infers that the operator requests that its airplanes be removed from the applicability of this rule.

The FAA concurs that airplanes equipped with other than Bendix wheels are not subject to the requirements of this rule. Since the applicability of this rule clearly states that it applies only to airplanes equipped with Bendix wheels, the FAA finds that no change to the final rule is necessary.

Request To Correct Serial Numbers of the Wheel Halves

One commenter, the wheel half manufacturer, requests that the serial numbers of the inboard wheel halves be revised based on its further research into the manufacturing records of the wheel halves. The manufacturer advises that the revised serial numbers reflect the elimination of certain serial numbers of the wheel halves that have been ''beefed up;'' therefore, those certain serial numbers do not need to be replaced. The manufacturer contends that the correction of the serial numbers will provide an economic benefit to operators as the pool of useable wheel

halves would potentially be increased by 179 for inboard halves and 236 for outboard halves. The wheel half manufacturer also states that it has issued Allied Signal, Aircraft Landing Systems, Service Information Letter (SIL) #619, dated February 26, 1997, that corrects the serial numbers. Specifically, the commenter requests that:

- Paragraph (a) of the proposal be revised to read ''* * * with an inboard wheel half with serial number (S/N) B–5898 or lower, or S/N H–1721 or lower; or with an outboard wheel half with S/N B–5898 or lower, or S/N H–0863 or lower * * *''
- Paragraph (b) of the proposal be revised to read ''* * * with an inboard wheel half with S/N B–5898 or lower, or S/N H–1721 or lower; or with an outboard wheel half with S/N B–5898 or lower, or S/N H–0863 or lower * * *''
- Paragraph (b)(1) of the proposal be revised to read ''* * * and replace it with an inboard wheel half having part number (P/N) 2607046, S/N 5899 or greater, or S/N H–1722 or greater.''
- Paragraph (b)(2) of the proposal be revised to read ''* * * and replace it with an outboard wheel half having P/N 2607047, S/N B–5899 or greater, or S/N H–0864 or greater.''

The FAA concurs with the revision of the serial numbers based on the commenter's justification. The final rule has been revised as suggested by the commenter.

Additionally, the FAA has added a new ''Note 2'' to this final rule to reference the SIL discussed by the commenter as an additional source of service information concerning appropriate wheel half serial numbers.

Conclusion

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

Cost Impact

There are approximately 634 Boeing Model 737–100 and –200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 241 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 4 work hours per airplane to accomplish the required replacement of wheel halves at an average labor rate of $60 per work hour. Required parts will cost approximately $20,212 per airplane. Based on these figures, the cost impact of the required replacement on U.S. operators is estimated to be $4,928,932, or $20,452 per airplane.

The FAA also estimates that it will take approximately 2 work hours per airplane to accomplish the required cleaning and inspection at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required cleaning and inspection on U.S. operators is estimated to be $28,920, or $120 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–17–01 Boeing: Amendment 39–10102. Docket 96–NM–152–AD.

Applicability: Model 737–100 and –200 series airplanes equipped with Bendix main wheel assemblies having part number 2601571–1, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the wheel flanges, which could result in damage to the hydraulics systems, jammed flight controls, loss of electrical power, or other combinations of failures and consequent reduced controllability of the airplane, accomplish the following:

Note 2: Allied Signal, Aircraft Landing Systems, Service Information Letter #619, dated February 26, 1997, is an additional source of service information for appropriate wheel half serial numbers.

(a) For airplanes equipped with a Bendix main wheel assembly having part number (P/N) 2601571–1 with an inboard wheel half with serial number (S/N) B–5898 or lower, or S/N H–1721 or lower; or with an outboard wheel half with S/N B–5898 or lower, or S/N H–0863 or lower; accomplish the following:

(1) Within 180 days after the effective date of this AD, and thereafter at each tire change until the replacement required by paragraph (b) of this AD is accomplished: Accomplish the actions specified in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD, in accordance with the Accomplishment Instructions of Allied Signal Service Bulletin No. 737–32–026, dated April 26, 1988.

(i) Clean any inboard and outboard wheel half specified in paragraph (a) of this AD. And

(ii) Inspect the wheel halves for corrosion or missing paint. If any corrosion is found, or if any paint is missing in large areas, prior to further flight, strip or remove paint, and remove any corrosion. And

(iii) Perform an eddy current inspection to detect cracks of the bead seat area.

(2) If any cracking is found during the inspections required by this paragraph, prior to further flight, repair or replace the wheel halves with serviceable wheel halves in accordance with procedures specified in the Component Maintenance Manual.

(b) For airplanes equipped with a Bendix main wheel assembly having P/N 2601571–1 with an inboard wheel half with S/N B–5898 or lower, or S/N H–1721 or lower; or with an outboard wheel half with S/N B–5898 or lower, or S/N H–0863 or lower; accomplish the following: Within 2 years after the effective date of this AD, accomplish the actions specified in paragraphs (b)(1) and (b)(2) of this AD, in accordance with Bendix Service Information Letter (SIL) 392, Revision 1, dated November 15, 1979. Accomplishment of the replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(1) Remove any inboard wheel half specified in paragraph (b) of this AD, and replace it with an inboard wheel half having P/N 2607046, S/N 5899 or greater, or S/N H–1722 or greater. And

(2) Remove any outboard wheel half specified in paragraph (b) of this AD, and replace it with an outboard wheel half having P/N 2607047, S/N B–5899 or greater, or S/N H–0864 or greater.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(e) Certain actions shall be done in accordance with Bendix Service Information Letter (SIL) 392, Revision 1, dated November 15, 1979. Certain other actions shall be done in accordance with Allied Signal Service Bulletin No. 737–32–026, dated April 26, 1988. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Allied Signal Aerospace Company, Aircraft Landing Systems, 3520 Westmoor Street, South Bend, Indiana 46628–1373. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 16, 1997.

Issued in Renton, Washington, on August 4, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–20952 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–11]

RIN 2120–AA66

Revision of the Legal Description of the Dallas/Fort Worth Class B Airspace Area, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the legal description of the Dallas/Fort Worth (DFW) Class B airspace area by changing its point of origin from the DFW Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the VORTAC's present geographical coordinates. The FAA is taking this action due to the planned relocation of the DFW VORTAC ¾ nautical miles (NM) west of its present location. The intent of this action is to facilitate the relocation of the DFW VORTAC without changing the actual dimensions, configuration, or operating requirements of the DFW Class B airspace area.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

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

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1996, the FAA published in the **Federal Register** a final rule to modify the DFW Class B airspace area (61 FR 47815). Specifically, the rule raised the upper limit of the DFW Class B airspace area from 10,000 feet mean sea level (MSL) to 11,000 feet MSL in some areas, reconfigured the northern and southern sections, and redefined several existing subareas.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

The Rule

Due to construction on DFW airport property occurring in close proximity to the DFW VORTAC, the FAA will relocate the VORTAC approximately ¾ NM to the west, effective October 10, 1997. Since the current legal description of the DFW Class B airspace area, as published in the September 11, 1996, final rule, is based on radials and distances from the DFW VORTAC, the relocation will necessitate a change to the legal description of the Class B airspace area. Accordingly, this action changes the point of reference from the DFW VORTAC to the VORTAC's present geographical coordinates. This action will allow for the future relocation of the DFW VORTAC without altering the vertical or lateral limits of the existing DFW Class B airspace area.

Since this action merely involves a change in the legal description of the DFW Class B airspace area, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 3000—Subpart B-Class B Airspace

* * * * *

ASW TX B Dallas/Fort Worth, TX [Revised]

Dallas/Fort Worth International Airport
(Primary Airport)
(Lat. 32°53′49″N., long. 97°02′33″W.)
Point of Origin
(Lat. 32°51′57″N., long. 97°01′41″W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 11,000 feet MSL beginning at the intersection of the 10–NM arc from the Point of Origin and Josey Lane, thence southbound on Josey Lane to Forest Lane, thence eastbound on Forest Lane until I–635 (that also coincides with the 15–NM arc from the Point of Origin), extending clockwise on the 15–NM arc from the Point of Origin until the 129° bearing from the Point of Origin, thence northwest on the 129° bearing from the Point of Origin until I–30, extending west on I–30 until the 7–NM arc from the Point of Origin (located south-southwest of the Primary Airport), thence clockwise on the 7–NM arc from the Point of Origin until the 310° bearing from the Point of Origin, extending northwest on the 310° bearing from the Point of Origin until the 10–NM arc from the Point of Origin, and extending clockwise on the 10–NM arc from the Point of Origin to the point of beginning.

Area B. That airspace extending upward from 2,000 feet MSL to and including 11,000 feet MSL beginning at the 310° bearing, 10 NM position from the Point of Origin, thence southeast on the 310° bearing from the Point of Origin until the 7–NM arc from the Point of Origin, extending counterclockwise on the 7–NM arc from the Point of Origin until I–30, thence eastbound on I–30 to the 129° bearing from the Point of Origin, thence southeast on the 129° bearing from the Point of Origin until the 10–NM arc from the Point of Origin, extending clockwise on the 10–NM arc from the Point of Origin until SH–303, thence west on SH–303 until the 10–NM arc from the Point of Origin, and extending clockwise on the 10–NM arc from the Point of Origin until the 300° bearing from the Point of Origin, thence northwest on the 300° bearing from the Point of Origin until the 13–NM arc from the Point of Origin, extending clockwise on the 13–NM arc from the Point of Origin until the 023° bearing from the Point of Origin, thence southwest on the 023° bearing until the 10–NM arc from the Point of Origin, extending counterclockwise on the 10–NM arc from the Point of Origin to the point of beginning; and that airspace extending upward from 2,000 feet MSL to and including 11,000 feet MSL beginning at the intersection of the 10–NM arc from the Point of Origin and Josey Lane, thence southbound on Josey Lane to Forest Lane, thence eastbound on Forest Lane to I–635, thence westbound on I–635 to the 10–NM arc from the Point of Origin, and extending counterclockwise on the 10–NM arc from the Point of Origin to the point of beginning.

Area C. That airspace extending upward from 2,500 feet MSL to and including 11,000 feet MSL beginning at the intersection of the 15–NM arc from the Point of Origin and I–635, extending clockwise on the 15–NM arc from the Point of Origin until the 129° bearing from the Point of Origin, thence southeast on the 129° bearing from the Point of Origin until the 20–NM arc from the Point of Origin, extending counterclockwise on the 20–NM arc from the Point of Origin until I–635, and extending northwest along I–635 to the point of beginning.

Area D. That airspace extending upward from 3,000 feet MSL to and including 11,000 feet MSL beginning at the 300° bearing, 10 NM position from the Point of Origin, extending counterclockwise on the 10–NM arc from the Point of Origin to SH–303, thence eastbound on SH–303 until the 10–NM arc from the Point of Origin, extending counterclockwise on the 10–NM arc from the Point of Origin to the 129° bearing from the Point of Origin, thence southeast along the 129° bearing from the Point of Origin until the 20–NM arc from the Point of Origin, extending clockwise on the 20–NM arc from the Point of Origin until the 217° bearing from the Point of Origin, thence northeast on the 217° bearing from the Point of Origin until the 13–NM arc from the Point of Origin, extending clockwise along the 13–NM arc from the Point of Origin to the 300° bearing from the Point of Origin, and thence southeast on the 300° bearing from the Point of Origin to the point of beginning; and that airspace extending upward from 3,000 feet MSL to and including 11,000 feet MSL beginning at the 300° bearing, 13 NM position from the Point of Origin, thence northwest on the 300° bearing from the Point of Origin until the 20–NM arc from the Point of Origin, extending clockwise on the 20–NM arc from the Point of Origin until I–635, extending northwest along I–635 until the 10–NM arc from the Point of Origin, extending counterclockwise on the 10–NM arc from the Point of Origin until the 023° bearing from the Point of Origin, thence northeast on the 023° bearing from the Point of Origin until the 13–NM arc from the Point of Origin, and extending counterclockwise on the 13–NM arc from the Point of Origin to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 11,000 feet MSL beginning at the 217° bearing, 20 NM position from the Point of Origin, extending counterclockwise on the 20–NM arc from the Point of Origin until the 300° bearing from the Point of Origin, thence southeast on the 300° bearing from the Point of Origin to the 13–NM arc from the Point of Origin, extending counterclockwise on the 13–NM arc from the Point of Origin until the 217° bearing from the Point of Origin, thence southwest on the 217° bearing from the Point of Origin until the 20–NM arc from the Point of Origin, extending clockwise on the 20–NM arc from the Point of Origin until I–820, thence west and north on I–820 until the 23–NM arc from the Point of Origin, extending clockwise on the 23–NM arc from the Point of Origin until SH–156, thence northeast on SH–156 to the 329° bearing from the Point of Origin, thence northwest on the 329° bearing from the Point of Origin until intercepting a line defined by the 041° bearing, 30 NM position from the Point of Origin and the 315° bearing, 30 NM position from the Point of Origin, thence east along this line until the 30–NM arc from the Point of Origin, extending clockwise on the 30–NM arc from the Point of Origin until the 138° bearing from the Point of Origin, thence west until the 217° bearing, 28.3 NM position from the Point of Origin, and thence northeast on the 217° bearing from the Point of Origin until the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL beginning at the 138° bearing, 30 NM position from the Point of Origin, extending clockwise on the 30–NM arc from the Point of Origin until the 149° bearing from the Point of Origin, thence west to the 210° bearing, 30 NM position from the Point of Origin, extending clockwise on the 30–NM arc from the Point of Origin until the 217° bearing from the Point of Origin, thence northeast on the 217° bearing from the Point of Origin to the 28.3 NM position from the Point of Origin, and then east on a line to the point of beginning; and that airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL beginning at the 315° bearing, 30 NM position from the Point of Origin, extending clockwise on the 30–NM arc from the Point of Origin until the 336° bearing, 30 NM position from the Point of Origin, thence east until the 020° bearing, 30 NM position from the Point of Origin, extending clockwise on the 30–NM arc from the Point of Origin until the 041° bearing, 30 NM position from the Point of Origin, and thence west on a line until the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL up to and including 11,000 feet MSL beginning at the 315° bearing, 30 NM position from the Point of Origin, extending counterclockwise on the 30–NM arc from the Point of Origin until the 293° bearing from the Point of Origin, thence southeast on the 293° bearing from the Point of Origin until the 26–NM arc from the Point of Origin, extending counterclockwise on the 26–NM arc from the Point of Origin until SH–377, thence southwest on SH–377 until the 30–NM arc from the Point of Origin, extending counterclockwise to the 217° bearing from the Point of Origin, thence northeast on the 217° bearing from the Point of Origin until the 20–NM arc from the Point of Origin, extending clockwise on the 20–NM arc until I–820, thence west and north on I–820 until the 23–NM arc from the Point of Origin, thence clockwise on the 23–NM arc from the Point of Origin until SH–156, extending northeast on SH–156 to the 329° bearing from the Point of Origin, thence northwest on the 329° bearing from the Point of Origin until intercepting a line defined by the 041° bearing, 30 NM position from the

Point of Origin and the 315° bearing, 30 NM position from the Point of Origin, thence west along that line until the point of beginning.

Area H. That airspace extending upward from 6,000 feet MSL to and including 11,000 feet MSL beginning at the 293° bearing, 30 NM position from the Point of Origin, thence southeast on the 293° bearing from the Point of Origin until the 26–NM arc from the Point of Origin, extending counterclockwise on the 26–NM arc from the Point of Origin until SH–377, thence southwest on SH–377 until the 30–NM arc from the Point of Origin, and extending clockwise on the 30–NM arc from the Point of Origin until the point of beginning.

* * * * *

Issued in Washington, DC, on August 7, 1997.

John S. Walker,

Program Director for Air Traffic, Airspace Management.

[FR Doc. 97–21410 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 101 and 730

[Docket No. 96N–0174]

RIN 0910–AA69

Food and Cosmetic Labeling; Revocation of Certain Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking certain regulations that are obsolete. These regulations have been identified for revocation as the result of a page-by-page review of the agency's regulations. This review is in response to the Administration's ''Reinventing Government'' initiative which seeks to streamline Government to ease the burden on regulated industry and consumers.

DATES: This final rule will become effective September 11, 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: Felicia B. Satchell, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, President Clinton announced plans for the reform of the Federal regulatory system as part of the Administration's ''Reinventing Government'' initiative. In his March 4 directive, the President ordered all Federal agencies to conduct a page-by-page review of all of their regulations to ''eliminate or revise those that are outdated or otherwise in need of reform.''

In response to this directive, FDA has revoked a number of regulations through notice and comment rulemaking (e.g., 61 FR 58991, November 20, 1996; 61 FR 27771, June 3, 1996) and issued proposals to revoke additional regulations (e.g., 60 FR 53480, October 13, 1995; 60 FR 56513 and 56541, November 9, 1995; and 61 FR 29708, June 12, 1996). FDA has also issued two advance notices of proposed rulemaking to review standards of identity and other existing regulations to determine whether these regulations should also be considered for revocation or revision (e.g., 60 FR 67492, December 29, 1995; and 61 FR 29701, June 12, 1996). This document responds to comments submitted to its proposal entitled ''Food and Cosmetic Labeling; Revocation of Certain Regulations; Opportunity for Public Comment,'' which published in the **Federal Register** of June 12, 1996 (61 FR 29708) (hereinafter referred to as the June 12 revocation proposal).

FDA received 11 letters in response to the June 12 revocation proposal. Each letter contained one or more comments. The letters were from industry trade associations, academia, and consumer organizations. Some comments supported various provisions of the proposal. Other comments objected to the revocation of certain regulations. A summary of the comments and the agency's responses to the comments follow.

II. Food Labeling Regulations

A. Information Panel of Package Form Food (§ 101.2)

This regulation, in paragraph (a), defines the term ''information panel'' as it applies to packaged food, and in paragraph (b) provides that all information required to appear on the label of any package of food under certain referenced regulations shall appear either on the principal display panel or on the information panel, unless otherwise specified in the regulations. The referenced regulations are in part 101 (21 CFR part 101) and part 105 (21 CFR part 105) and are as follows: § 101.4 *Food; designation of ingredients*, § 101.5 *Food; name and place of business of manufacturer, packer, or distributor*, § 101.8 *Labeling of food with number of servings*, § 101.9 *Nutrition labeling of food*, § 101.12 *Reference amounts customarily consumed per eating occasion*, § 101.13 *Nutrient content claims general principles*, § 101.17 *Food labeling warning and notice statements*, subpart D of part 101, Specific Requirements for Nutrient Content Claims, and Part 105—Foods for Special Dietary Use. Section 101.2(c) requires that information required by the referenced regulations be in letters or numbers of at least one-sixteenth inch in height, unless otherwise exempted by regulation. However, § 101.2(c) also contains exemptions to this type-size requirement. FDA tentatively concluded in the June 12 revocation proposal that several of the exemptions are now obsolete and should be revoked.

1. Exemptions for Small Packages

Specifically, FDA proposed to revoke § 101.2(c)(1), (c)(2), and (c)(3). The exemptions set out in these paragraphs are for small packages (defined according to the surface area available to bear labeling) and were established before the enactment of the Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Pub. L. 101–535). As fully discussed in the June 12 revocation proposal, these exemptions were designed to encourage firms to voluntarily provide nutrition information in accordance with § 101.9 and a full list of ingredients in accordance with the regulations in part 101, which was voluntary on some standardized foods before the enactment of the 1990 amendments. However, as a result of the 1990 amendments, nutrition labeling and full ingredient labeling is now required on most foods, and the agency has made specific provision for flexibility in the presentation of this information where space is limited.

For these reasons, the agency tentatively concluded in the June 12 revocation proposal that the exemptions in § 101.2(c)(1), (c)(2), and (c)(3) were now obsolete and should be revoked. Also in that document, FDA solicited comments on the need to retain any of these exemptions and stated that comments supporting retention of any of these exemptions should include information on specific products for which other type size exemptions are inadequate.

1. Two comments addressed the proposed revocation of § 101.2(c)(1), (c)(2), and (c)(3). One of these comments supported revocation of the exemptions.

The other comment opposed revocation of the exemptions and disagreed with the rationale the agency presented in the proposal for revoking them. The comment contended that nutrition labeling has been mandatory for many food products since the early 1970's, often because of the addition of a nutrient or use of a nutrition claim. Further, the comment argued that the impact of making the disclosure of ingredients in standardized food mandatory rather than voluntary has been exceedingly small. The comment also pointed out that the type size exemptions issued under the 1990 amendments apply only to nutrition labeling and not to the other mandatory label information, such as ingredient labeling. Consequently, the comment argued, unless the exemptions in § 101.2(c)(1), (c)(2), and (c)(3) are retained, mandatory information other than nutrition labeling will be required to appear in one-sixteenth inch type, even where this cannot realistically be accomplished. The comment urged the agency to retain the type-size exemptions in § 101.2(c)(1), (c)(2), and (c)(3).

The agency has not been persuaded by the latter comment that the exemptions in § 101.2(c)(1), (c)(2), and (c)(3) should be retained. The comment did not provide any information, as requested in the June 12 revocation proposal, on specific products for which the other type size exemptions provided in FDA's regulations (e.g., § 101.2(c)(5)) are inadequate. Nor did the comment point to any specific products that could not realistically bear the mandatory information in one-sixteenth inch type. Furthermore, the agency has not been presented with information suggesting that revocation of these exemptions would cause an economic burden on the industry because of the need to redesign packaging or print new labels. In the absence of such information, and for the reasons cited in the proposal, the agency concludes that the exemptions are now obsolete. Accordingly, FDA is revoking § 101.2(c)(1), (c)(2), and (c)(3), as proposed.

2. Nonretail Individual Serving Size Packages

Section 101.2(c)(5) provides that individual serving size packages of food served with meals in restaurants, institutions, and on board passenger carriers, and not intended for sale at retail, are exempt from the type-size requirements of § 101.2(c) under certain described conditions. Because declaration of all ingredients in standardized foods is now required, reference to § 101.6 is no longer appropriate. Consequently, FDA proposed to revise § 101.2 by revoking paragraph (c)(5)(iii).

2. The comments addressing this issue supported revocation of § 101.2(c)(5)(iii). Accordingly, FDA is revoking § 101.2(c)(5)(iii) and redesignating paragraph (c)(5)(iv) as paragraph (c)(5)(iii). The agency points out that revocation of existing § 101.2(c)(5)(iii) would not eliminate any ingredient listing requirements for nonretail individual serving size packages because this proposal does not pertain to any provisions of § 101.4.

B. Labeling of Foods With Number of Servings (§ 101.8)

The regulation in § 101.8(a) requires, among other things, that any package of a food that bears a representation as to the number of servings contained in the package bear in immediate conjunction with such statement, and in the same size type as is used for such statement, a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving. However, the latter statement may be expressed in terms that differ from the terms used in the required statement of net quantity of contents (for example, cups, tablespoons) when such differing term is common to cookery and describes a constant quantity.

FDA tentatively concluded in the June 12 revocation proposal that this regulation was obsolete in light of the mandatory nutrition labeling provisions in § 101.9. As discussed in the June 12 revocation proposal, § 101.9 defines a ''serving'' or ''serving size'' for the purpose of nutrition labeling as the amount of food, expressed in a common household measure that is appropriate for the food, customarily consumed per eating occasion by persons 4 years of age and older. Section 101.9 also gives guidance for determining serving size when the food is specially formulated or processed for use by infants or by toddlers. Thus, FDA proposed to revoke § 101.8.

3. All of the comments responding to this issue agreed that FDA's regulations governing mandatory nutrition labeling of foods which, in § 101.12, establish serving sizes for foods based on the reference amounts customarily consumed per eating occasion, render the provisions in § 101.8 obsolete. Accordingly, as proposed, FDA is revoking § 101.8. FDA advises, however, that manufacturers are expected to continue to adhere to its guidance that statements concerning the number of servings in a package that are presented in locations other than as part of the nutrition information be in the same terms as those that are used to express the serving size as part of the nutrition information. To do otherwise may render the labeling information misleading to consumers.

To conform its regulations to the revocation of § 101.8, FDA is removing the reference to § 101.8 in § 101.2(b) and (f).

C. Labeling of Kosher and Kosher-Style Foods (§ 101.29)

Section 101.29 of FDA's regulations is a statement of informal agency policy regarding the use of the terms ''kosher'' and ''kosher-style'' in the labeling of food products. Because this section only provides guidance and was not established through rulemaking, it does not have the force and effect of law. Furthermore, because the use of the terms ''kosher'' and ''kosher-style'' is, in fact, governed under the general misbranding provisions of the act, FDA proposed in the June 12 revocation proposal to remove this section. In addition, the agency solicited comments on whether it should prepare a Compliance Policy Guide (CPG) (an FDA informal guidance document used for efficient enforcement of the act) that reflects the policy that has been codified in § 101.29.

4. Six comments addressed the proposed revocation of § 101.29. Two of these comments supported the removal of § 101.29. Both comments noted that FDA has not traditionally sought to regulate kosher food labeling. These comments opined that religious authorities are well-equipped to police the use of ''kosher'' and other religious terminology in food labeling. Furthermore, these two comments questioned the constitutionality of any FDA action in this area. Finally, the comments urged that the agency not republish § 101.29 or any other policy regarding kosher labeling as a CPG.

Several other comments supported maintaining a written policy on the use of these terms. These comments contended that it is appropriate for the agency to concern itself with the proper use of the terms ''kosher'' and ''kosher-style'' on food labels because without such guidance, the potential for misuse of these terms would undoubtedly increase, resulting in significant consumer deception. Two of these comments supported retaining this policy in the form of a CPG. Further, one comment suggested that even as a CPG, § 101.29 did not go far enough in providing guidance to the industry or in providing adequate information to the consumer. Accordingly, the comment requested that as a part of a CPG, FDA create and maintain a certificate for

domestic and imported products that contains information regarding the manufacturer, certifying Rabbi and organization, effective dates of the certificate, and symbols used in product labeling. The comment opined that such a certificate, publicly available upon request, could greatly assist consumers in deciding whether the food in question meets their personal needs, because they would have access to information identifying not only the manufacturer but also the certifying organization. The comment further suggested that having a certificate on file could reduce difficulties currently experienced by persons wishing to import kosher products into the United States.

Another comment argued that the proper course for FDA is not to remove from the Code of Federal Regulations (CFR) its only pronouncement on kosher labeling but to assume a higher profile and initiate rulemaking that explicitly states its enforcement authority with regard to use of the terms ''kosher'' and ''kosher-style,'' thereby providing the kosher food consumer with effective and meaningful protection. The comment contended that such action was needed because misbranding of kosher foods is not uncommon. The comment further argued that such a regulation should prohibit the use of ''kosher-style'' on all food items, whether or not they conform to religious dietary standards. The comment stated, however, that if FDA would not prohibit the use of the term ''kosher-style,'' then FDA should establish a regulation consistent with the U.S. Department of Agriculture's (USDA's) policy and allow use of the term ''kosher-style'' only when the product is produced under ''rabbinical supervision.'' A second alternative suggested by the comment to prohibiting the term is to permit the term but require that the product label also bear a disclaimer if the product does not conform to religious dietary standards. The comment argued that such a regulation is necessary to adequately protect the kosher consumer and to reduce the potential for misbranding, fraud, error, and confusion as the kosher food industry grows.

FDA has evaluated the comments and finds that, while there is support for maintaining specific guidance on use of the terms ''kosher'' and ''kosher-style,'' FDA is not persuaded by the comments that such guidance should be retained in the CFR. The comments presented no compelling reason why this statement of policy should not be converted to a CPG, the form in which most agency policy statements are maintained. The goal of the President's Initiative is to develop a more efficient regulatory regime, and that goal is advanced by minimizing the number of policy statements in the CFR.

Nor have the comments persuaded the agency that a rulemaking on the use of the terms ''kosher'' and ''kosher-style'' is warranted. The use of the terms ''kosher,'' ''kosher-style,'' and any other term suggesting that a food has been prepared in accordance with certain religious practices is subject to the general misbranding provisions of section 403(a) of the act (21 U.S.C. 343(a)). Aside from providing this basic level of protection, FDA has no role in determining what food is kosher.

In light of the issues raised in the comments, however, the agency is concerned that if it did not maintain some statement on kosher labeling, there would be confusion and misinformation in the kosher food industry, which could result in a proliferation of misbranded products, and thus consumers could be adversely affected. Therefore, FDA will maintain a statement of its policy on labeling foods that conform to religious dietary laws but do so through the use of a CPG.

Accordingly, FDA is revoking § 101.29 as proposed. It intends to prepare a CPG in accordance with the Good Guidance Principles published in the **Federal Register** of February 27, 1997 (62 FR 8961). In developing the CPG, the agency will fully consider the alternatives suggested in the comments and will provide an opportunity for comment. The agency believes that this approach will provide the kosher food industry with the guidance needed to minimize false or misleading labels.

III. Cosmetic Regulations

Parts 710 and 720 (21 CFR parts 710 and 720) of FDA's regulations provide for the Voluntary Cosmetic Reporting Program (VCRP) under which cosmetic firms voluntarily register cosmetic product establishments (part 710) and cosmetic product ingredient and raw material composition statements (part 720). Part 730 (21 CFR part 730) provides for the voluntary filing of cosmetic product experience reports (VCPE) by the cosmetics industry.

During the 23 years the VCPE has been in place, companies have submitted information about adverse reactions that consumers have reported to them. FDA has performed a statistical assessment of the data to calculate the ''baseline'' adverse reactions (expected number of reactions per million units distributed) that occur for the different cosmetic product categories identified in the program.

While the VCPE has provided useful information regarding relative adverse reaction baseline rates, it has suffered from some serious limitations. As fully discussed in the June 12 revocation proposal, this program no longer provides any new information about cosmetic adverse reactions, and it no longer serves the important purpose of helping to find harmful cosmetics and to remove them from the marketplace. Thus, FDA proposed to revoke part 730. However, the agency solicited comments on whether this section should be eliminated in its entirety, reduced in scope, or some other alternative.

5. Three comments addressed the proposed revocation of part 730. Two comments supported the proposal to revoke this part in its entirety. One comment suggested, however, that FDA replace the voluntary program by: (1) Enhancing its MEDWATCH program to include cosmetic adverse reactions; (2) referring consumers with adverse reactions directly to the cosmetic company; and (3) maintaining a process for voluntary industry analysis of product experience and reporting of any serious reactions to FDA.

The third comment asserted that, although the VCPE program had failed, part 730 should not be revoked but completely revised to require cosmetic companies to file with FDA all consumer adverse reaction reports. The comment suggested that a mandatory reporting system would provide data that would be useful in increasing the safety of cosmetics and protecting the public health. Further, the comment recommended that FDA mandate the registration of cosmetic manufacturing establishments and product formulations, continue with the establishment of a toll-free telephone hotline for consumers to report adverse reactions, and enhance its MEDWATCH program to include cosmetic products.

The agency rejects the assertion in the latter comment that the VCPE has failed. During the years that this program has been in effect, it has provided FDA with useful information and data. Using these data, FDA has been able to establish baseline adverse reaction rates. Thus, the function for which the program was intended has been achieved, and from the point of view of establishing a baseline level, any further data would be of little value. The comment has not persuaded the agency to change this view. Accordingly, FDA is revoking part 730 in its entirety.

However, the agency recognizes that there may be some merit to the other arguments made in this and another comment. As suggested by one

comment, the agency will consider enhancing its MEDWATCH program to include cosmetic products and will maintain the availability of adverse reaction reporting forms, which may be submitted to the agency. Further, FDA intends to perform a thorough evaluation of the cosmetic adverse reaction information that it has received over the years and to prepare an indepth report that will be useful to both the cosmetic industry and the public in understanding adverse reaction trends for different product categories and the baseline rates of adverse reactions. However, the comment did not provide a factual basis for making an adverse reaction reporting system or a registration system mandatory for cosmetics.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) and (a)(8), respectively, that the actions to revoke or revise several food labeling regulations in part 101 and to eliminate or modify part 730 of the cosmetic regulations are of a type that do not individually or cumulatively have a significant effect on the environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Benefit-Cost Analysis

FDA has examined the economic implications of this final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million; adversely affecting some sector of the economy in a material way; adversely affecting jobs or competition; or raising novel legal or policy issues.

In the proposal, FDA based the economic impact analysis on the effects of revoking the following: Certain type-size exemptions, labeling with number of servings other than as specified in the 1990 amendments, the statement of informal agency policy regarding the terms ''kosher'' and ''kosher-style,'' and the Voluntary Cosmetic Experience Program. None of the comments on the proposal directly addressed the economic impact analysis. The one comment that opposed revocation of the current minimum type-size exemptions did not mention costs directly, but implied (''can not realistically be accomplished'') that the revocation could impose additional labeling costs for some products. The net effect of revoking the type-size and serving-size exemptions will be to reduce compliance costs for businesses. In the absence of evidence that the revocation would impose significant labeling costs, the agency has not altered its conclusion that the net economic benefits of this final rule are positive.

FDA finds that this final rule does not constitute a significant rule as defined by Executive Order 12866. Furthermore, it has been determined that this final rule is not a major rule for purposes of Congressional Review (Pub. L. 104–121).

VI. Small Business Analysis

FDA has examined the economic implications of this final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities.

No comments dealt with the proposal's statement that the rule would not have a significant impact on a substantial number of small businesses. One comment that came from an organization representing entrepreneurial cosmetic firms supported terminating the Voluntary Cosmetic Experience Program. The comment agreed with the agency's conclusion that the program's benefits had already been realized. Terminating the program will impose no costs on participating small firms.

Although it is possible that revoking the type-size exemptions could impose costs on some small entities, the reduced costs of interpreting labeling regulations and determining how they apply to individual products will more likely, if anything, reduce the costs of labeling for small entities. The removal of the kosher and kosher-style labeling guidance, because it is a guidance, will impose no additional costs on small entities.

FDA finds that under the Regulatory Flexibility Act, this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commissioner of Food and Drugs certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VII. The Paperwork Reduction Act of 1995

In the June 12 revocation proposal, FDA solicited comment on whether the proposed rule to revoke certain regulations that the agency believes are obsolete imposes any paperwork burden. FDA did not receive any comments on this issue. Thus, FDA concludes that this final rule contains no reporting, recordkeeping, labeling, or other third party disclosure requirements. Thus there is no ''information collection'' necessitating clearance by the Office of Management and Budget.

List of Subjects

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 730

Cosmetics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 101 and 730 are amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.2 [Amended]

2. Section 101.2 *Information panel of package form food* is amended in paragraphs (b) and (f) by removing the reference to § 101.8; by removing paragraphs (c)(1) through (c)(3) and paragraph (c)(5)(iii); by redesignating paragraph (c)(5)(iv) as paragraph (c)(5)(iii); and by redesignating paragraphs (c)(4) and (c)(5) as paragraphs (c)(1) and (c)(2), respectively.

§ 101.8 [Removed]

3. Section 101.8 *Labeling of food with number of servings* is removed.

§ 101.29 [Removed]

4. Section 101.29 *Labeling of kosher and kosher-style foods* is removed.

PART 730—VOLUNTARY FILING OF COSMETIC PRODUCT EXPERIENCES

PART 730—[REMOVED]

5. Part 730 is removed.

Dated: July 10, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–21156 Filed 8-11-97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 92F–0261]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 3-pentadecenyl phenol mixture (obtained from cashew nutshell liquid) reacted with formaldehyde and ethylenediamine in a ratio of 1:2:2 as an epoxy curing agent in resins and coatings intended for contact with food. This action is in response to a petition filed by Cardolite Corp.

DATES: The regulation is effective August 12, 1997. Submit written objections and requests for a hearing by september 11, 1997.

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

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 21, 1992 (57 FR 32226), FDA announced that a food additive petition (FAP 2B4326) had been filed by Cardolite Corp., c/o 1414 Fenwick Lane, Silver Spring, MD 20910 (now c/o Regulatory Assistance Corp., 17 Clearview Circle, Hopewell Junction, NJ 12533). The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of 3-pentadecenyl phenol mixture (obtained from cashew nutshell liquid) reacted with formaldehyde and ethylenediamine in a ratio of 1:2:2 (CAS Reg. No. 68413–28–5) as an epoxy curing agent in resins and coatings intended for contact with food.

FDA's review of the subject petition indicates that the additive may contain trace amounts of formaldehyde and ethylenediamine as impurities. The potential carcinogenicity of formaldehyde and ethylenediamine was reviewed by the Cancer Assessment Committee (the Committee) of FDA's Center for Food Safety and Applied Nutrition.

The Committee noted that for many years formaldehyde has been known to be a carcinogen by the inhalation route, but it concluded that these inhalation studies are not appropriate for assessing the potential carcinogenicity of formaldehyde in food. The Committee's conclusion was based on the fact that the route of administration (inhalation) is not relevant to the safety of formaldehyde residues in food and the fact that tumors were observed only locally at the portal of entry (nasal turbinates). In addition, the agency has received literature reports of two drinking water studies on formaldehyde: (1) A preliminary report of a carcinogenicity study purported to be positive by Soffritti et al. (1989), conducted in Bologna, Italy (Ref. 1) and (2) a negative study by Til, et al. (1989), conducted in The Netherlands (Ref. 2). The Committee reviewed both studies and concluded, concerning the Soffritti study, '' * * * that the data reported were unreliable and could not be used in the assessment of the oral carcinogenicity of formaldehyde'' (Ref. 3). This conclusion is based on a lack of critical details in the study, questionable histopathologic conclusions, and the use of unusual nomenclature to describe the tumors. Based on the Committee's evaluation, the agency has determined that there is no basis to conclude that formaldehyde is a carcinogen when ingested.

The Committee also evaluated the results of a 2-year study submitted by the petitioner on ethylenediamine dihydrochloride (EDA•2HCl) in Fisher 344 rats (Ref. 4). The committee concluded that data from this study do not demonstrate carcinogenic potential for (EDA•2HCl) in Fisher 344 rats (Ref. 5). Based on the Committee's evaluation, the agency has determined that based upon the available data and information, there is no basis to conclude that ethylenediamine is a carcinogen.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, that the additive will have its intended technical effect, and therefore, that the regulations in § 175.300 should be amended as set forth below.

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

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before September 11, 1997, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons

between 9 a.m. and 4 p.m., Monday through Friday.

1. Soffritti, M., C. Maltoni, F. Maffei, and R. Biagi, ''Formaldehyde: An Experimental Multipotential Carcinogen,'' *Toxicology and Industrial Health*, vol. 5, No. 5, pp. 699–730, 1989.

2. Til, H. P., R. A. Woutersen, V. J. Feron, V. H. M. Hollanders, H. E. Falke, and J. J. Clary, ''Two-Year Drinking Water Study of Formaldehyde in Rats,'' *Food Chemical Toxicology*, vol. 27, No. 2, pp. 77–87, 1989.

3. Memorandum of conference concerning ''Formaldehyde;'' meeting of the Cancer Assessment Committee, FDA; April 24, 1991, and March 4, 1993.

4. Bushy Run Research Center, ''Ethylenediamine Dihydrochloride Two-Year Feeding Study in the Rat; Report 46–27,'' Mellon Institute-Union Carbide Corp., Export, PA.

5. Memorandum of conference concerning ''Ethylenediamine Dihydrochloride (EDA•2HCl);'' meeting of the Cancer Assessment Committee, FDA; June 7, 1996.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

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

2. Section 175.300 is amended in paragraph (b)(3)(viii)(*b*) by alphabetically adding a new entry to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(viii) * * *

(b) * * *

* * * * *

3-Pentadecenyl phenol mixture (obtained from cashew nutshell liquid) reacted with formaldehyde and ethylenediamine in a ratio of 1:2:2 (CAS Reg. No. 68413–28–5).

* * * * *

Dated: August 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–21292 Filed 8–11–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 227, 228, and 229

RIN 1010–AC25

Delegation of Royalty Management Functions to States

AGENCY: Minerals Management Service, Interior.

ACTION: Final rulemaking.

SUMMARY: The Minerals Management Service (MMS) is adding new rules authorizing the delegation of several Federal royalty management functions to States. These rules implement recently-enacted legislation.

EFFECTIVE DATE: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: David Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, telephone (303) 231–3432, Fax (303) 231–3385, e-Mail David__Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this final rulemaking are Larry Cobb, Harry Corley, Jim Detlefs, Clare Onstad, Robert Prael, Todd McCutcheon, Dave Steiber, Cecelia Williams, and Sam Wilson, MMS; and Peter Schaumberg and Sarah Inderbitzin of the Office of the Solicitor.

I. General

On August 13, 1996, Congress enacted the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104–185, as corrected by Pub. L. 104–200 (RSFA). The RSFA amends portions of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1701 *et seq.* Prior to the RSFA enactment, section 205 of FOGRMA, 30 U.S.C. 1735, provided for the delegation of only audits, inspections, and investigations to the States. The RSFA amendments to section 205 now provide that the Minerals Management Service (MMS) may delegate other Federal royalty management functions to requesting States for Federal oil and gas leases onshore.

The royalty management functions MMS may delegate under the RSFA amendments are:

(1) Conducting audits and investigations;

(2) Receiving and processing production and royalty reports;

(3) Correcting erroneous report data;

(4) Performing automated verification; and

(5) Issuing demands, subpoenas, orders to perform restructured accounting, and related tolling agreements and notices to lessees or their designees.

The RSFA amendments to section 205(d) also provide that within 12 months after the date of enactment, after consultation with the States, the Secretary must issue standards and regulations pertaining to delegable functions and other relevant responsibilities, including:

(1) Audits to be performed;

(2) Records and accounts to be maintained;

(3) Reporting procedures to be required by the States under this section;

(4) Receipt and processing of production and royalty reports;

(5) Correction of erroneous report data;

(6) Performance of automated verification;

(7) Issuance of standards and guidelines in order to avoid duplication of effort;

(8) Transmission of report data to the Secretary; and

(9) Issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty accounting purposes.

In response to the section 205 RSFA amendments, MMS formed the 205 Consultation Team, comprised of MMS, interested States, representatives from State associations, and a representative of the Bureau of Land Management to discuss how to implement the delegation provisions of the RSFA.

MMS proposed rules implementing the section 205 RSFA amendments (62 FR 19967 April 24, 1997. As part of that proposed rulemaking, MMS explained that it would develop *MMS Standards for Delegation* (*Standards*) which would contain further information States would need to perform delegated functions. MMS held several outreach meetings in June of 1997 at various locations to discuss the *MMS Standards for Delegation* (*Standards*) document with States and industry attendees.

II. Indian Lands

In the proposed rule, MMS proposed to amend 30 CFR parts 228 and 229 to remove references to cooperative agreements and delegations for Federal lands under those parts since delegation for Federal lands are now covered under new part 227. MMS also proposed to amend those parts to conform to the principles of ''Plain English.'' Because MMS is not under a statutory deadline to publish parts 228 and 229 like it is for part 227, MMS is not removing the references to Federal lands in, or making the ''Plain English'' changes to

those parts at this time. However, MMS is making an interim change to parts 228 and 229 by adding a sentence to those parts that will state that, ''As of the effective date of this rule, this part does not apply to Federal lands.'' This sentence will make clear that from this time forward, those parts only apply to Indian cooperative agreements and delegation agreements for audits, inspections, and investigations with States for Indian lands within the State. We will amend the language in parts 228 and 229 to ''Plain English,'' and make any other changes to those parts at a future date.

III. Comments on Proposed Rule

The proposed rulemaking provided a 30-day public comment period, which ended May 27, 1997. MMS received comments from thirteen commenters during the comment period. One additional commenter submitted late comments that MMS received on June 2, 1997. Thus, we accepted a total of fourteen comments for review. Four of the comments were from States, two were from mining associations, two were from oil and gas trade associations, and six were from industry.

We reviewed and analyzed all of the comments, and in some instances revised the language of the final rule based on these comments. The following is a discussion of the comments received and our response. First, we address five general concerns the comments raised. Second, we respond to the specific comments referred to by regulation paragraph number. Third, we address the questions and issues where we asked the public for specific comment.

I. General Concerns

Delegation of Functions for Solid Mineral, Geothermal, and OCSLA 8(g) Leases

One State, two mining associations, and two mining companies commented on delegating royalty management functions to States for solid mineral leases. The State supported the concept, but believed we should not issue regulations until the Department provides a legal opinion on this issue. The mining industry objected to the delegation of functions for solid mineral leases because they believed we lack the statutory authority. One company agreed that we should obtain a legal opinion before issuing the final regulation. One trade association stated that it did not oppose delegation for Outer Continental Shelf Lands Act (OCSLA), section 8(g) leases, but that MMS should not split the reporting for leases or units that contain both section 8(g) and non-section 8(g) properties.

MMS Response—MMS has obtained a legal opinion from the Office of the Solicitor, which concludes that Pub. L. 102–154 does not provide authority to apply the section 205 RSFA amendments to solid mineral, geothermal, and offshore leases subject to section 8(g) of OCSLA. Based on that opinion and the comments, we omitted from the final rule delegations of additional functions for solid mineral leases, geothermal leases, and oil and gas leases subject to section 8(g) of OCSLA, 43 U.S.C. 1337(g). However, States may continue to perform audit functions for solid mineral, geothermal, and OCSLA section 8(g) leases under the existing and successive delegation agreements. Because MMS is not delegating the additional royalty management functions for OCSLA section 8(g) leases, there is no issue regarding split reporting for such leases.

Furthermore, we combined proposed § 227.100 with proposed § 227.101 to conform with comments received from the mining industry and the Departmental legal opinion. Thus, although MMS will not delegate RSFA's additional royalty management functions for solid, geothermal, or section 8(g) leases, when requesting the function of audits and investigations, a State must still follow the procedures under this part.

In addition, we added language to clarify that a State performing delegated functions must perform those functions for all applicable Federal leases within the State's boundaries.

For example, assume that there are 100 Federal oil and gas leases within a State's boundaries. If that State requests delegation of the royalty management functions of audit and receiving and processing production and royalty reports, it cannot choose to perform audits and receive and process production and royalty reports for only 25 of those Federal oil and gas leases. Rather, it must accept delegation of audit and receiving and processing production and royalty reports responsibility for all 100 of those Federal leases.

Regulatory Flexibility—We received three comments from States expressing concern that the regulations did not provide enough flexibility. One of these commenters stated, ''An organization should be allowed to adjust to a changing environment and apply a better approach or technique without having the fear of the audit contract being withdrawn or the audit findings negotiated.'' In particular, they were opposed to the extensive use of the word ''must,'' because they believe it would require their programs to operate in only one way. One commenter indicated that the delegation proposal contained too many detailed requirements. Conversely, one State commented that the regulations ''* * * appear to be a reasonable interpretation * * *'' of RSFA.

Industry commented that they would like to see the specific standards that provided the details of how the States would perform the delegated functions. One industry oil and gas trade association maintained that ''* * * the standards should have been published along with the proposed rule and included in the regulations.'' This industry oil and gas trade association, another oil and gas association, plus two industry representatives protested that they were forced to comment on the proposed rule without the benefit of reviewing the standards. Two of these commenters requested that MMS extend the comment period until after it issues the standards.

MMS Response—On the issue of flexibility, RSFA section 3(a), FOGRMA section 205(d) mandated that the Government and delegated States maintain a consistent royalty management program. Moreover, RSFA specifically stated that States must agree to adopt ''standardized reporting procedures'' unless all affected parties agree otherwise, RSFA section 3(a), FOGRMA section 205(b)(4), and that the delegations ''will not create an unreasonable burden on any lessee,'' RSFA section 3(a), FOGRMA section 205(b)(3). We believe that the rule allows for as much flexibility as possible within the constraints that RSFA mandates, while maintaining a consistent royalty management program and minimizing any burden on lessees. Like RSFA section 3(a), FOGRMA section 205(b)(4), the rule provides that States may use alternative reporting procedures if all affected parties agree. See 30 CFR 227.106(d). In addition, we anticipate that States may achieve further flexibility in performing delegated functions when they work with us to develop their delegation agreements, as provided in 30 CFR 227.108.

Our intent in developing the rule and *Standards* was to provide the basic framework necessary to maintain uniform royalty management standards, not to inhibit any flexibility in complying with those *Standards.* Thus, in describing the royalty management functions, we used the word ''must'' for both MMS and the States for required performance. Although we did not eliminate the word ''must,'' we

modified § 227.300 to provide for flexibility in this function. Section 227.300(a) shows the activities that must be performed under an audit, while § 227.300(b) lists additional activities that would be appropriate to perform only in certain situations.

In our attempt to try to achieve further flexibility, we also reviewed our use of the word ''all.'' Upon review, we believe that it was correctly used in describing the activities performed in the various functions. We, therefore, did not make any changes to the word ''all.'' However, we acknowledge that additional flexibility can be attained in certain areas, such as the delegation proposal in § 227.103(e). Therefore, we modified the final rule by deleting the requirements of §§ 227.103(e)(2)(ii) and (iv) from the proposed rule.

With respect to the comment that we extend the comment period until MMS issues the *Standards*, RSFA's requirement that MMS issue a final rule within 12 months of enactment makes it extremely difficult for us to extend the comment period. Accordingly, we will not extend the comment period. We believe that we are complying with the statutory mandates of RSFA. We also believe we made a sufficient effort to share the *Standards* with industry as soon as they were developed. While we did not consult with industry during the initial phase of development, we did conduct outreach meetings with industry in June 1997 to share a first draft of the *Standards* and receive their input.

Further, while we published the proposed regulation for notice and comment, we do not intend to formally publish the *Standards* document in the **Federal Register** for notice and comment because it merely offers additional clarification on the basic standards contained in the rule detailing, for example, day-to-day operational information States need to perform delegated functions. We will publish a notice in the **Federal Register** advising when the *Standards* are available and will post the *Standards* on the MMS Website. Moreover, while we understand industry's concerns, we believe the proposed rule provides sufficient standards information for commenters to be knowledgeable of the process and requirements. Finally, we consider the *Standards* to be a living document that will change, as we reengineer and as States, in coordination with MMS, develop their procedures with industry involvement.

Industry Participation—One oil and gas trade association and two industry representatives requested more industry participation in the entire delegation process, including the proposed regulation, the *Standards*, and the delegation proposal. One industry commenter believed that because industry is vitally affected by the process, they must be allowed an opportunity to provide input. This commenter also stated that the Federal Advisory Committee Act (FACA) requires that industry be included in the development of the standards and procedures for delegation. Another industry commenter pointed out that industry participation would ''* * * minimize the lessee's burden, ensure uniformity, eliminate duplication and protect confidential data.'' Two commenters suggested making the delegation agreement a public document.

MMS Response—We believe we have included industry in the process to the maximum extent possible given the limited time available. RSFA only requires that MMS consult with States in developing these rules and *Standards*. Nonetheless, MMS included industry through outreach meetings and consideration of their comments to the proposed rule. In addition, MMS has incorporated industry's feedback in both the rule and *Standards*.

With respect to the comments on the applicability of FACA, in the preamble to the proposed rule, 62 FR 19967, April 24, 1997, MMS suggested formation of an advisory committee consisting of States receiving delegations and MMS to help develop the standards and procedures for performing delegable functions. Such meetings are specifically exempted from FACA, 5 U.S.C. App., under section 204(b) of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (UMRA). Section 204(b) of the UMRA provides that:

> (b) Meetings Between State * * * and Federal Officers: [FACA] shall not apply to actions in support of intergovernmental communications where—
>
> (1) Meetings are held exclusively between Federal officials and elected officers of State * * * governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and
>
> (2) Such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental activities or administration.

Clearly, meetings MMS officials, or their delegates, have with delegated State officials, or their delegates, to develop the standards and procedures necessary for States to assume delegated functions ''are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental activities or administration.'' Thus, any State-MMS advisory committee meetings regarding delegations would be exempt from FACA under section 204(b) of UMRA.

Finally, the delegation agreements are public documents evidencing an agreement between MMS and the State. Because industry is not a party to the agreement, we believe that only the States and MMS should be involved in the negotiating process. However, MMS and States will consult with industry when it is specifically impacted by the agreement. For example, if a State wants to initiate an innovative reporting procedure, we would seek industry concurrence with the procedure before its implementation.

Plain English—One industry commenter expressed concern that rewriting regulations for parts 228 and 229 in ''Plain English'' would change their meaning and interpretation.

MMS Response—The Federal Government endorses the use of ''Plain English'' writing for all Government documents. E.O. 12866, 58 FR 51735, October 4, 1993. As stated above, we will amend parts 228 and 229 at a future date to remove references to cooperative agreements and delegations for Federal lands under those parts and to conform to ''Plain English'' principles.

Simplify and Streamline Royalty Management Practices and the Relationship to Costs—Two industry commenters stated that the regulations at part 227 should simplify and streamline royalty management requirements and practices. These commenters were concerned about the additional costs that industry would incur under the new regulations such as the increase in information collection requirements.

MMS Response—RSFA mandates promulgation of these regulations. However, the decentralization of functions authorized under RSFA and these implementing regulations does not necessarily guarantee streamlining, nor a reduction in costs. Although we have minimized the burden to lessees in this rulemaking, the impact of RSFA's mandates may result in some additional cost to industry. We identified the potential additional costs as stemming primarily from an increase in coordination between industry and multiple royalty management entities. But, the cost figure was an estimate and may not actually be realized by industry.

II. Specific Comments

Section 227.102—One State commented that impacted States must be allowed to participate in settlement negotiations, even though they do not have a delegation agreement. In particular, the commenter stated ''(MMS) * * * must depart from its current settlement procedures in order to comply with RSFA. RSFA expands the authority of all States concerned, not just those with delegations of authority, granting them the ability to veto compromises of royalty obligations. Under RSFA, each State will need to represent itself.''

MMS Response—MMS agrees that under RSFA section 4(a), FOGRMA section 115(i), the ''State concerned'' (defined as a State which statutorily receives royalties and other payments under mineral leasing laws, RSFA section 2(2), FOGRMA section 3(31)) may participate in the negotiation process. RSFA section 4(a), FOGRMA section 115(i), provides that for royalties due on production after September 1, 1996, ''the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation. * * *''

However, this language does not expressly grant States authority to settle a dispute or prevent the Secretary from settling a dispute over a State objection or ''veto.'' Rather, the Secretary must determine what is the appropriate action and has done so in this rulemaking through the retention of ultimate settlement authority. This is consistent with the entire structure of RSFA because: (1) Under RSFA section 4(a), FOGRMA section 115(h), the Secretary retains authority to decide appeals, even appeals of orders that a delegated State issues; (2) RSFA section 12 provides that ''(n)othing in this Act shall be construed to give a state a property right or interest in any Federal lease or land,'' and the power to settle a dispute is at least an inchoate property right which Congress has specifically stated it did not grant to any State; and (3) as a practical matter, many settlements involve more than one State, and we do not believe it was Congress' intent to allow one State to frustrate the settlement process in such instances when it enacted RSFA section 4(a), FOGRMA section 115(i). Thus, we believe, as we always have, that the appropriate action involves consultation with the States. Accordingly, while all concerned States may participate in negotiations or other alternative dispute resolution, MMS must retain settlement authority over Federal royalties.

Section 227.102(d)—Two industry commenters expressed concern about possible duplication that might result from the splitting of enforcement procedures between the States and MMS.

One oil and gas trade association supported MMS retaining enforcement actions. This commenter recommended that MMS continue to apply its current tolerances for error rates, compliance, and other applications at the payor code level for all Federal leases instead of by State.

MMS Response—We do not believe that there will be any duplication regarding enforcement procedures. RSFA does not allow for the splitting of enforcement procedures. Rather, the only enforcement procedures that RSFA allows the States are issuing demands, subpoenas, and orders to perform restructured accounting. MMS will retain all other enforcement activities. See 30 CFR 227.102(c).

Importantly, as stated in the proposed rule, MMS will continue to process and decide all appeals, including appeals from demands or orders a delegated State issues, 30 CFR 227.102(d), and will continue to decide all valuation policies. 30 CFR 227.102(f). Accordingly, although a State may issue a demand, MMS will retain ultimate authority for its enforcement. This process will prevent ''duplicative'' or ''split'' enforcement procedures.

We agree that we must retain enforcement actions not specifically delegated by RSFA. We will address how we will apply tolerances to payors in various States in the regulations relevant to the particular type of application, such as error rates.

Section 227.103(i)—One State commenter and one oil and gas trade association pointed out that § 227.103(i) was incomplete. Another commenter ''urge(d) that MMS strictly enforce confidentiality obligations * * * where the same state auditors are conducting federal and state royalty audits simultaneously, along with state tax audits.''

MMS Response—We agree that there is a typographical error in the last sentence of § 227.103(i). Thus, we have deleted the semicolon and the word ''and.'' In addition, to clarify what we mean by the phrase in § 227.103(i) that ''persons who have access to information received under delegated functions are subject to the same provisions of law regarding confidentiality and disclosure as that of Federal employees'' we are adding the following language to that paragraph:

Therefore, persons who have access to information received under delegation agreements may not use such information or provide such information to any other person, including State personnel, for purposes other than performing delegated functions. However, this limitation does not apply if the person submitting the information consents in writing to its use for other State purposes.

We are adding the additional language because under existing laws, Federal employees are prohibited from disseminating confidential commercial information to a State, except for delegation situations where certain restrictions exist. For example, MMS cannot provide information it obtains in a royalty audit to a State for the State to use in a tax audit. Likewise, a State employee acting as the Federal Government's delegatee is prohibited from disseminating information to other State personnel for purposes other than delegated functions, unless the person providing the information agrees to the further dissemination. Moreover, some State employees will perform delegated functions and also other State functions such as State severance tax audits. If that person receives information from a company under an MMS delegation, the person cannot use the information gathered under the delegation for State enforcement purposes without obtaining written consent from the company.

Section 227.103(c)(1)—Two State commenters recommended making the word ''entity'' plural because more than one State agency may perform delegated functions.

MMS Response—We agree and have made this change in this rule. We also added language to clarify that if more than one entity is delegated responsibility for performing delegated functions, the State must include in its proposal the position of the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State.

Section 227.105—Two State commenters questioned whether MMS would require a hearing in all cases, even if a State requested only to make minor changes to an existing delegation. These commenters suggested holding a hearing only if necessary or appropriate and using language to that effect.

MMS Response—We agree that we will hold a hearing only if necessary and have changed the final rule to state that we will require a hearing when MMS determines it is appropriate.

Section 227.106(d)—One oil and gas trade association supported maintaining uniformity in the delegation program.

MMS Response—We agree.

Section 227.107—One oil and gas industry commenter expressed concern about industry having enough time to modify their systems to comply with any new reporting requirements. This commenter suggested allowing a 6-month grace period before the effective date of the delegation.

MMS Response—This section does not address the effective date of delegation agreements or ''grace periods.'' Rather, it informs States that submit a delegation proposal that the MMS Director will decide whether to approve the proposal within 90 days after the proposal is complete. The 90-day period is mandated under RSFA section 3(a), FOGRMA section 205(c) and cannot be changed. However, we agree that a transition time is necessary between the date a delegation agreement becomes effective and the date industry must comply with any new requirements under such agreements. Although not raised by this comment, during its review of this comment MMS realized that it had not included an effective date for delegation agreements in its proposed rule. Therefore, we will modify § 227.110(a) as follows:

(a) Delegation agreements are effective for 3 years from the first day of the month following the date the MMS Director signs the delegation agreement. However, during the development of the State's delegation proposal under § 227.108 of this part, MMS, the delegated State and any other affected person will determine an appropriate transition period for industry to modify their systems to comply with any new requirements under a delegation agreement. Thus, the MMS Director will not sign any delegation agreement until after the agreed to transition period. MMS will publish notice of the effective date of a State's delegation agreement in the **Federal Register** and that notice will inform industry of any transition period.

Thus, MMS, the delegated State, and affected industry will determine the amount of transition time necessary on a case-by-case basis depending on the type and number of functions that we agree to delegate to a given State. We will ensure that sufficient time is provided to all affected parties to allow for a successful transition.

Section 227.108—One State commenter suggested cross-referencing the standards in this section to the standards in §§ 227.200 and 227.201.

MMS Response—We disagree. We do not see any benefit in cross-referencing to only those sections in the rule. Although this rule and the *Standards* provide the basic framework for uniform performance of the delegated functions, we believe further flexibility can be achieved through development of the delegation agreement under this section.

Section 227.109—One State commenter pointed out that this section does not address a State's ability to appeal if it is denied a delegation. This commenter indicated that a review of the decision at the administrative level is a logical first step.

MMS Response—We disagree. RSFA section 3(a), FOGRMA section 205(g) expressly provides that disapproval of a delegation proposal is reviewable in Federal district court. Thus, consistent with RSFA section 3(a), FOGRMA section 205(g), the MMS Director's decision to deny a delegation with the concurrence of the Secretary is final agency action that a State may appeal in Federal district court.

Section 227.110—Two oil and gas trade associations recommended, at a minimum, that we publish notice of a State's request for delegation in addition to its request to renew a delegation. Further, they recommended that upon such notice, any affected or interested party, including industry, could request a hearing. One of these commenters requested that a hearing be held in all renewal cases.

MMS Response—We agree that we should publish notice of a State's proposal for delegation, renewal of an existing delegation, and any successive delegation agreement. Therefore, we will publish such notices and notice of the effective date of a State's delegation agreement in the **Federal Register**. We will post the proposals on the MMS Website and also will send a copy of delegation proposals to trade associations or anyone else upon request. The trade associations may make further distribution to their members, as necessary. MMS has added a new paragraph at § 227.105(d) in response to this comment. See also § 227.110(g).

In addition, MMS agrees that affected parties should be able to request a hearing when States request a renewal or a successive delegation agreement under this section. Accordingly, we are modifying the final rulemaking by adding a new paragraph (e) to this section as follows:

(e) If a State does not request a hearing under paragraphs (b)(1) or (d) of this section, any other affected person may submit a written request for a hearing under those paragraphs to the MMS Associate Director for Royalty Management.

Section 227.112—We received several comments on costs from three States. One State commenter was concerned about the adequacy of our cost accounting system and how States would be compensated under it. The other two State commenters protested the requirement to submit vouchers with a level of detail above current delegation agreements. They did support, however, making cost and voucher information available for review. One State commenter was concerned that we would determine costs on a micro-level of activity. This commenter believed that costs related to the audit function should be consistent with current funding for delegated audit work. Another State commenter believed that we must make any cost comparisons by looking at the whole picture rather than a single part.

MMS Response—Through the net receipt sharing process, MMS has refined the costs regarding the program's royalty management functions. Although the process is not based on a detailed cost accounting system, the Office of the Inspector General concurred in our methodology for allocating costs to States. However, we appreciate the State's concerns and will contract with an independent accounting firm to review MMS costs related to all delegable functions and recommend a methodology for determining what funds should be made available to States requesting a delegation agreement for one or more functions. This issue is important because of RSFA's requirement that compensation to a State may not exceed the Secretary's reasonably anticipated expenditure for performance of such delegated activities by the Secretary.

The vouchers referred to in the proposed rule need only show the level of cost categories that are presently required under existing delegated audit agreements, not each individual expenditure. The States will not need to provide the detailed supporting documentation with the vouchers, for example, an employee's travel voucher. States will need only to make the detailed supporting documentation available, if we request it. We confirm that we will focus on the overall costs under the agreement.

Section 227.200—Two State commenters objected to the requirement that States obtain MMS guidance on any applicable Federal requirement, such as valuation interpretation or policy. One State commenter was concerned about repercussions for not following our interpretation or guidance. This State commenter stated that, ''A delegation may decide not to follow the guidance due to discovery of new pertinent facts and may elect, for purposes of effective use of resources, to not have MMS issue new guidance.'' This State also

suggested that MMS can convey guidance orally, without a formal written procedure. Therefore, this commenter recommended that we delete the requirement for a written request. Conversely, one oil and gas trade association strongly supported the requirement for a State to submit a written request for interpretation of applicable Federal requirements and for MMS to respond in writing. This commenter believed that, ''Besides ensuring uniform and consistent application of Federal requirements, it will also provide lessees with greater certainty that they are properly reporting and paying their royalties.'' One State commenter requested that the States be held to no higher standard than MMS in performing delegated functions.

MMS Response—The Department of the Interior (DOI) has the final responsibility for deciding appeals and must maintain a uniform valuation policy. In particular, for unique questions and complex situations, such as valuation issues, we believe it is more efficient for us to provide written guidance to all impacted parties early in a developing situation than to provide it late in the process. Further, this encourages consistency in the application of laws and regulations because it eliminates confusion during the administrative process. We concur that for routine or procedural matters States could obtain guidance orally. We have clarified our position in the final regulation.

We will not hold States to standards higher than those we perform. However, we encourage States to improve the efficiency and effectiveness of the Federal royalty management program they are delegated.

Section 227.300—Two States commented that the list of delegable audit functions was too detailed and restrictive. These commenters pointed out that not all functions would apply in every audit situation, such as site visits, close-out conferences, and records releases. One of these commenters further contended that MMS should compensate the States for the costs of conducting any special audit initiatives. Another State commenter recommended deleting the reference in this section to MMS deciding all appeals because it may adopt the recommendation of the Royalty Policy Committee.

MMS Response—We agree with the idea of increased flexibility. We have modified the rule to only require performance of the specific audit functions as appropriate.

Compensation for special audit initiatives is subject to Congressional funding. Thus, when audit initiatives arise and additional funds are not available, the audit work plans of affected States and MMS would have to be modified in response to the higher priority work. This could result in lower priority work not being accomplished with existing resources, unless Congress provides additional funding.

We are retaining the language in the final rules that the Department will decide all appeals as provided in RSFA. We are reviewing the recommendations by the Royalty Policy Committee on appeals and will issue an amended rule on this matter if necessary.

Section 227.301—Three State commenters stated that the responsibilities for performing audits were too restrictive, and that MMS should allow them to develop their own audit strategies. They pointed out that, for example, the annual work plan is subject to frequent change and that the regulations need to allow for that kind of flexibility.

MMS Response—Although, we understand the need for flexibility in developing audit strategies, we stress the need for a coordinated audit program. Thus, we agree that the annual audit work plans can be changed to reprioritize work with our approval and have modified § 227.301(e) accordingly.

Section 227.400—One State commenter advocated State collection of royalty payments, similar to Indian lockboxes, to minimize the complications resulting from erroneous reports. A second State commenter raised the issue that RSFA's term ''State concerned'' (in the context of granting exceptions from reporting and payment requirements under 30 U.S.C. 1726(c)) applies to a broader universe than the term ''delegated State'' used in this rule, and requested that its meaning not be changed. An oil and gas industry representative questioned whether a lessee could appeal a State's denial of an exception request.

MMS Response—As we stated in the preamble to the proposed rule, RSFA does not authorize MMS to delegate collection functions. Thus, MMS has reserved this function because it is necessary for uniform administration of the royalty management system among the States. Further, we believe that no complication results from a centralized collection function.

The commenter has misinterpreted the application of §§ 227.400(b)(1) and (2) in this rulemaking. With respect to § 227.400(b)(1), RSFA provides, in the section applicable to allocation of production to leases within a unit or communitization agreement, that ''[t]he Secretary or the *delegated State* shall grant an exception from the reporting and payment requirements for marginal properties.'' 30 U.S.C. 1721(k)(4) (emphasis added). That is the applicable section of RSFA that was addressed in § 227.400(b)(1) of this rulemaking and does not require consent of the ''state concerned.'' However, RSFA also provides in the section applicable to marginal properties in general that the State concerned must consent to alternative accounting and auditing procedures for marginal properties. 30 U.S.C. 1726(c). We are in the process of separately promulgating rules implementing section 1726(c) of RSFA that do require consent of the State concerned before it will grant alternative accounting and auditing procedures for marginal properties.

With respect to § 227.400(b)(2), RSFA also provides, in the section applicable to allocation of production to leases within a unit or communitization agreement, that ''(f)or any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the *delegated State* for approval. * * *'' 30 U.S.C. 1721(k)(3) (emphasis added). That is the applicable section of RSFA that was addressed in § 227.400(b)(2) of this rulemaking and does not require consent of the ''state concerned.''

Section 227.401—One oil and gas industry commenter suggested that States accept *all* forms of electronic media as currently done by MMS.

MMS Response—We agree. We intend to continue this policy in our delegation program.

Section 227.500—One oil and gas trade association and one oil and gas industry commenter recommended that we assess interest and erroneous reporting at the payor code level for all Federal leases and not at the individual State level.

MMS Response—We will address how we will assess for interest and erroneous reporting in other appropriate rulemakings.

Section 227.600—A State commenter opposed the requirement to verify ''unit prices for reasonable product valuation,'' because MMS does not perform that function. Two other State commenters suggested that cost effectiveness be taken into account to optimize the return on the resources spent when performing automated verification. An oil and gas industry trade association stated that it '' * * * does not object to a State calculating

interest, but we have concerns on how the excessive overpayment provision of FOGRSFA will be interpreted. (It) believes that this provision must be viewed on a Payor Code level for all federal leases. We do not believe that this provision should be made on a state-by-state basis. What if a reporter had only one lease within a delegated state, but hundreds of federal leases in other states?''

MMS Response—We do perform a limited product value verification within certain broad parameters and have left the provision unchanged in the final rule. We would not require the States to perform under a more stringent standard than we do. Further, we support flexibility and will work with States to develop customized approaches to automated verification that are cost effective and meet their needs. We will address the issue of calculating interest on excessive overpayments in another separate rulemaking.

Section 227.601—One oil and gas industry representative was concerned about States' abilities to verify the proper volume of gas plant products as currently done by MMS. This commenter suggested that States have the same capability to avoid extraneous reporting by industry. Two State commenters objected to their having to perform verification under a higher standard than MMS. One oil and gas trade association commented that the word ''update'' in § 227.601(d) should be ''updated.''

MMS Response—If States request this function, we will assure that they have the capability to verify plant production volumes. We will not require a State to perform verification at a higher standard than we do; however, we will work with States to develop verification tolerances that best suit each State's needs. We agree that the word in § 227.601(d) should be ''updated'' and corrected this section.

Section 227.800—Two oil and gas industry trade associations supported establishment of a MMS monitoring team. They further suggested that the team consult industry on a regular basis.

MMS Response—We agree that the monitoring team should serve as a point of contact with industry to address their concerns. Upon review of this section, we modified it to clarify the annual and periodic reviews performed by the monitoring team.

Section 227.801—Two State commenters believed that States should have the ability to appeal a finding by MMS that it is not performing a delegated function adequately. Two oil and gas trade associations asserted that we must take corrective actions if a State has not performed its delegated function satisfactorily, so the word ''may'' must be changed to ''will.'' One of these commenters also recommended that we put any notices of a State's noncompliance in writing.

MMS Response—The process we proposed provides appropriate administrative due process for the delegated State. If a State's performance problem is not corrected through informal discussion, we may then begin to terminate the delegation. Any termination of a delegated function will be decided by the MMS Director, with concurrence by the Secretary. This decision would be appealable to Federal district court.

In situations involving corrective actions, we wish to retain the latitude to work with States in improving their performance of the delegated functions. Some situations may not require us to take a formal corrective action, for example, where problems can be resolved verbally. Further, MMS wishes to assure that before it terminates an agreement, a State will have ample opportunity to correct any harmful or significant deficiencies. Therefore, MMS is retaining the word ''may'' in the sections involving corrective actions.

Although the rule provides that MMS will notify a State in writing of the State's failure to adequately perform delegated functions, MMS will not inform industry of a State's noncompliance. Industry may request information on a State's performance under its delegation agreement under the Freedom of Information Act. If industry has concerns regarding a State's performance of delegated functions, industry may contact the monitoring team described under § 227.800 of this part.

Section 227.804—Two oil and gas trade associations requested that we provide industry with 180 days for systems changes, if a State elects to terminate its delegation. One of these commenters also asked that industry be notified of such terminations.

MMS Response—This section does not explicitly address the effective date of terminations of delegation agreements or time periods for industry to make systems changes once a termination becomes effective. Rather, it informs States that they must provide MMS with a 90-day written notice of their intent to terminate a delegation agreement. However, MMS agrees that a transition time is warranted and is modifying § 227.804 to address this concern. Although not raised by this comment, during its review of this comment, MMS realized that it had not included an effective date for termination of delegation agreements in its proposed rule. Accordingly, we have modified § 227.804 to provide that MMS will determine a termination date based on the number and type of delegation function(s) and the number of affected parties. Therefore, in attempting to provide flexibility, we will work with each State and industry, as appropriate, to determine the appropriate amount of time for termination of their particular delegated function(s).

III. Comments That MMS Specifically Requested

We specifically asked for comment on the following issues:

Removal of Part 229 ''As an alternative proposal, MMS would like comment on whether it should remove part 229 completely and incorporate delegations to States for audits, inspections, and investigations on Indian lands into new Part 227.''

Comment—One industry commenter recommended that MMS retain separate delegation regulations for audits, inspections and investigations for Indian leases in part 229. Another industry commenter pointed out that FOGRSFA did not affect leases on Indian lands.

MMS Response—We agree and we are retaining this authority in part 229.

Delegation Proposal

''MMS specifically requested comments on additional information that you believe would be important to include in a State's delegation proposal.''

Comment—We did not receive any specific comments on this issue. However, one oil and gas trade association requested timely access to delegation proposals.

MMS Response—We addressed this issue under § 227.110.

Formation of an Advisory Committee

''MMS would suggest formation of an advisory committee comprised of States receiving delegations and MMS representatives. The committee would be responsible for providing advice and recommendations about the standards and procedures required for the performance of delegable functions. MMS would like comments on this suggestion.''

Comment—One oil and gas industry trade association advocated that industry also be included in the advisory committee.

MMS Response—RSFA requires that MMS and the States consult in the development of procedures and standards for States to perform royalty

management functions. We believe that it may be helpful for States with delegations and MMS to work informally together through a State-initiated advisory group on the continuing development and coordination of the delegation program. The discussions would involve mostly the day-to-day coordination of activities between MMS and States and would have little, if any, effect on industry's activities. Once standards, procedures, and coordination techniques are developed, industry will have the opportunity for review.

Monitoring Team—''Please provide comment to MMS if you have suggestions on how MMS should form the monitoring team.''

Comment—One oil and gas trade association stated that the monitoring team should consist of MMS subject matter experts. Further, this commenter suggested that the team consult with affected payors on a regular basis.

MMS Response—We agree that the monitoring team members should be subject matter experts and that the team will consult with affected payors on a regular basis.

Reporting Burden—''As part of our continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden.''

Comment—One oil and gas trade association emphasized that reporting burdens could exist when payors report in more than one State. Further, this commenter stated that industry participation is essential to eliminate duplication and provide a uniform reporting format.

MMS Response—While we agree that under RSFA there may be an additional reporting burden for those payors reporting to multiple States, we are committed to coordinating with States and industry to minimize this burden.

Paperwork Reduction Act Requirements—''In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, MMS is providing notice and otherwise consulting with members of the public and affected agencies concerning collection of information in order to solicit comment to: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.''

Comment—We did not receive any comments on this issue.

Section-by-Section Analysis

Section 227.100 What States may request delegation?

We removed this section and combined the information with § 227.101 to conform with comments received from the mining industry and the Departmental legal opinion.

Section 227.101 What royalty management functions may MMS delegate to a State?

We combined the proposed § 227.100 with this section for clarity purposes.

At § 227.101(a), we added language to clarify that a State performing delegated royalty management functions must perform those functions for all Federal oil and gas leases within the State boundaries.

At § 227.101(b), we added language to clarify that a State performing delegated audits and investigations must perform those functions for all federal leases subject to OCSLA section 8(g) and solid mineral leases and geothermal leases on Federal lands within the State boundaries.

Section 227.103 What must a State's delegation proposal contain?

We modified § 227.103(c)(1) to include the word ''entities'' in response to comments and added language to clarify that if more than one entity is delegated responsibility for performing delegated functions, the State must provide in its proposal the position of the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State.

At § 227.103(e)(2), we deleted paragraphs (ii) and (iv) in response to comments.

At § 227.103(i), we added language to clarify the responsibilities of handling confidential information.

Section 227.105 What are the hearing procedures?

At § 227.105, we added the words ''if appropriate'' in response to comments. We inserted a new paragraph at § 227.105(d) also in response to comments.

Section 227.110 When and for how long are delegation agreements effective?

We changed the section title to add clarity. We added information at § 227.110(a) to clarify our language regarding the effective date for delegation agreements. We added new language at § 227.110(d) to clarify our original proposal.

In response to comments, we added § 227.110(e) to further explain the hearing process.

Section 227.111 Do existing delegation agreements remain in effect?

We added language at § 227.111(a) to further explain our requirements in this section.

Section 227.112 What compensation will a State receive to perform delegated functions?

We added language at § 227.112(d) to provide an option to the States for voucher submittal.

Section 227.200 What are a State's general responsibilities if it accepts a delegation?

We modified § 227.200(a) to provide flexibility to States in response to their comments.

We deleted the phrase ''and the *MMS Standards for Delegation* (*Standards*)'' from § 227.200(e) for clarity purposes.

We added the phrase ''and the delegation agreement;'' to 227.200(f) for clarity purposes.

Section 227.300 What audit functions may a State perform?

We modified § 227.300 to provide greater flexibility to the States in response to their comments.

Section 227.301 What are a State's responsibilities if it performs audits?

We modified the language at § 227.301(e) of the proposed rule to provide flexibility to States regarding their audit plans, as expressed in their comments.

We also modified the language at § 227.301(f) of the proposed rule to clarify our requirements regarding the appeals process.

Section 227.400 What functions may a State perform in processing production reports or royalty reports?

We modified § 227.400(a)(7) to clarify our requirements regarding the appeals process.

Section 227.401 What are a State's responsibilities if it processes production reports or royalty reports?

We modified § 227.401(b) to clarify our requirements for processing fatal

errors. At § 227.401(h), we modified the language to clarify our requirements regarding the appeals process.

Section 227.500 What functions may a State perform to ensure that reporters correct erroneous report data?

We modified § 227.500(b) for further clarity.

Section 227.501 What are a State's responsibilities to ensure that reporters correct erroneous data?

We changed § 227.501(b) for simplicity. We modified § 227.501(d) to clarify our requirements regarding the appeals process.

Section 227.600 What automated verification functions may a State perform?

We modified § 227.600(b)(4) as a result of mining industry comments regarding the delegation of additional royalty management functions for solid, geothermal, and § 8(g) leases.

We deleted § 227.600(b)(7) to correct this final rulemaking because this item is not a separate, identifiable automated verification function. We modified § 227.600(d) to clarify our requirements regarding the appeals process.

Section 227.601 What are a State's responsibilities if it performs automated verification?

We changed § 227.601(d) to correct a typographical error. We modified § 227.601(e) to provide further clarity regarding the appeals requirements.

Section 227.700 What enforcement documents may a State issue in support of its delegated function?

We deleted language from § 227.700(a) as a result of mining industry comments regarding the delegation of additional royalty management functions for solid, geothermal, and § 8(g) leases.

Section 227.800 How will MMS monitor a State's performance of delegated functions?

We modified § 227.800 in response to comments and to further specify our review process.

Section 227.802 How will MMS terminate a State's delegation agreement?

We added further information about the termination of delegation agreement process at § 227.802 for clarity purposes.

Section 227.804 How else may a State's delegation agreement terminate?

We modified § 227.804 as a result of industry comments.

V. Procedural Matters

The Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule provides guidance to States about the delegation of royalty management functions.

Approximately 4,500 reporters provide royalty and production reports on mineral production from Federal and Indian lands to MMS. However, many of these companies report both royalty and production information to MMS. The total number of companies reporting to MMS is about 2,500. The majority of these are considered small businesses under the criteria of the Small Business Administration.

Some small entities might have activities in more than one State. While these companies could be required to report to several States instead of only the Federal Government under this rulemaking, they would file the same reports that they do now, but to a greater number of regulatory agencies. For the small entity, this will require further communication and coordination between the States and MMS. If the entity has several leases in more than one State, we estimate an additional burden of 50 hours for coordination between the several States and MMS. Under this scenario, the annual cost burden estimate to a small entity is $1,750.

If a payor reports for Federal mineral leases located in only one State, we estimate no additional burden hours or costs imposed by this rule because the payor is already required to send in the same production reports and royalty payments but to a different address. A $1,750 annual cost for a small business to comply with this rule is not considered a significant impact on a typical small entity in the oil and gas extraction industry.

This rulemaking will not have a significant economic impact on a substantial number of small entities.

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, there is no need to prepare a Takings Implication Assessment under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights.''

Executive Order 12866

This rule was determined to be significant by the Office of Management and Budget (OMB). Although this rule will result in an increased reporting burden, there will be an offsetting benefit of incentives to States to participate in Federal activities. MMS estimates the economic impact of this rule to be about $7 million.

Executive Order 12988

The Department has certified to OMB that this proposed regulation meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

The Office of Management and Budget approved the information collection requirements contained in this rule under 44 U.S.C. 3501 *et seq.*, and assigned OMB Control Number 1010–0088, titled: Delegation of Authority to States. This OMB approval has an expiration date of June 30, 2000.

National Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

Unfunded Mandates Reform Act of 1995

The Department has determined and certifies according 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, tribal, State governments or the private sector.

List of Subjects in 30 CFR Parts 227, 228 and 229

Coal, Continental shelf, Geothermal energy, Government contracts, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: July 26, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, Title 30, Chapter II of the Code of Federal Regulations is amended as follows:

1. Part 227 is added to read as follows:

PART 227—DELEGATION TO STATES

Sec.

Authority: 30 U.S.C. 1735; 30 U.S.C. 196; Pub L. 102–154.

Delegation of MMS Royalty Functions

§ 227.1 What is the purpose of this part?

This part provides procedures to delegate Federal royalty management functions to States under section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (the Act), 30 U.S.C. 1735, as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, Pub. L. 104–185, August 13, 1996, as corrected by Pub. L. 104–200. This part also provides procedures to delegate only audit and investigation functions to States under Pub. L. 102–154 for solid mineral leases, geothermal leases and leases subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g). This part does not apply to any inspection or enforcement responsibilities of the Bureau of Land Management for onshore leases or the MMS Offshore Minerals Management program for leases on the Outer Continental Shelf.

§ 227.10 What is the authority for information collection?

(a) The information collection requirements contained in this part have been approved by Office of Management and Budget (OMB) under 44 U.S.C. 3501 et seq. and assigned OMB Control Number 1010–0088. We will use the information collected to review and approve delegation proposals from States wishing to perform royalty management functions.

(b) Public reporting burden is estimated as follows. MMS estimates 400 annual burden hours per function for each State performing the delegated functions. The Federal Government will reimburse some of these costs as provided by statute. However, States could incur additional start-up costs, such as purchasing equipment necessary to perform a delegated function, that may not be reimbursable. MMS estimates that, if applicable, each payor or reporter would spend 50 burden hours annually coordinating their interactions and communications among the several States and with MMS. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Information Collection Clearance Officer, Minerals Management Service, 1849 C Street, NW, Washington, DC 20240; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Interior Department, OMB Control Number 1010–0088, 725 17th Street, NW, Washington, DC 20503.

§ 227.101 What royalty management functions may MMS delegate to a State?

(a) If there are oil and gas leases subject to the Act on Federal lands within your State, MMS may delegate the following royalty management functions for all such Federal oil and gas leases to you under this part:

(1) Conducting audits and investigations;

(2) Receiving and processing production or royalty reports;

(3) Correcting erroneous report data;

(4) Performing automated verification; and

(5) Issuing demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees or their designees, and entering into tolling agreements under section 115(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

(b) If there are oil and gas leases offshore of your State subject to section 8(g) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1337(g), or solid mineral leases or geothermal leases on Federal lands within your State, MMS only may delegate authority to conduct audits and investigations for all such Federal leases to you under this part. MMS will not delegate other functions that may be delegated for oil and gas leases on Federal lands.

§ 227.102 What royalty management functions will MMS not delegate?

This section lists the principal royalty management functions that MMS will not delegate to a State. MMS will not delegate to a State the following functions:

(a) MMS must collect all moneys received from sales, bonuses, rentals, royalties, civil penalties, assessments and interest. MMS also must collect any moneys a lessee or its designee pays because of audits or other actions of a delegated State;

(b) MMS must compare all cash and other payments it receives with payments shown on royalty reports or other documents, such as bills, to reconcile payor accounts. MMS also must disburse all appropriate moneys to States and other revenue recipients, including refunds and interest owed to lessees and their designees;

(c) The Department of the Interior will receive, process, and decide all administrative appeals from demands or

other orders issued to lessees, their designees, or any other person, including demands or orders a delegated State issues;

(d) Only MMS may take enforcement actions other than issuing demands, subpoenas and orders to perform restructured accounting. MMS or the appropriate Federal agency will issue notices of non-compliance and civil penalties, collect debts, write off delinquent debts, pursue litigation, enforce subpoenas, and manage any alternative dispute resolution. MMS will conduct, coordinate and approve any settlement or other compromise of an obligation that a lessee or its designee owes;

(e) MMS will decide all valuation policies, including issuing valuation regulations, determinations, and guidelines, and interpreting valuation regulations; and

(f) MMS may reserve additional authorities and responsibilities not included in paragraphs (a) through (f) of this section.

Delegation Proposals

§ 227.103 What must a State's delegation proposal contain?

If you want MMS to delegate royalty management functions to you, then you must submit a delegation proposal to the MMS Associate Director for Royalty Management. MMS will provide you with technical assistance and information to help you prepare your delegation proposal. Your proposal must contain the following minimum information:

(a) The name and title of the State official authorized to submit the delegation proposal and execute the delegation agreement;

(b) The name, address, and telephone number of the State contact for the proposal;

(c) A copy of the legislation, State Attorney General opinion or other document that:

(1) States which State entity or entities are responsible for performing delegated functions, and if more than one entity is delegated such responsibility, the position of the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State;

(2) Demonstrates the State's authority to:

(i) Accept a delegation from MMS; and

(ii) Receive State or Federal appropriations to perform delegated functions;

(d) The date you propose to begin performing delegated functions;

(e) A detailed statement of the delegable functions that you propose to perform. For each function, describe the resources available in your State to perform each function, the procedures you will use to perform each function, and how you will assure that you will meet all Federal laws, lease terms, regulations and relevant performance standards. As evidence that you have or will have the resources to perform each delegable function, provide the following information:

(1) A description of the personnel you have available to perform delegated functions, including:

(i) How many persons you will assign full-time and part-time to each delegated function;

(ii) The technical qualifications of the key personnel you will assign to each function, including academic field and degree, professional credentials, and quality and amount of experience with similar functions; and

(iii) Whether these persons are currently State employees. If not, explain how you propose to hire these persons or obtain their services, and when you expect to have those persons available to perform delegated functions;

(2) A description of the facilities you will use to perform delegated functions, including:

(i) Whether you currently have the facilities in which you will physically locate the personnel and equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire such facilities, and when you expect to have such facilities available; and

(ii) How much office space is available;

(3) Describe the equipment you will use to perform delegated functions, including:

(i) Hardware and software you will use to perform each delegated function, including equipment for:

(A) Document processing, including compatibility with MMS automated systems, electronic commerce capabilities, and data storage capabilities;

(B) Accessing reference data;

(C) Contacting production or royalty reporters;

(D) Issuing demands;

(E) Maintaining accounting records;

(F) Performing automated verification;

(G) Maintaining security of confidential and proprietary information; and

(H) Providing data to other Federal agencies;

(ii) Whether you currently have the equipment you will need to perform the functions you propose to assume. If not, how you propose to acquire such equipment and when you expect to have such equipment available;

(f) Your estimates of the costs to fund the following resources necessary to perform the delegation:

(1) Personnel, including hiring, employee salaries and benefits, travel and training;

(2) Facilities, including acquisition, upgrades, operation, and maintenance; and

(3) Equipment, including acquisition, operation, and maintenance;

(g) Your plans to fund the resources under paragraph (f) of this section, including any items you will ask MMS to fund under the delegation agreement;

(h) A statement identifying any areas where State law, including State appropriation law, may limit your ability to perform delegated functions, and an explanation of how you propose to remove any such limitation;

(i) A statement that in accordance with section 203 of the Act (30 U.S.C. 1733) persons who have access to information received under delegated functions are subject to the same provisions of law regarding confidentiality and disclosure of that information as Federal employees. Applicable laws include the Freedom of Information Act (FOIA), the Trade Secrets Act, and relevant Executive Orders. In addition, your statement must acknowledge that all documents produced, received, and maintained as part of any delegation functions are agency records for purposes of FOIA. Therefore, persons who have access to information received under delegated functions may not use such information or provide such information to any other person, including State personnel, for purposes other than performing delegated functions. However, this limitation does not apply if the person submitting the information consents in writing to its use for other State purposes.

§ 227.104 What will MMS do when it receives a State's delegation proposal?

When MMS receives your delegation proposal, it will record the receipt date. MMS will notify you in writing within 15 business days whether your proposal is complete. If it is not complete, MMS will identify any missing items § 227.103 requires. Once you submit all required information, MMS will notify you of the date your application is complete.

Hearing Process

§ 227.105 What are the hearing procedures?

After MMS notifies you that your delegation proposal is complete, MMS will schedule a hearing on your proposal, if MMS determines a hearing is appropriate, as follows:

(a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding regarding your ability to assume the delegated functions requested. The hearing official will not decide whether to approve your delegation request;

(b) The hearing official will contact you about scheduling a hearing date and location;

(c) The MMS will publish notice of the hearing in the **Federal Register** and other appropriate media within your State;

(d) MMS will publish notice of the proposal in the **Federal Register**. MMS will also post the proposal on the MMS Website, and upon request, MMS will send a copy of the delegation proposal to the trade associations to distribute to their members, as necessary;

(e) At the hearing, you will have an opportunity to present testimony and written information in support of your proposal;

(f) Other persons may attend the hearing and may present testimony and written information for the record;

(g) MMS will record the hearing;

(h) MMS will maintain a record of all documents related to the proposal process;

(i) After the hearing, MMS may require you to submit additional information in support of your delegation proposal.

Delegation Process

§ 227.106 What statutory requirements must a State meet to receive a delegation?

The MMS Director will decide whether to approve your delegation request and will ask the Secretary of the Interior to concur in the decision. That decision is solely within the MMS Director's and the Secretary's discretion. The MMS Director's decision, which the Secretary concurs in, is the final decision for the Department of the Interior. The MMS Director may approve a State's request for delegation only if, based upon the State's delegation proposal and the hearing record, the MMS Director finds that:

(a) It is likely that the State will provide adequate resources to achieve the purposes of the Act;

(b) The State has demonstrated that it will effectively and faithfully administer the MMS regulations under the Act in accordance with subsections (c) and (d) of section 205 of the Act;

(c) Such delegation will not create an unreasonable burden on any lessee;

(d) The State agrees to adopt standardized reporting procedures MMS prescribes for royalty and production accounting purposes, unless the State and all affected parties (including MMS) otherwise agree;

(e) The State agrees to follow and adhere to regulations and guidelines MMS issues under the mineral leasing laws regarding valuation of production; and

(f) Where necessary for a State to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations.

§ 227.107 When will the MMS Director decide whether to approve a State's delegation proposal?

The MMS Director will decide whether to approve your delegation proposal within 90 days after your delegation proposal is considered complete under § 227.104. MMS may extend the 90-day period with your written consent.

§ 227.108 How will MMS notify a State of its decision?

MMS will notify you in writing of its decision on your delegation proposal. If MMS approves your delegation proposal, then MMS will hold discussions with you to develop a delegation agreement detailing the functions that you will perform, the standards and requirements you must comply with to perform those functions, and any required transition period.

§ 227.109 What if the MMS Director denies a State's delegation proposal?

If the MMS Director denies your delegation proposal, MMS will state the reasons for denial. MMS also will inform you in writing of the conditions you must meet to receive approval. You may submit a new delegation proposal at any time following a denial.

§ 227.110 When and for how long are delegation agreements effective?

(a) Delegation agreements are effective for 3 years from the date the MMS Director signs the delegation agreement. However, during the development of the State's delegation proposal under § 227.108 of this part, MMS, the delegated State, and any other affected person will determine an appropriate transition period for lessees and their designees to modify their systems to comply with any new requirements under a delegation agreement. MMS will publish notice of the effective date of a State's delegation agreement in the **Federal Register** and that notice will inform lessees and their designees of any transition period. MMS also will post the proposals on the MMS Website at www.mms.gov, and upon request, will send a copy of the delegation proposals to trade associations to distribute to their members.

(b) You may ask MMS to renew the delegation for an additional 3 years no less than 6 months before your 3-year delegation agreement expires. You must submit your renewal request to the MMS Associate Director for Royalty Management as follows:

(1) If you do not want to change the terms of your delegation agreement for the renewal period, you need only ask to extend your existing agreement for the 3-year renewal period. MMS will not schedule a hearing unless you request one;

(2) If you want to change the terms of your delegation agreement for the renewal period, you must submit a new delegation proposal under this part.

(c) The MMS Director may approve your renewal request only if MMS determines that you are meeting the requirements of the applicable standards and regulations. If the MMS Director denies your renewal request, MMS will state the reasons for denial. MMS also will inform you in writing of the conditions you must meet to receive approval. You may submit a new renewal request any time after denial.

(d) After the 3-year renewal period for your delegation agreement ends, if you wish to continue performing one or more delegated functions, you must request a new delegation agreement from MMS under this part. MMS will schedule a hearing on your request, if MMS determines a hearing is appropriate. As part of the decision whether to approve your request for a new delegation, the MMS Director will consider whether you are meeting the requirements of the applicable standards and regulations under your existing delegation agreement.

(e) If you do not request a hearing under paragraphs (b)(1) or (d) of this section, any other affected person may submit a written request for a hearing under those paragraphs to the MMS Associate Director for Royalty Management.

Existing Delegations

§ 227.111 Do existing delegation agreements remain in effect?

This section explains your options if you have a delegation agreement in effect on the effective date of this regulation.

(a) If you do not want to perform any royalty management functions in addition to those authorized under your existing agreement, you may continue your existing agreement until its expiration date. Before the agreement expires, if you wish to continue to perform one or more of the delegated functions you performed under the expired agreement, you must request a new delegation agreement meeting the requirements of this part and the applicable standards.

(b) If you want to perform royalty management functions in addition to those authorized under your existing agreement, you must request a new delegation agreement under this part.

(c) MMS may extend any delegation agreement in effect on the effective date of this regulation for up to 3 years beyond the date it is due to expire.

Compensation

§ 227.112 What compensation will a State receive to perform delegated functions?

You will receive compensation for your costs to perform each delegated function subject to the following conditions:

(a) Compensation for costs is subject to Congressional appropriations;

(b) Compensation may not exceed the reasonably anticipated expenditures that MMS would incur to perform the same function;

(c) The cost for which you request compensation must be directly related to your performance of a delegated function and necessary for your performance of that delegated function;

(d) At a minimum, you must provide vouchers detailing your expenditures quarterly during the fiscal year. However, you may agree to provide vouchers on a monthly basis in your delegation agreement;

(e) You must maintain adequate books and records to support your vouchers;

(f) MMS will pay you quarterly or monthly during the fiscal year as stated in your delegation agreement; and

(g) MMS may withhold compensation to you for your failure to properly perform any delegated function as provided in section 227.801 of this part.

States' Responsibilities To Perform Delegated Functions

§ 227.200 What are a State's general responsibilities if it accepts a delegation?

For each delegated function you perform, you must:

(a) Operate in compliance with all Federal laws, regulations, and Secretarial and MMS determinations and orders relating to calculating, reporting, and paying mineral royalties and other revenues. You must seek information or guidance from MMS regarding new, complex, or unique issues. If MMS determines that written guidance or interpretation is appropriate, MMS will provide the guidance or interpretation in writing to you and you must follow the interpretation or guidance given;

(b) Comply with Generally Accepted Accounting Principles (GAAP). You must:

(1) Provide complete disclosure of financial results of activities;

(2) Maintain correct and accurate records of all mineral-related transactions and accounts;

(3) Maintain effective controls and accountability;

(4) Maintain a system of accounts that includes a comprehensive audit trail so that all entries may be traced to one or more source documents; and

(5) Maintain adequate royalty and production information for royalty management purposes;

(c) Assist MMS in meeting the requirements of the Government Performance and Results Act (GPRA) as well as assisting in developing and endeavoring to comply with the MMS Strategic Plan and Performance Measurements;

(d) Maintain all records you obtain or create under your delegated function, such as royalty reports, production reports, and other related information. You must maintain such records in a safe, secure manner, including taking appropriate measures for protecting confidential and proprietary information and assisting MMS in responding to Freedom of Information Act requests when necessary. You must maintain such records for at least 7 years;

(e) Provide reports to MMS about your activities under your delegated functions. MMS will specify in your delegation agreement what reports you must submit and how often you must submit them. At a minimum, you must provide periodic statistical reports to MMS summarizing the activities you carried out, such as:

(1) Production and royalty reports processed;

(2) Erroneous reports corrected;

(3) Results of automated verification findings;

(4) Number of audits performed; and

(5) Enforcement documents issued.

(f) Assist MMS in maintaining adequate reference, royalty, and production databases as provided in the *Standards* issued under § 227.201 of this part and the delegation agreement;

(g) Develop annual work plans that:

(1) Specify the work you will perform for each delegated function; and

(2) Identify the resources you will commit to perform each delegated function;

(h) Help MMS respond to requests for information from other Federal agencies, Congress, and the public;

(i) Cooperate with MMS's monitoring of your delegated functions; and

(j) Comply with the *Standards* as required under § 227.201 of this part.

§ 227.201 What standards must a State comply with for performing delegated functions?

(a) If MMS delegates royalty management functions to you, you must comply with the *Standards.* The *Standards* explain how you must carry out the activities under each of the delegable functions.

(b) Your delegation agreement may include additional standards specifically applicable to the functions delegated to you.

(c) Failure to comply with your delegation agreement, the *Standards,* or any of the specific standards and requirements in the delegation agreement, is grounds for termination of all or part of your delegation agreement, or other actions as provided under §§ 227.801 and 227.802.

(d) MMS may revise the *Standards* and will provide notice of those changes in the **Federal Register**. You must comply with any changes to the *Standards.*

§ 227.300 What audit functions may a State perform?

An audit consists of an examination of records to verify that royalty reports and payments accurately reflect actual production, sales, revenues and costs, and compliance with Federal statutes, regulations, lease terms, and MMS policy determinations.

(a) If you request delegation of audit functions, you must perform at least the following:

(1) Submitting requests for records;

(2) Examining royalty and production reports;

(3) Examining lessee production and sales records, including contracts, payments, invoices, and transportation and processing costs to substantiate production and royalty reporting;

(4) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

(b) If necessary for a particular audit, you may also perform any of the following:

(1) Issuing engagement letters;

(2) Arranging for entrance conferences;

(3) Scheduling site visits; and

(4) Issuing record releases and audit closure letters; and

(5) Holding closeout conferences.

§ 227.301 What are a State's responsibilities if it performs audits?

If you perform audits you must:

(a) Comply with the *MMS Audit Procedures Manual* and the *Government Auditing Standards* issued by the Comptroller General of the United States;

(b) Follow the MMS Annual Audit Work Plan and 5-year Audit Strategy, which MMS will develop in consultation with States having delegated audit authority;

(c) Agree to undertake special audit initiatives MMS identifies targeting specific royalty issues, such as valuation or volume determinations;

(d) Prepare, construct, or compile audit work papers under the appropriate procedures, manuals, and guidelines;

(e) Prepare and submit MMS Audit Work Plans. You may modify your Audit Work Plans with MMS approval; and

(f) Comply with procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

§ 227.400 What functions may a State perform in processing production reports or royalty reports?

Production reporters or royalty reporters provide production, sales, and royalty information on mineral production from leases that must be collected, analyzed, and corrected.

(a) If you request delegation of either production report or royalty report processing functions, you must perform at least the following:

(1) Receiving, identifying, and date stamping production reports or royalty reports;

(2) Processing production or royalty data to allow entry into a data base;

(3) Creating copies of reports by means such as electronic imaging;

(4) Timely transmitting production report or royalty report data to MMS and other affected Federal agencies as provided in your delegation agreement and the *Standards*;

(5) Providing training and assistance to production reporters or royalty reporters;

(6) Providing production data or royalty data to MMS and other affected Federal agencies; and

(7) Providing assistance to MMS for appealed demands or orders, including meeting timeframes, supplying information, using the appropriate format, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

(b) If you request delegation of either production report or royalty report processing functions, or both, you may perform the following functions:

(1) Granting exceptions from reporting and payment requirements for marginal properties; and

(2) Approving alternative royalty and payment requirements for unit agreements and communitization agreements.

(c) You must provide MMS with a copy of any exceptions from reporting and payment requirements for marginal properties and any alternative royalty and payment requirements for unit agreements and communitization agreements you approve.

§ 227.401 What are a State's responsibilities if it processes production reports or royalty reports?

In processing production reports or royalty reports you must:

(a) Process reports accurately and timely as provided in the *Standards* and your delegation agreement;

(b) Identify and resolve fatal errors to use in subsequent error correction that the State or MMS performs;

(c) Accept multiple forms of electronic media from reporters, as MMS specifies;

(d) Timely transmit required production or royalty data to MMS and other affected Federal agencies;

(e) Access well, lease, agreement, and reporter reference data from MMS and provide updated information to MMS;

(f) For production reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 216, the *PAAS Onshore Oil and Gas Reporter Handbook*, the *PAAS Reporter Handbook-Lease, Facility/Measurement Point, and Gas Plant Operators*, any interagency memorandums of understanding to which MMS is a party, and the *Standards*;

(g) For royalty reports, maintain adequate system software edits to ensure compliance with the provisions of 30 CFR part 218, the *Oil and Gas Payor Handbook, Volume II*, ''Dear Payor'' letters, and the *Standards*; and

(h) Comply with the procedures for appealed demands or orders, including meeting timeframes, supplying information, and using the appropriate format.

§ 227.500 What functions may a State perform to ensure that reporters correct erroneous report data?

Production data and royalty data must be edited to ensure that what is reported is correct, that disbursement is made to the proper recipient, and that correct data are used for other functions, such as automated verification and audits. If you request delegation of error correction functions for production reports or royalty reports, or both, you must perform at least the following:

(a) Correcting all fatal errors and assigning appropriate confirmation indicators;

(b) Verifying whether production reports are missing;

(c) Contacting production reporters or royalty reporters about missing reports and resolving exceptions;

(d) Documenting all corrections made, including providing production reporters or royalty reporters with confirmation reports of any changes;

(e) Providing training and assistance to production reporters or royalty reporters;

(f) Issuing notices, orders to report, and bills as needed, including, but not limited to, imposing assessments on a person who chronically submits erroneous reports; and

(g) Providing assistance to MMS for appealed demands or orders, including preparing field reports, performing remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.501 What are a State's responsibilities to ensure that reporters correct erroneous data?

To ensure the correction of erroneous data, you must:

(a) Ensure compliance with the provisions of 30 CFR parts 216 and 218, any applicable handbook specified under 30 CFR 227.401 (f) and (g), interagency memorandums of understanding to which MMS is a party, and the *Standards*;

(b) Ensure that reporters accurately and timely correct all fatal errors as designated in the *Standards*. These errors include, for example, invalid or incorrect reporter/payor codes, incorrect lease/agreement numbers, and missing data fields;

(c) Submit accepted and corrected lines to MMS to allow processing into the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS) in a timely manner as provided in the *Standards* and 30 CFR part 219; and

(d) Comply with the procedures for appealed demands or orders, including meeting timeframes, supplying

information, and using the appropriate format.

§ 227.600 What automated verification functions may a State perform?

Automated verification involves systematic monitoring of production and royalty reports to identify and resolve reporting or payment discrepancies. States may perform the following:

(a) Automated comparison of sales volumes reported by royalty reporters to sales and transfer volumes reported by production reporters. If you request delegation of automated comparison of sales and production volumes, you must perform at least the following functions:

(1) Performing an initial sales volume comparison between royalty and production reports;

(2) Performing subsequent comparisons when reporters adjust royalty or production reports;

(3) Checking unit prices for reasonable product valuation based on reference price ranges MMS provides;

(4) Resolving volume variances using written correspondence, telephone inquiries, or other media;

(5) Maintaining appropriate file documentation to support case resolution; and

(6) Issuing orders to correct reports or payments;

(b) Any one or more of the following additional automated verification functions:

(1) Verifying compliance with lease financial terms, such as payment of rent, minimum royalty, and advance royalty;

(2) Identifying and resolving improper adjustments;

(3) Identifying late payments and insufficient estimates, including calculating interest owed to MMS and verifying payor-calculated interest owed to MMS;

(4) Calculating interest due to a lessee or its designee for an adjustment or refund, including identifying overpayments and excessive estimates;

(5) Verifying royalty rates; and

(6) Verifying compliance with transportation and processing allowance limitations;

(c) Issuing notices and bills associated with any of the functions under paragraphs (a) and (b) of this section; and

(d) Providing assistance to MMS for any of these delegated functions on appealed demands or orders, including meeting timeframes, supplying information, using the appropriate format, taking remanded actions, modifying orders, and providing oral and written briefing and testimony as expert witnesses.

§ 227.601 What are a State's responsibilities if it performs automated verification?

To perform automated verification of production reports or royalty reports, you must:

(a) Verify through research and analysis all identified exceptions and prepare the appropriate billings, assessment letters, warning letters, notification letters, Lease Problem Reports, other internal forms required, and correspondence required to perform any required follow-up action for each function, as specified in the *Standards* or your delegation agreement;

(b) Resolve and respond to all production reporter or royalty reporter inquiries;

(c) Maintain all documentation and logging procedures as specified in the *Standards* or your delegation agreement;

(d) Access well, lease, agreement, and production reporter or royalty reporter reference data from MMS and provide updated information to MMS; and

(e) Comply with procedures for appealed demands and orders, including meeting time frames, supplying information, and using the appropriate format.

§ 227.700 What enforcement documents may a State issue in support of its delegated function?

This section explains what enforcement actions you may take as part of your delegated functions.

(a) You may issue demands, subpoenas, and orders to perform restructured accounting, including related notices to lessees and their designees. You also may enter into tolling agreements under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1).

(b) When you issue any enforcement document you must comply with the requirements of section 115 of the Act, 30 U.S.C. 1725.

(c) When you issue a demand or enter into a tolling agreement under section 15(d)(1) of the Act, 30 U.S.C. 1725(d)(1), the highest State official having ultimate authority over the collection of royalties or the State official to whom that authority has been delegated must sign the demand or tolling agreement.

(d) When you issue a subpoena or order to perform a restructured accounting you must:

(1) Coordinate with MMS to ensure identification of issues that may concern more than one State before you issue subpoenas and orders to perform restructured accounting; and

(2) Ensure that the highest State official having ultimate authority over the collection of royalties signs any subpoenas and orders to perform restructured accounting, as required under section 115 of the Act, 30 U.S.C. 1725. This official may not delegate signature authority to any other person.

Performance Review

§ 227.800 How will MMS monitor a State's performance of delegated functions?

This section explains MMS's procedures for monitoring your performance of any of your delegated functions.

(a) A monitoring team of MMS officials will annually review your performance of the delegated functions and compliance with your delegation agreement, the *Standards*, and 30 U.S.C. 1735, including conducting fiscal examination to verify your costs for reimbursement.

(b) The monitoring team also will:

(1) Periodically review your statistical reports required under § 227.200(e) to verify your accuracy, timeliness, and efficiency;

(2) Check for timely transmittal of production report or royalty report information to MMS and other affected agencies, as applicable, to allow for proper disbursement of funds and processing of information;

(3) Coordinate on-site visits and Office of the Inspector General, General Accounting Office, and MMS audits of your performance of your delegated functions; and

(4) Maintain reports of its monitoring activities.

§ 227.801 What if a State does not adequately perform a delegated function?

If your performance of the delegated function does not comply with your delegation agreement, or the *Standards*, or if MMS finds that you can no longer meet the statutory requirements under § 227.106, then MMS may:

(a) Notify you in writing of your noncompliance or inability to comply. The notice will prescribe corrective actions you must take, and how long you have to comply. You may ask MMS for an extension of time to comply with the notice. In your extension request you must explain why you need more time; and

(b) If you do not take the prescribed corrective actions within the time that MMS allows in a notice issued under paragraph (a) of this section, then MMS may:

(1) Initiate proceedings under § 227.802 to terminate all or a part of your delegation agreement;

(2) Withhold compensation provided to you under § 227.112; and

(3) Perform the delegated function, before terminating or without terminating your delegation agreement,

including, but not limited to, issuing a demand or order to a Federal lessee, or its designee, or any other person when:

(i) Your failure to issue the demand or order would result in an underpayment of an obligation due MMS; and

(ii) The underpayment would go uncollected without MMS intervention.

§ 227.802 How will MMS terminate a State's delegation agreement?

This section explains the procedures MMS will use to terminate all or a part of your delegation agreement:

(a) MMS will notify you in writing that it is initiating procedures to terminate your delegation agreement;

(b) MMS will provide you notice and opportunity for a hearing under § 227.803 of this part;

(c) The MMS Director, with concurrence from the Secretary, will decide whether to terminate your delegation agreement.

(d) After the hearing, MMS may:

(1) Terminate your delegation agreement; or

(2) Allow you 30 days to correct any remaining deficiencies. If you do not correct the deficiency within 30 days, MMS will terminate all or a part of your delegation agreement.

(e) MMS will determine the date your agreement is terminated and will notify you of that date in writing. MMS will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

§ 227.803 What are the hearing procedures for terminating a State's delegation agreement?

(a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding and to determine any actions you must take to correct the noncompliance. The hearing official will not decide whether to terminate your delegation agreement;

(b) The hearing official will contact you about scheduling a hearing date and location;

(c) The hearing official will publish notice of the hearing in the **Federal Register** and other appropriate media within your State;

(d) At the hearing, you will have an opportunity to present testimony and written information on your ability to perform your delegated functions as required under this part, your delegation agreement, and the *Standards*;

(e) Other persons may attend the hearing and may present testimony and written information for the record;

(f) MMS will record the hearing;

(g) After the hearing, MMS may require you to submit additional information; and

(h) Information presented at each public hearing will help MMS to determine whether:

(1) You have complied with the terms and conditions of your delegation agreement; or

(2) You have the capability to comply with the requirements under § 227.106 of this part.

§ 227.804 How else may a State's delegation agreement terminate?

You may request MMS to terminate your delegation at any time by submitting your written notice of intent 6 months prior to the date on which you want to terminate. MMS will determine the date your agreement is terminated and will notify you of that date in writing. MMS will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

§ 227.805 How may a State obtain a new delegation agreement after termination?

After your delegation agreement is terminated, you may apply again for delegation by beginning with the proposal process under this part.

PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

2. The authority citation for part 228 is revised to read as follows:

Authority: Sec. 202, Pub. L. 97–451, 96 Stat. 2457 (30 U.S.C. 1732).

3. A new § 228.3 is added to read as follows:

§ 228.3 Limitation on applicability.

As of the effective date of this rule, September 11, 1997, this part does not apply to Federal lands.

PART 229—DELEGATION TO STATES

4. The authority citation for part 229 is revised to read as follows:

Authority: 30 U.S.C. 1735.

5. A new § 229.3 is added to read as follows:

§ 229.3 Limitation on applicability.

As of the effective date of this rule, September 11, 1997, this part does not apply to Federal lands.

[FR Doc. 97–21162 Filed 8–11–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds (Department of the Treasury Circular, Public Debt Series No. 1–93)

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Treasury'' or ''Department'') is publishing in final form an amendment to 31 CFR part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds). This amendment makes the necessary changes to accommodate three decimal competitive bidding, in .005 percent increments, for regular Treasury bills—13-, 26-, and 52-week bills—and a reduction in the net long position reporting threshold amount for all Treasury bill auctions (including cash management bills). The final rule also makes certain technical clarifications and conforming changes.

DATES: The effective date is September 11, 1997, except for the change to § 356.13 (Net long position) which is effective November 10, 1997.

ADDRESSES: This final rule has also been made available for downloading from the Bureau of the Public Debt's Internet site at the following address: www.publicdebt.treas.gov.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director), Lee Grandy or Kurt Eidemiller (Government Securities Specialists), Department of the Treasury, Bureau of the Public Debt, Government Securities Regulations Staff, (202) 219–3632.

SUPPLEMENTARY INFORMATION: 31 CFR part 356, also referred to as the uniform offering circular, sets out the terms and conditions for the sale and issuance by the Department of the Treasury to the public of marketable Treasury bills, notes, and bonds. The uniform offering circular, in conjunction with offering announcements, represents a comprehensive statement of those terms and conditions.[1] The Department

[1] The uniform offering circular was published as a final rule on January 5, 1993 (58 FR 412). Amendments to the circular were published on June 3, 1994 (59 FR 28773), March 15, 1995 (60 FR 13906), July 16, 1996 (61 FR 37007), August 23, 1996 (61 FR 43626), October 22, 1996 (61 FR 54908), January 6, 1997 (62 FR 846), and May 8, 1997 (62 FR 25113).

published for public comment a proposed amendment to the uniform offering circular on May 5, 1997,[2] which specifically requested comments on extending three decimal bidding, in .005 percent increments, to all Treasury bill auctions (including cash management bills (''CMBs'')) and reducing the net long position reporting threshold amount for all Treasury bill auctions (including CMBs) from $2 billion to $1 billion. The closing date for comments was June 4, 1997. The Department received one comment letter which was submitted by PSA, the Bond Market Trade Association (''PSA'').[3] In general, PSA expressed support for the changes as proposed, with a few exceptions which are noted in each respective section below. Treasury considered the comments expressed in the PSA letter in developing this final rule.

The final rule amends §§ 356.12 and 356.13 of the uniform offering circular and provides two minor technical clarifications in Appendix B to part 356 (Formulas and Tables) as well as updated sample announcements of Treasury auctions in Exhibit A to part 356 (Sample Announcements of Treasury Offerings to the Public).

A. Three Decimal Competitive Bidding in .005 Percent Increments

In February 1995, Treasury began requiring competitive bids in note and bond auctions to be expressed as yields using three decimal places, in .001 percent increments, e.g., 7.123, rather than two decimal places.[4] At that time, Treasury did not extend three decimal bidding to bill auctions because three decimal bidding, in .001 percent increments, would not provide a price unique to each discount rate for bills with maturities less than 360 days. Price uniqueness occurs when each separate discount rate produces a different (unique) price rounded to three decimal places, i.e., no two discount rates result in the same price. Price uniqueness is a function of the minimum bid increment allowed in auctions, price rounding conventions, and the number of days to maturity.

Under two decimal bidding, price uniqueness is maintained for CMBs with maturities of 36 days or more. If three decimal bidding in increments of one-half basis point is extended to CMBs, price uniqueness would be maintained with maturities of 72 days or more. As stated in the proposed rule, Treasury does not consider this to be problematic given auction participants' experience with the non-price uniqueness of short-term CMBs under the two decimal bidding process. For regular Treasury bill auctions—13-, 26-, and 52-week bills—three decimal bidding, in .005 percent increments, would maintain price uniqueness since these bills have maturities of 90 days or more.

As stated in its comment letter, PSA supports three decimal bidding for bill auctions with the view that consistent bidding practices for all Treasury securities would benefit the market and result in an easier understanding of the requirements for auction participation. The letter also stated that the conversion to three decimal bidding should not require significant systems changes since many market participants already trade Treasury bills in minimum increments of one-half to one-quarter basis points. However, PSA recommended that two decimal bidding for CMBs be maintained given market participants' concern with non-price uniqueness being extended further into the maturity spectrum, from 36 to 72 days. This concern and ultimate recommendation were based on PSA's view that, historically, Treasury has generally issued CMBs with shorter maturities, noting that during the past twelve months most of the CMBs have been issued with short maturities, with a majority of less than 36 days. The Department understands PSA's view and appreciates this concern given that there has been only one CMB issued since November 1995 with a maturity of more than 72 days. Accordingly, as PSA recommends, Treasury will not extend three decimal bidding to CMBs, but will maintain the current two decimal bidding requirement, in .01 percent increments, for all CMB auctions.

Section 356.12(c)(1)(i) of the final rule reflects the change from the proposed rule by requiring three decimal bidding, in .005 percent increments, for regular Treasury bills only. The third decimal must be expressed in increments of one-half basis point (e.g., 5.320 or 5.325) in which the final decimal must be either zero or five. The rule provides that three decimal bidding, in .005 percent increments, will be a requirement for regular Treasury bill auctions—13-, 26-, and 52-week bills. The final rule also specifically states that competitive bids for CMBs must show the discount rate bid expressed with two decimals, in .01 percent increments. Accordingly, the requirement for competitive bids for CMBs to be expressed in two decimals, in .01 percent increments, remains unchanged.

As PSA suggested in its comment letter, the effective date for the change to § 356.12 will be 30 days after publication of the final rule to provide market participants with sufficient time to update internal auction policies and procedures. Accordingly, the effective date of this rule change is September 11, 1997. Although this final rule amends the uniform offering circular to accommodate three decimal bidding for regular bill auctions, Treasury will implement this bidding change through the offering announcements for specific auctions. Therefore, auction participants should refer to the specific offering announcements as to when this change in bidding will be implemented, which in any event will be no sooner than the date referenced above. All offering announcements will continue to list specific bidding requirements for each offering, including how competitive bids submitted for the particular auction must be expressed, and will govern in the event of an inconsistency with the rules. (See § 356.10)

As stated in the proposed rule, the change from two decimal, in .01 percent increments, to three decimal bidding, in .005 percent increments, for regular Treasury bills is being adopted to promote more efficient and aggressive bidding in these auctions and is expected to lead to marginally higher auction revenues for Treasury.

The change to three decimal competitive bidding, in .005 percent increments, for regular bill auctions will not affect how awards are made to noncompetitive bidders, i.e., the price of securities awarded to noncompetitive bidders in these auctions will continue to be the price equivalent to the weighted average discount rate of accepted competitive bids. Finally, the Department wishes to remind auction participants that the requirement for competitive bids for Treasury note and bond auctions to be expressed in three decimals, in .001 percent increments, remains unchanged. Further, the restriction against using fractions still applies to all marketable security auctions.

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[2] 62 FR 24375 (May 5, 1997).

[3] See letter dated June 4, 1997 from Stephanie S. Wolf, Vice President and Associate General Counsel of PSA, the Bond Market Trade Association to Kenneth R. Papaj, Director, Government Securities Regulations Staff. The comment letter is available for public inspection and downloading on the Internet, at the address provided earlier in this rule, and for inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

[4] Treasury Press Release was dated February 15, 1995. An amendment to the uniform offering circular was published on March 15, 1995 (60 FR 13906).

B. Decrease in Net Long Position Reporting Threshold Amount

Section 356.13(a) reflects the reduction in the net long position reporting threshold amount for all Treasury bill auctions (i.e., 13-, 26-, 52-week bills and CMBs) from $2 billion to $1 billion, while maintaining the $2 billion threshold amount for Treasury note and bond auctions. This change in the reporting threshold amount is being adopted in the final rule as it was proposed. PSA supports this change as reasonable and appropriate and believes that consistently applying the $1 billion threshold uniformly to all bill auctions, rather than changing the threshold from time to time, depending on the public offering amount, will likely result in a better overall understanding of, and compliance with, the auction rules. PSA requested that more preparation time be provided for those market participants, who in the past, may not have come close to approaching the $2 billion threshold. In its letter, PSA stated that these participants may require significant changes to their internal auction policies, procedures, and systems in order to capture and report positions at the lower threshold. In order to provide market participants with a reasonable amount of time to make the necessary procedural changes and to notify their affiliates and customers to ensure the broadest level of compliance, Treasury accepts PSA's recommendation for a delayed effective date of 90 days after the final rule is published. The effective date of the change to this section is November 10, 1997.

The net long position reporting threshold amount for bills, notes, and bonds will continue to be provided in the offering announcement for the particular security. As currently stated in § 356.10 of the uniform offering circular, the offering announcement takes precedence whenever any provision of the announcement is inconsistent with any provision of the circular. Section 356.10 affords Treasury the flexibility to change the net long position reporting threshold amount by providing the amount in the offering announcement. As stated in the preamble to the proposed rule, this reduction in the threshold amount for Treasury bills is being adopted to more effectively achieve a Treasury financing objective of ensuring a broad distribution of a security issue, whereby no single bidder is awarded more than 35% of the public offering less the bidder's net long position as reportable under § 356.13.

C. Additional Technical Clarifications

Two minor technical changes are also being made with this final rule. A clarifying note on Treasury's price rounding convention for conversion of inflation-indexed security yields to equivalent prices is being added to Appendix B, Section III, Paragraphs A and B after each resolution. This change was not part of the proposed rule. Also, the final rule adopts, with a minor conforming revision, the note at the end of Appendix B, Section IV, Paragraph C. This minor revision identifies the changes that have been made over the years in the bidding conventions for Treasury bill auctions. Treasury is not revising any of the examples of formulas in Appendix B, Section IV since the change to three decimal competitive bidding will not require any changes in the applicable formulas for bills.

The sample offering announcements of Treasury auctions in Exhibit A are also being updated in this final rule to reflect the changes that have occurred since they were incorporated in the uniform offering circular. Updated samples for Treasury's quarterly financing, weekly bills, and CMB auction announcements are included in this final rule but were not part of the proposed rule.

Procedural Requirements

This final rule does not meet the criteria for a ''significant regulatory action'' pursuant to Executive Order 12866.

Although this rule was issued in proposed form to secure the benefit of public comment, the notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There is no new collection of information contained in this final rule, and, therefore, the Paperwork Reduction Act does not apply. The collections of information of 31 CFR part 356 have been previously approved by the Office of Management and Budget under § 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) under control number 1535–0112. Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

Dated: August 6, 1997.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set forth in the preamble, 31 CFR Chapter II, subchapter B, part 356, is amended as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*; 12 U.S.C. 391.

2. Section 356.12 is amended by revising paragraph (c)(1)(i) to read as follows:

§ 356.12 Noncompetitive and competitive bidding.

* * * * *

(c) * * *

(1) * * *

(i) *Treasury bills.* For all bills except cash management bills, a competitive bid must show the discount rate bid, expressed with three decimals in .005 percent increments. The third decimal must be either a zero or a five, e.g., 5.320 or 5.325. Fractions may not be used. For cash management bills, a competitive bid must show the discount rate bid, expressed with two decimals in .01 percent increments, e.g., 5.14. Fractions may not be used.

* * * * *

3. Section 356.13 is amended by revising paragraph (a) to read as follows:

§ 356.13 Net long position.

(a) *Reporting net long positions.* When bidding competitively, a bidder must report the amount of its net long position when the total of all of its bids in an auction plus the bidder's net long position in the security being auctioned equals or exceeds the net long position reporting threshold amount. The net long position reporting threshold amount for any particular security will be as stated in the offering announcement for that security. (See § 356.10.) That amount will be $1 billion for bills, and $2 billion for notes and bonds, unless otherwise stated in the offering announcement. If the bidder either has no position or has a net short position and the total of all of its bids equals or exceeds the net long position reporting threshold amount, e.g., $1 billion for bills and $2 billion for notes and bonds, a net long position of zero must be reported. In cases where a bidder that is required to report the

amount of its net long position has more than one bid, the bidder's total net long position should be reported in connection with only one bid. A bidder that is a customer must report its reportable net long position through only one depository institution or dealer. (See § 356.14(c).)

* * * * *

4. Appendix B to Part 356, Section III, Paragraphs A and B are amended by adding a note at the end of each paragraph, respectively, to read as follows:

Appendix B to Part 356—Formulas and Tables

* * * * *

III. Formulas for Conversion of Inflation-Indexed Security Yields to Equivalent Prices

* * * * *

A. *For inflation-indexed securities with a regular first interest payment period:*

* * * * *

Note: For the real price (P), Treasury has rounded to three places. These amounts are based on 100 par value.

B. *For inflation-indexed securities reopened during a regular interest period where the purchase price includes predetermined accrued interest:*

* * * * *

Note: For the real price (P), and the inflation-adjusted price (P_{adj}), Treasury has rounded to three places. For accrued interest (A) and adjusted accrued interest (A_{adj}), Treasury has rounded to six places. These amounts are based on 100 par value.

* * * * *

5. Appendix B to part 356, Section IV, Paragraph C is amended by revising the note at the end of the paragraph to read as follows:

* * * * *

IV. Computation of Purchase Price, Discount Rate, and Investment Rate (Coupon-Equivalent Yield) for Treasury Bills

* * * * *

C. *Conversion of prices to discount rates for Treasury bills of all maturities:*

* * * * *

Note: Prior to April 18, 1983, all bills were sold in price-basis auctions, in which discount rates calculated from prices were rounded to three places, using normal rounding procedures. Since that time, all bills have been sold only on a discount rate basis. For regular Treasury bills—13-, 26-, and 52-week bills—discount rates bid were submitted with two decimals in increments of .01 percent, e.g., 5.32, until 1997, when Treasury instituted a change to three decimal bidding in increments of .005 percent, e.g., 5.320 or 5.325.

* * * * *

6. Exhibit A to Part 356 is amended by revising the text of Sections I through III to read as follows:

Exhibit A to Part 356—Sample Announcements of Treasury Offerings to the Public

* * * * *

I. Treasury Quarterly Financing Announcement

For Release When authorized at Press Conference
February 5, 20XX
Contact: Office of Financing 202/XXX-XXXX

Treasury February Quarterly Financing

The Treasury will auction $17,750 million of 3-year notes, $12,000 million of 10-year notes, and $10,000 million of 30-year bonds to refund $18,037 million of publicly-held securities maturing February 15, 20XX, and to raise about $21,725 million new cash.

In addition to the public holdings, Federal Reserve Banks hold $1,795 million of the maturing securities for their own accounts, which may be refunded by issuing additional amounts of the new securities.

The maturing securities held by the public include $1,654 million held by Federal Reserve Banks as agents for foreign and international monetary authorities. Amounts bid for these accounts by Federal Reserve Banks will be added to the offering.

The 10-year note and the 30-year bond being offered today are eligible for the STRIPS program.

Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356, as amended) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about the notes and bonds are given in the attached offering highlights.

Attachment

Highlights of Treasury Offerings to the Public—February 20XX Quarterly Financing

February 5, 20XX

OFFERING AMOUNT:	$17,750 million	$12,000 million	$10,000 million
DESCRIPTION OF OFFERING:			
Term and type of security	3-year note	10-year notes	30-year bonds
Series	U–20XX	B–20XX	Bonds of February 20XX
CUSIP number	912827 XX X	912827 XX X	912810 XX X
Auction date	February 11, 20XX	February 12, 20XX	February 13, 20XX
Issue date	February 18, 20XX	February 18, 20XX	February 18, 20XX
Dated date	February 18, 20XX	February 15, 20XX	February 15, 20XX
Maturity date	February 15, 20XX	February 15, 20XX	February 15, 20XX
Interest rate	Determined based on the average of accepted competitive bids.	Determined based on the average of accepted competitive bids.	Determined based on the average of accepted competitive bids
Yield	Determined at auction	Determined at auction	Determined at auction
Interest payment dates	August 15 and February 15	August 15 and February 15	August 15 and February 15
Minimum bid amount	$5,000	$1,000	$1,000
Multiples	$1,000	$1,000	$1,000
Accrued interest payable by investor.	None	Determined at auction	Determined at auction
Premium or discount	Determined at auction	Determined at auction	Determined at auction
STRIPS INFORMATION:			
Minimum amount required	Not applicable	Determined at auction	Determined at auction
Corpus CUSIP number	Not applicable	912820 XX X	912803 XX X
Due dates and CUSIP numbers for additional TINTs.	Not applicable	Not applicable	February 15, 20XX—912833 XX X

THE FOLLOWING RULES APPLY TO ALL SECURITIES MENTIONED ABOVE:

SUBMISSION OF BIDS:

Noncompetitive bids	Accepted in full up to $5,000,000 at the average yield of accepted competitive bids.
Competitive bids	(1) Must be expressed as a yield with three decimals in increments of .001%, e.g., 7.123%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all yields, and the net long position is $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.

Highlights of Treasury Offerings to the Public—February 20XX Quarterly Financing—Continued

February 5, 20XX

MAXIMUM RECOGNIZED BID AT A SINGLE YIELD:.	35% of public offering.
MAXIMUM AWARD:	35% of public offering.
RECEIPT OF TENDERS:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Standard time on auction day.
Competitive tenders	Prior to 1:00 p.m. Eastern Standard time on auction day.
PAYMENT TERMS	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date.

II. Treasury Weekly Bill Announcement

Embargoed until 2:30 P.M., April 15, 20XX
Contact: Office of Financing, 202/XXX–XXXX

Treasury's Weekly Bill Offering

The Treasury will auction two series of Treasury bills totaling approximately $12,000 million, to be issued April 24, 20XX. This offering will result in a paydown for the Treasury of about $6,225 million, as the maturing publicly-held weekly bills are outstanding in the amount of $18,220 million.

In addition to the public holdings, Federal Reserve Banks for their own accounts hold $6,558 million of the maturing bills, which may be refunded at the weighted average discount rate of accepted competitive tenders. Amounts issued to these accounts will be in addition to the offering amount.

Federal Reserve Banks hold $3,007 million as agents for foreign and international monetary authorities, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR part 356, as amended) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about each of the new securities are given in the attached offering highlights.

Attachment

Highlights of Treasury Offerings of Weekly Bills To Be Issued April 24, 20XX

April 15, 20XX

OFFERING AMOUNT:	$6,000 million	$6,000 million
DESCRIPTION OF OFFERING:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912794 XX X	912794 XX X
Auction date	April 21, 20XX	April 21, 20XX
Issue date	April 24, 20XX	April 24, 20XX
Maturity date	July 24, 20XX	October 23, 20XX
Original issue date	July 25, 20XX	April 24, 20XX
Currently outstanding	$31,725 million	
Minimum bid amount	$10,000	$10,000
Multiples	$ 1,000	$ 1,000
THE FOLLOWING RULES APPLY TO ALL SECURITIES MENTIONED ABOVE:		
SUBMISSION OF BIDS:		
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids.	
Competitive bids	(1) Must be expressed as a discount rate with three decimals in increments of .005%, e.g., 7.100%, 7.105%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $1 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.	
MAXIMUM RECOGNIZED BID AT A SINGLE YIELD:	35% of public offering.	
MAXIMUM AWARD:	35% of public offering.	
RECEIPT OF TENDERS:		
Noncompetitive tenders	Prior to 12:00 noon Eastern Daylight Saving time on auction day.	
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day.	
PAYMENT TERMS:	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date.	

III. Treasury Cash Management Bill Announcement

Embargoed until 2:30 p.m., February 25, 20XX
Contact: Office of Financing 202/XXX-XXXX

Treasury to Auction Cash Management Bills

The Treasury will auction approximately $23,000 million of 45-day Treasury cash management bills to be issued March 3, 20XX.

Competitive and noncompetitive tenders will be received at all Federal Reserve Banks and Branches. Tenders will *not* be accepted for bills to be maintained on the book-entry records of the Department of the Treasury (TREASURY DIRECT). Tenders will *not* be received at the Bureau of the Public Debt, Washington, D.C.

Additional amounts of the bills may be issued to Federal Reserve Banks as agents for foreign and international monetary authorities at the average price of accepted competitive tenders.

This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR part 356, as amended) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about the new security are given in the attached offering highlights.

Attachment

Highlights of Treasury Offering of 45-Day Cash Management Bill

February 25, 20XX

OFFERING AMOUNT	$23,000 million.
DESCRIPTION OF OFFERING:.	
Term and type of security	45-day Cash Management Bill.
CUSIP number	912794 XX X.
Auction date	February 27, 20XX.
Issue date	March 3, 20XX.
Maturity date	April 17, 20XX.
Original issue date	October 17, 20XX.
Currently outstanding	$24,724 million.
Minimum bid amount	$10,000.
Multiples	$1,000.
Minimum to hold amount	$10,000.
Multiples to hold	$1,000.
SUBMISSION OF BIDS:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids.
Competitive bids	(1) Must be expressed as a discount rate with two decimals in increments of .01%, e.g., 7.12%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $1 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
MAXIMUM RECOGNIZED BID AT A SINGLE YIELD	35% of public offering.
MAXIMUM AWARD	35% of public offering.
RECEIPT OF TENDERS:	
Noncompetitive tenders	Prior to 11:00 a.m. Eastern Standard time on auction day.
Competitive tenders	Prior to 11:30 a.m. Eastern Standard time on auction day.
PAYMENT TERMS	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date.

* * * * *

[FR Doc. 97–21277 Filed 8–11–97; 8:45 am]

BILLING CODE 4810–39–W

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–95–011]

RIN–2115–AE47

Drawbridge Operation Regulations; Hood Canal, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Washington State Department of Transportation (WSDOT), the Coast Guard is amending the regulations governing the operation of the Hood Canal Bridge at Port Gamble, Washington. This change limits the width of the opening of the retractable span of the floating bridge to 300 feet of horizontal clearance unless a maximum horizontal clearance of 600 feet is specifically requested by the vessel operator.

EFFECTIVE DATE: September 11, 1997.

ADDRESSES: Unless otherwise noted, documents referred to in this preamble are available for inspection and copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 220–7270).

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Austin Pratt, Project Officer, and Lieutenant Commander John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Regulatory History

On November 1, 1995, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulation; Hood Canal, Washington, in the **Federal Register** (60 FR 55515). A single comment was received which favored the proposed change.

Background and Purpose

This change allows the floating retractable span of the Hood Canal Bridge to open halfway (300 feet) for the passage of most vessels instead of the maximum (600 feet). Current regulations at 33 CFR 117.5 state that, unless otherwise required, drawbridges shall be fully opened for the passage of vessels. The drawspan of the Hood Canal is extremely wide compared to the majority of drawbridges. Unlike many drawbridges, no part of the draw mechanism is suspended above the channel when opened. Opening only to 300 feet for the vast majority of openings will reduce energy consumption and maintenance costs as well as shorten delays to roadway traffic. A full opening and closure of the bridge, not including vessel transit time, takes at least fifteen minutes. This is two or three times longer than the opening and closing time of many other drawbridges. WSDOT has observed that only one or two openings out of an average of about 32 openings per month are for vessels that need the span fully opened to pass safely. The remaining vessels pass safely through a horizontal opening of only 300 feet. In practice, many vessels routinely pass through the bridge before the retractable span has been fully opened.

Discussion of Comments and Changes

The single comment received was from the United States Navy which is the entity most often in need of full openings for the safe passage of large vessels on Hood Canal. This change is not expected to affect naval operations

because a full opening of the retractable span may be demanded at any time.

This change merely alleviates the bridge owner from providing full openings unless such an opening is specified by the master of a vessel. This is contrary to normal operations which mandate full opening for any request for passage. Because the only comment was in support of the proposed amendment, this final rule is being adopted as originally proposed.

Regulatory Evaluation

This rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that most vessels only need a 300-foot opening and that vessels needing a 600-foot opening will be able to obtain one promptly by requesting it from the bridgetender on duty.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this action will not have a significant impact on a significant number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this action under the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e. of Commandant Instruction M16475.B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Paragraph (a) of section 117.1045 is revised to read as follows:

§ 117.1045 Hood Canal.

* * * * *

(a) The draw shall open on signal if at least one hour's notice is given. The draw shall be opened horizontally for 300 feet unless the maximum opening of 600 feet is requested.

* * * * *

Dated: July 29, 1997.

J. David Spade,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 97–21258 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–97–008]

RIN–2115–AE47

Drawbridge Operation Regulations; Grand River, MI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the regulation governing the operations of the CSX Transportation bridge and U.S. Route 31 bridge, miles 2.8 and 2.9, respectively, over the Grand River in Grand Haven, MI. This rule was initiated at the request of the cities served on Grand River to relieve vehicular traffic congestion and still provide for the reasonable needs of navigation, especially during rush-hour periods. Additionally, the Coast Guard has reduced the required time that a vessel must provide advance notice from 24 hours to 12 hours during winter months for both bridges.

DATES: This regulation is effective on August 16, 1997.

ADDRESSES: Documents concerning this regulation are available for inspection and copying at 1240 East Ninth Street, Room 2019, Cleveland, OH 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 902–6084.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Bloom, Project Manager, Bridge Branch at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking (NPRM) on Friday, April 18, 1997 (62 FR 19082). Currently, the U.S. Route 31 bridge is required to open on signal 3 minutes before to 3 minutes after the hour and half-hour between 6:03 a.m. and 9:03 p.m. for recreational vessels. Under the proposed schedule, the bridge would be required to open on signal for recreational vessels once an hour, on the half-hour, 7 days a week, from 6:30 a.m. to 8:30 p.m., except the bridge need not open at 7:30 a.m., 12:30 p.m., and 5:30 p.m. on Mondays, Tuesdays, Thursdays, and Fridays. On Wednesdays, the bridge need not open at 7:30 a.m., to 12:30 p.m. and 4:30 p.m. As before, the bridge will open on signal for commercial vessel traffic.

In addition to the proposed schedule of openings for recreational vessel traffic at the U.S. 31 bridge, the NPRM outlined the change to the advance notice requirement for vessels requesting openings at the CSX Transportation and U.S. Route 31 bridges between December 15 and March 15 each year. In order to provide uniform guidelines for mariners and satisfy the needs of increased commercial vessel traffic on Grand River, the advance notice requirement for vessels requesting openings during winter months is reduced from 24 hours to 12 hours at both bridges.

No comments were received in response to the NPRM. A public hearing was not requested and, therefore, was not held.

A notice of temporary deviation from regulations was approved by the District Commander and published in the **Federal Register** on Friday, May 9, 1997 (62 FR 25514). The temporary deviation schedule was effective between May 15 and August 15, 1997. The temporary deviation schedule was identical to the proposal in the NPRM and the provisions of this final rule. Comments concerning the temporary hours were

solicited from the public. The Coast Guard received no comments.

The Coast Guard determined that the proposed schedule satisfies the needs of all entities operating on Grand River and the rule is unchanged from the NPRM.

The Coast Guard finds that in accordance with 5 U.S.C. 553, good cause exists to make this final rule effective in less than 30 days. The Coast Guard has received no comments concerning this revision and it is in the best public interest to have this rule in force at the end of the authorized temporary deviation period, which expires on August 15, 1997.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. *Small entities* include independently owned and operated small businesses that are not dominant in their field and otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Since the revised schedule was requested by the primary municipalities served on Grand River after extensive research and consultation with maritime users and businesses, the economic impact of this rule is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rulemaking will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.633 is amended by revising paragraphs (b) and (c) to read as follows:

§ 117.633 Grand River.

* * * * *

(b) The draw of the CSX Transportation Corp. railroad bridge, mile 2.8 at Grand Haven, shall open on signal; except that, from December 15 through March 15, the draw shall open on signal if at least 12 hours notice is given.

(c) The draw of the U.S. Route 31 bridge, mile 2.9 at Grand Haven, shall open on signal for pleasure craft-

(1) From March 16 through December 14, from 6:30 a.m. to 8:30 p.m., seven days a week, once an hour, on the half-hour; except the draw need not open for pleasure craft at 7:30 a.m., 12:30 p.m., and 5:30 p.m. on Monday, Tuesday, Thursday, and Friday, and at 7:30 a.m., 12:30 p.m., and 4:30 p.m. on Wednesday.

(2) From December 15 through March 15, if at least 12 hours notice is given.

* * * * *

Dated: July 25, 1997.

J.F. McGowan,

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

[FR Doc. 97–21259 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles-Long Beach, CA; 97–005]

RIN 2115–AA97

Safety Zone; San Pedro Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the United States within the entire Port of Los Angeles inside the federal breakwater. This safety zone is established due to the potential increased navigational risk during a period when pilot service is limited or unavailable.

Movements of vessels, 300 Gross Tons or greater, into or within this safety zone are prohibited unless specifically authorized by the Captain of the Port.

DATES: This regulation will be in effect from Saturday, July 14, 1997 until Wednesday, October 15, 1997.

ADDRESSES: Marine Safety Office Los Angeles-Long Beach, 165 N. Pico Ave., Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Commander Chet Hartley, Assistant Chief, Port Operations, Marine Safety Office-Group Los Angeles-Long Beach at (562) 980–4448.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay of its effective date would be contrary to the public interest since the details of the Los Angeles Pilot work stoppage were not provided to the Coast Guard until a date fewer than 30 days prior to the work stoppage date.

Discussion of Regulation

The Coast Guard Captain of the Port is aware that members of the Los Angeles Pilot Service have commenced a work stoppage as of approximately 10:45 p.m. July 11, 1997. As a result, the LA Pilot Service can only make available two management pilots to service vessel movements. Consequently, it is expected that the demand for pilots will exceed availability and that vessels may experience delays in obtaining pilotage services. In addition, traffic management services normally provided

by the LA Pilot Service are not available. Due to the increased risk of moving vessels under these conditions, the Captain of the Port, under the authority of the Ports and Waterways Safety Act, is implementing a safety zone to ensure the safe movement of vessels during the period of the work stoppage. Vessels 300 Gross Tons and greater are prohibited from entering into or transiting within the safety zone unless authorized by the Captain of the Port.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). Since the safety zone will only affect vessels of 300 gross tons or greater, and movement of these vessels will only be delayed, not completely prohibited, the Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that under paragraph 2.B.2e(34)(g) of Commandant Instruction M16475.1B as revised in 59 CFR 38654, July 29, 1994, it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways. *Regulation:* In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.T11–060 is added to read as follows:

§ 165.T11–060 Safety Zone: San Pedro Bay, CA.

(a) *Location.* The following area is a safety zone: in the navigable waters of the United States within the entire Port of Los Angeles inside the federal breakwaters. [Datum: NAD 1983]

(b) *Effective Dates.* This safety zone will be in effect from Saturday, July 14, 1997 until Wednesday, October 15, 1997.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into or movements within this zone, of vessels 300 Gross Tons or greater, are prohibited unless authorized by the Captain of the Port.

Dated: July 14, 1997.

G.F. Wright,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, California.

[FR Doc. 97–21257 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Memphis 97–001]

RIN 2115–AA97

Safety Zone; Lower Mississippi River, Mile 661.0 to Mile 662.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River between mile 661.0 and mile 662.0. The zone is needed to protect vessel traffic during bridge repairs and the potential for falling debris. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

DATES: This regulation becomes effective at 12:01 a.m. on July 17, 1997, and terminates at 11:59 p.m. on August 31, 1997.

FOR FURTHER INFORMATION CONTACT: CW04 Frank E. Janes, Assistant Chief Port Operations Officer, Captain of the Port, 200 Jefferson Avenue, Suite 1301, Memphis, TN 38103, Phone: (901) 544–3941.

SUPPLEMENTARY INFORMATION:

Background and Purpose

At approximately 12:01 a.m. on July 17, 1997, the Arkansas Highway Transportation Department will commence repairs to the Helena Highway Bridge at Lower Mississippi River mile 661.8 on the left descending bank. The operation is expected to be completed within four to six weeks from the commencement date. The navigable channel will be open during the operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary. Specifically, immediate action is necessary to facilitate repairs to the Helena Highway Bridge. Harm to the public or environment may result if vessel traffic is not controlled during the operations. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Regulatory Evaluation

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

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications

to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2e(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary section 165.T02–050 is added to read as follows:

§ 165.T02–050 Safety Zone; Lower Mississippi River.

(a) *Location.* The following area is a Safety Zone: Lower Mississippi River mile 661.0 to mile 662.0.

(b) *Effective dates.* This section becomes effective at 12:01 a.m. on July 17, 1997, and terminates at 11:59 p.m. on August 31, 1997.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port. The Captain of the Port, Memphis, Tennessee, will notify the maritime community of conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: July 18, 1997.

P.L. Mountcastle,

Lieutenant Commander, USCG, Alternate Captain of the Port.

[FR Doc. 97–21260 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 970410086–7174–02]

RIN 0651–AA92

Revision of Patent and Trademark Fees for Fiscal Year 1998; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The Patent and Trademark Office published in the **Federal Register** of July 29, 1997, a document revising certain patent fee and trademark service fee amounts for fiscal year 1998. Inadvertently, an incorrect planned recovery amount was stated. This document corrects the planned recovery amount for fiscal year 1998.

DATES: Effective on October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by telephone at (703) 305–8051, fax at (703) 305–8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: A final rule revising certain patent fee and trademark service fee amounts for fiscal year 1998 was published as FR Doc. 97–19901 in the **Federal Register** of July 29, 1997 (62 FR 40450). The final rule contains an error in the Recovery Level Determinations section. The planned recovery amount anticipated for fiscal year 1998 was incorrectly stated as $763,391,000. This correction revises the planned recovery amount.

In rule FR Doc. 97–19901 published on July 29, 1997 (62 FR 40450), make the following correction. On page 40450, in the third column, change the planned recovery amount to $748,320,000.

Dated: August 6, 1997.

Albin F. Drost,

Deputy Solicitor.

[FR Doc. 97–21239 Filed 8–11–97; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL137–1a; FRL–5868–5]

Approval and Promulgation of Implementation Plans; Revision to the Illinois State Implementation Plan for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves the State Implementation Plan (SIP) revision request submitted by the State of Illinois on May 14, 1996, for the purpose of making a change to the regulatory control period established for Illinois' 7.2 pounds per square inch (psi) Reid Vapor Pressure (RVP) regulations currently required for the Metro-East St. Louis (Metro-East) moderate ozone nonattainment area which includes Madison, Monroe, and St. Clair Counties. In addition, EPA is approving a correction to the identification number for the Clark Oil Company listed in Illinois' Marine Vessel Loading rule. The rationale for the approval is set forth in this direct final rule; additional information is available at the address indicated below. In the proposed rules section of this **Federal Register**, EPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse written comments are received on this direct final rule, EPA will withdraw this direct final rule and address the comments received in a subsequent final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. No additional opportunity for public comment will be provided. Unless this direct final rule is withdrawn no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective on October 14, 1997 unless written adverse or critical comments are received by September 11, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

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

Copies of the SIP revision request and EPA's analysis (Technical Support Document) are available for inspection at the following address: (It is recommended that you telephone

Francisco Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Environmental Protection Specialist, at (312) 886–6061.

SUPPLEMENTARY INFORMATION:

I. Background

Reid vapor pressure is a measure of a fuel's volatility; the higher the RVP the faster a fuel evaporates. Emissions of volatile organic compounds (VOC) react with other pollutants, such as oxides of nitrogen, to form ozone. Ozone formation is most active during the summer months because the chemical reactions involved rely on direct sunlight and high ambient temperatures. Thus, regulations limiting fuel RVP are designed to protect human health by reducing ozone formation and human exposure.

The EPA first proposed to regulate gasoline RVP in 1987 (52 FR 31274). EPA's gasoline RVP proposal resulted in a two-phased final regulation which Congress incorporated into the Clean Air Act (Act) in section 211(h). Phase I of the regulation took effect in 1990 (54 FR 11868) for the years 1990 and 1991. The second phase of the regulation became effective in 1992 (55 FR 23658). The rule divides the continental United States into two control regions, Class B and Class C. Generally speaking, the Class B States are the warmer southern and western states, such as Missouri; and Class C States are the cooler northern states, such as Illinois. The Phase II regulation limits the volatility of high ozone season gasoline to 9.0 psi RVP for Class C areas and limits Class B ozone nonattainment areas to 7.8 psi RVP. Therefore, the Missouri counties within the St. Louis ozone nonattainment area are required to meet the 7.8 psi RVP standard while the Illinois counties have a 9.0 psi RVP limit.

State governments are generally preempted under section 211(c)(4)(A) of the Act from requiring that any or all areas in a State meet a more stringent volatility standard.[1] However, under 211(c)(4)(C) a State can require a more stringent standard in its SIP if the more stringent standard is necessary to achieve the National Ambient Air Quality Standards (NAAQS). The State can make this necessity showing by providing evidence that no other measures exist that would bring about timely attainment, or that such measures exist and are technically possible to implement, but are unreasonable or impractical. If a State makes this showing, it can lower the volatility to whatever standard is necessary in the nonattainment area(s).

On October 25, 1994, the Illinois Environmental Protection Agency (IEPA) formally submitted 7.2 psi RVP rules to EPA, as a revision to the Illinois ozone SIP. On March 23, 1995, EPA published a **Federal Register** document approving the Illinois 7.2 psi RVP rules as a revision to the State SIP. (March 23, 1995, FR 60 FR 15233).

II. State Submittal

On May 14, 1996, IEPA formally submitted a State Implementation Plan revision request which included final amendments to Ill. Adm. Code 219.585(a) and 219.Appendix E. The amendment in Adm. Code 219.585(a) pertains to a change to the regulatory control period in Illinois' 7.2 RVP rules approved by EPA on March 23, 1995. The amendment in Adm. Code 219. Appendix E is a housekeeping matter that corrects an error in the identification number of Clark Oil Company terminal which is subject to Illinois' Marine Vessel Loading rules. IEPA originally filed proposed rules with the Illinois Pollution Control Board (Board) on September 6, 1995. Public Hearings were held on October 25, 1995, in Springfield, Illinois and October 26, 1995, in Edwardsville, Illinois. On February 1, 1996, the Board adopted a final Opinion and Order for both of the proposed amendments. On March 1, 1996 the amended rule for R96–2 was published in the Illinois Register.

III. Analysis of Rule

The Illinois 7.2 psi RVP rule approved by EPA on March 23, 1995, limits the volatility of gasoline sold in Madison, Monroe, and St. Clair Counties to 7.2 psi RVP during the control period beginning in 1995. The adopted control period included in the rule was June 1 to September 15 for retail outlets and wholesale consumers, and May 1 to September 15 for all others.

The Illinois submittal being approved in this notice changes the compliance date for all sources that currently have an annual compliance date of May 1st of each year for 7.2 psi RVP gasoline to June 1st of each year. The compliance date for gasoline supply facilities adopted earlier was inconsistent with the federal compliance date for southern ozone nonattainment areas. Federal regulations lower RVP of gasoline in two steps. Step I requires the entire country to have 9.0 psi RVP at the supply facilities beginning on May 1st of each year. Step II requires that southern ozone nonattainment areas, such as St. Louis, Missouri, have 7.8 psi RVP gasoline at both supply and retail levels beginning on June 1st of each year. See June 11, 1990 **Federal Register** (55 *FR* 23658).

The Illinois rules approved by EPA on March 23, 1995, required 7.2 psi RVP gasoline at supply facilities in the Metro-East area in May when the rest of the country was only required to have 9.0 psi RVP gasoline under the Federal RVP requirements. Due to the geography of the St. Louis area, in which the Metro-East nonattainment portion is part of the larger St. Louis metropolitan area and market, and due to the limited storage capacity for petroleum products, not changing the May 1 compliance date for those facilities located in the Metro-East ozone nonattainment area requires that for the month of May the petroleum refining industry supply and sell to the majority of the St. Louis area market 7.2 psi RVP gasoline, when such gasoline is only required in the Illinois portion of the metropolitan area which makes up only 20 to 25 percent of the market.

In addition to the issue of the regulatory control period for low volatility gasoline, EPA is approving Illinois' correction of an error regarding the identification number for the Clark Oil Company, as found in 35 Ill. Adm. Code 219.Appendix E. The correction changes the identification number from 197800AAA to 119050AAA. The Clark Oil Company terminal is currently subject to Marine Vessel Loading rules. These rules were adopted by the Illinois Pollution Control Board on October 20, 1994, and were approved by EPA in a **Federal Register** published April 3, 1995 (60 FR 16801).

IV. Final Action

The EPA is approving Illinois' changes to 35 Ill. Adm. Code 219.585(a), as a revision to the ozone SIP which establishes a uniform annual date of June 1 upon which all regulated gasoline facilities must comply with Illinois' 7.2 psi RVP gasoline requirements. EPA is also approving Illinois' correction of the identification number for the Clark Oil Company, as found in 35 Ill. Adm. Code 219.Appendix E from 197800AAA to 119050AAA.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse

[1] EPA promulgated the RVP regulations under both section 211(c) and section 211(h). States are generally preempted under section 211(c)(4)(A) from requiring fuel standards nonidentical to Federal standards promulgated under section 211(c)(1).

comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should written adverse or critical comments be filed. This action will be effective on October 14, 1997 unless, by September 11, 1997, written adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All written public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 14, 1997.

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

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

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

This Federal action authorizes and approves into the Illinois SIP requirements previously adopted by the state, and imposes no new requirements. Therefore, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. The EPA has determined that the final action does not include a Federal Mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action authorizes and approves into the Illinois SIP requirements previously adopted by the state, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbon, Ozone.

Dated: July 1, 1997.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(106)(i)(D) and revising paragraph (c)(109) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(106) * * *

(i) * * *

(D) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Appendix E: List of affected Marine Terminals amended at 20 Ill. Reg. 3848. Effective February 15, 1996.

* * * * *

(109) On October 25, 1994, Illinois submitted a regulation that reduces the maximum allowable volatility for gasoline sold in the Metro-East St. Louis ozone nonattainment area, which includes Madison, Monroe, and St. Clair Counties, to 7.2 pounds per square inch Reid Vapor Pressure (RVP) during the summer control period. On May 14, 1996, Illinois submitted an amendment to its RVP rule which changes the summer regulatory control period of the program. The summer control period for the Illinois RVP program is June 1 to September 15.

(i) *Incorporation by reference.*

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 219 Organic Material Emission Standards and Limitations for Metro East Area,

(A) Section 219.112 Incorporation by Reference. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

(B) (Reserved)

(C) Section 219.585 Gasoline Volatility Standards. Amended at 20 Ill. Reg. 3848: Effective February 15, 1996.

* * * * *

[FR Doc. 97–21142 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 042–4067; FRL–5869–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Definitions for the Pennsylvania VOC and NO_X RACT and New Source Review Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes definitions for twenty-seven terms used in the new source review and reasonably available control technology (RACT) regulations. The intended effect of this action is to approve the definitions in Pennsylvania regulation, Chapter 121.1. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective October 14, 1997 unless within September 11, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 597–9337, at the EPA Region III address above, or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION: On February 4, 1994, the Pennsylvania Department of Environmental Protection (PA DEP) (formerly known as the Pennsylvania Department of Environmental Resources) submitted a revision to its State Implementation Plan (SIP) for twenty seven definitions pertaining the control of VOC and NO_X emissions from major sources (Pennsylvania Chapters 129.91 through 129.95 and the new source review regulations (Chapter 127).

Summary of Regulations

The Pennsylvania submittal includes the following new and revised definitions in Chapter 121.1: Applicability determination, Best Available Control Technology (BACT), creation, de minimis emission increase, emission reduction credit (ERC), economic incentive program, generation, Lowest Achievable Emission Rate (LAER)—revised, low NO_X burner with separated overfire air, marginal ozone nonattainment area, mobile emission reduction credit (MERC), major facility, major modification (revised), moderate ozone nonattainment area, major NO_X emitting facility, major VOC emitting facility, National Ambient Air Quality Standard (NAAQS), Northeast Ozone Transport Region, Oxides of Nitrogen (NO_X), owner or operator, PM–10, PM–10 precursor, Reasonably Available Control Technology (RACT), secondary emissions (revised), serious ozone nonattainment area, severe ozone nonattainment area, and state implementation plan (SIP).

EPA Analysis

The Chapter 121.1 definitions associated with the Pennsylvania VOC and NO_X RACT regulation and the new source review regulations conform to the definitions in the Act and to EPA's existing requirements located in 40 CFR Part 52. Pennsylvania's proposed definition of low NO_X burner with separated overfire air makes the applicability of this technology to the group of sources specified in the regulation as ''coal-fired combustion units'' unclear. However, although the sources covered by this requirement include stoker and cyclone combustion units that do not have ''burners'' as such, the Pennsylvania regulation requiring low NO_X burners and separated overfire air on ≥ 100mmBTU/hr coal fired combustion units, can be practically and reasonably interpreted to apply to only those units with burners. Therefore, the definition of low NO_X burners with separated overfire air is acceptable.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 14, 1997 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 14, 1997.

Final Action

EPA is approving the definitions contained in Chapter 121.1, including the twenty seven definitions identified earlier in this rulemaking, that were submitted on February 4, 1994 pertaining to VOC and NO_X RACT and new source review.

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

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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

Approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation

of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action pertaining to the definitions in Pennsylvania Chapter 121 must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 24, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

Part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(127) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(127) Revisions to the Pennsylvania Regulations, Chapter 121.1—Definitions, submitted on February 4, 1994 by the Pennsylvania Department of Environmental Protection (formerly Pennsylvania Department of Environmental Resources) and effective on January 15, 1994.

(i) Incorporation by reference.

(A) Letter dated February 4, 1994 from the Pennsylvania Department of Environmental Protection transmitting the definitions in Chapter 121 relating to the Pennsylvania VOC and NOx RACT regulation (Chapter 129.91 through 129.95) and new source review regulation (Chapter 127).

(B) Title 25 Pennsylvania Code, Chapter 121.1—definitions, effective January 15, 1994.

[FR Doc. 97–21255 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–178–02–9724a; TN–179–01–9723a; FRL–5871–9]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Chattanooga/Hamilton County Portion Regarding Prevention of Significant Deterioration (PSD), Nitrogen Oxides, Lead Emissions, Volatile Organic Compounds (VOC), and PM_{10} Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Chattanooga/Hamilton County (Chattanooga) portion of the Tennessee State Implementation Plan (SIP) which were submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), on December 11, 1995, and June 26, 1996. The EPA is approving these revisions to the Chattanooga regulations regarding nitrogen oxides, prevention of significant deterioration (PSD), lead sources, stack heights, infectious waste incinerators, and volatile organic compounds (VOC) reasonably available control technology (RACT) for miscellaneous metal parts coaters and synthesized pharmaceutical products, and PM_{10}. At the time of the submittal, Chattanooga/Hamilton County submitted packages from the City of Chattanooga, Hamilton County, and the nine other municipalities in Hamilton County. The State has certified to EPA that the substantive codes of the County and the nine municipalities are essentially the same as the City of Chattanooga's. Therefore EPA's review has been limited to the City's code.

DATES: This final rule is effective October 14, 1997 unless adverse or critical comments are received by September 11, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Karen C. Borel at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Reference files TN–178–02–9724, and TN–179–01–9723. The Region 4 office may have additional background documents not available at the other locations.

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

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, Karen C. Borel, 404/562–9029.

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

Chattanooga/Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407–2405, 615/867–4321.

FOR FURTHER INFORMATION CONTACT: Karen C. Borel at 404/562–9029.

SUPPLEMENTARY INFORMATION: On December 11, 1995, and June 26, 1996, the State of Tennessee submitted formal revisions to the Chattanooga/Hamilton County portion of the SIP. EPA previously approved several portions of the December 11, 1995, submittal which were required for Chattanooga/Hamilton County's Federally enforceable local operating permit (FELOP) program submittal. This approval was published on February 18, 1997 (62 FR 7160). At that time, EPA also approved Chattanooga/Hamilton County's FELOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA).

EPA is approving the revisions described herein, with the exception of revisions to Section 4–13(b)(6) and Section 4–41, Rule 6.3(2). These revisions deal exclusively with fees which are collected by the local agency. The collection of fees is not part of the Federally approved SIP, therefore, EPA will take no action on these portions of the December 11, 1995, submittal (reference file TN 178–2). EPA is also approving revisions to Section 4–41, Rule 25.21(6) for the surface coating of miscellaneous metal parts and products which corrects a previous disapproval of this rule. The previous disapproval was published on May 8, 1990, in 55 FR 19068. This rule was disapproved at that time because the 100 tpy limit was less stringent than the State's regulations and was not adequate to maintain the NAAQS in Chattanooga/Hamilton County. This level has now been revised to 25 tpy and is approvable.

EPA is therefore approving the following revisions, as summarized in the paragraphs below. These revisions apply only to the Chattanooga/Hamilton County's portion of the Tennessee SIP, not the State's SIP. In any areas where the Chattanooga/Hamilton County SIP is less stringent or has been disapproved, the State SIP applies. All codification references are to the City of Chattanooga's Code.

The following revisions are those included in the December 11, 1995, submittal (reference file TN 178–02). These are the revisions on which action was not taken in the aforementioned February 18, 1997, notice.

1. Chapter 4, Section 4–13, Certificate of Alternate Control

This section has been revised for sources who apply for and receive a ''certificate of alternate control'' in lieu of satisfying otherwise applicable standards of the air pollution control chapter. VOCs have been added to the list of pollutants that a source with this certificate may not emit in excess of the limits on their certificate. The section has also been revised to state that the rated capacity of the source does not change for incinerators. The phrase ''the plant'' has been changed to ''source'' throughout this section. Some additional specific revisions to subparagraphs of the section are noted below.

Section 4–13(b)(1).—''Specific sources'' have been changed to ''emissions units.'' This section now requires that the calculations to determine equivalence to standards limiting the pounds of VOCs per gallon of material shall be on the basis of equivalent solids applied. Additionally, credit for reductions of fugitive emissions is no longer allowed.

Section 4–13(b)(3)—Formerly, modeling techniques for the source could be approved at the discretion of the director. This has been deleted. These techniques must now be consistent with 40 CFR part 51, Appendix W ''Guideline on Air Quality Models.''

Section 4–13(c)—The requirement to submit alternate emission limitations and certificate conditions to the EPA for approval has been added to this section, as part of the process of submitting this for incorporation into the SIP.

Section 4–13(d)—This section has been revised to apply good engineering practice stack heights on all stack changes associated with the alternate control limitations for particulate matter, sulfur dioxide, carbon monoxide, and nitrogen dioxide.

Section 4–13(e)(2)—This section has been revised to require that all pollution control equipment be kept in good operating condition at all times. The exceptions for periods of start-up, shutdown, and malfunctions, have been deleted.

Section 4–13(j)—The certificate, in the instance of amended regulations covering the source on the certificate, will now become void ninety days after the source's receipt of notice of the revised regulations. This was previously 180 days.

2. Section 4–41, Rule 2, Regulations of Nitrogen Oxides

Rule 2.4—This rule has been revised to eliminate the phrase ''air contaminant'' when describing ''source'' and to note that ''portland cement plants'' and ''emergency generators'' are not regulated by this rule, but rather by rules 2.6 and 2.7, respectively.

Rule 2.6—This rule has been added to address the nitrogen oxides emissions limit for portland cement plants. It reads as follows:

> ''No portland cement plant shall cause, suffer, allow or permit the emission of nitrogen oxides in excess of one thousand five hundred (1500) ppm produced when averaged over any three consecutive hour period.''

Rule 2.7—This rule has been added to address the nitrogen oxides emission limit for emergency generators. An emergency generator that emits more than one thousand five hundred (1500) parts per million cannot be operated consecutively for longer than five (5) days, or for more than a total of twenty (20) days in any calendar year. If a source does this they must demonstrate to the director with clear and convincing evidence that reasonable unforeseeable events beyond the control of the source require use of the emergency generator for an additional period of time. The source must also maintain written records during these times.

3. Section 4–41, Rule 16.5, Emission Standards for Source Categories of Area Sources

This rule has been added to address the emission standards for source categories of area sources. It defines an ''area source'' for the purposes of Rule 16.5 as any stationary source that is not a ''major source.'' It also states that the emission standards in Rule 16 do not replace the requirements of any more stringent emission limitations. It identifies the requirements for hazardous air pollutants as those found

in 40 CFR part 63. It also states that this rule must be consistent with any enforceable agreement with the Administrator, unless the source has been released from that agreement.

4. Section 4–41, Rule 18, Prevention of Significant Air Quality Deterioration (PSD)

Citations throughout Rule 18 have been revised in accordance with the changes in codification resultant from the revisions to the ''PSD rule.''

Rule 18.1, General provisions—This rule has been revised to limit the length of an extension of an installation permit to an additional eighteen (18) months after the completion date specified on the installation permit. It has also revised the title of the permit from ''construction permit'' to ''installation permit.'' Also, for phased construction projects, the determination of best available control technology shall be reviewed and modified no later than 18 months prior to the commencement of construction of each independent phase of the project.

Rule 18.2, Definitions—The definitions for the following terms have been added or revised and are equivalent to the definitions in 40 CFR 51.100, 51.165 and 51.166: *Actual emissions; Allowable emissions; Baseline area; Baseline concentration; Major source baseline date; Minor source baseline date; Begin actual construction; Best available control technology (BACT); Building, structure, facility or installation; Emissions unit; Major stationary source; Significant; Net emissions increase; Potential to emit; Secondary emissions; Volatile organic compounds; Electric utility steam generating unit; Pollution control project; Representative actual annual emissions; Clean coal technology; Temporary clean coal technology; Repowering; Reactivation of a very clean coal-fired electric utility steam generating unit; and Control strategy.*

Rule 18.2(q)—The definition of ''legally enforceable'' has been revised to meet Federal requirements and reads as follows: *''Legally enforceable means all limitations and conditions which are enforceable under local, state, or federal law, including those under this chapter or an implementation plan, and any permit or certificate of operation requirements established pursuant to this chapter.''*

Rule 18.2(x)—The definition of ''pollutant'' has been added as follows: *''Pollutant means any air contaminant as defined in section 4–2 or combination of such air contaminants, including any physical, chemical, biological, or radioactive (including source material, special nuclear material, and byproduct material) air contaminant which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any such air contaminants, to the extent the U.S. Environmental Protection Agency has identified such precursor or precursors for the particular purpose for which the term ''pollutant'' is used.''*

Rule 18.2(dd)—The definition of ''welfare'' has been added as follows: *''Welfare means any effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, visibility, weather and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether those effects are caused directly or by transformation, conversion, or combination with other air pollutants.''*

Rule 18.3(d)—This rule has been revised to change the exemption to preconstruction air quality analysis for a proposed major stationary source or major modification whose emissions increases causes air quality impacts of less than 10 ug/m^3 for PM_{10} rather than total suspended particulates. This rule has also been revised to add the amount of VOCs impacting ozone formation that may be exempted. Previously this stated that ''no de minimis level established.'' This has been revised to add to that definition as follows: ''but any net increase of 100 tons/year or more of volatile organic compounds subject to the PSD rule may not be exempted from ambient impact analysis as required by Rule 18.4(I).'' (Rule 18.4(I) contains the requirements for the air quality analysis.)

Rule 18.3(f)—This requirement has been added in accordance with 40 CFR 51.166(f)(iii) to clarify source impact analysis as follows: *''Source impact analysis otherwise required by Rule 18.4 does not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an installation and temporary operating permit application before the provisions embodying the maximum allowable increase took effect as part of this chapter and the director subsequently determined that the application was submitted before that date was complete.''*

Rule 18.4(a)—This paragraph has been modified to reference the PSD rule rather than ''appropriate enforcement actions.''

Rule 18.4(b)—This paragraph has been added to state that *''A major stationary source or major modification shall meet the most stringent of each applicable emissions limitation in the chapter and the applicable emissions standard under section 4–41, Rules 15 and 16.''* (Rules 15 and 16 are their incorporation by reference of the requirements of 40 CFR parts 60 and 61.)

Rule 18.4(e)—This paragraph has been added to address BACT review, in accordance with 40 CFR 51.166(j)(4).

Rule 18.4(g)—This paragraph has been modified to add subparagraph (2) to address source impact analysis for stationary sources or modifications for increases in PM_{10}, in accordance with 40 CFR parts 51.166 (d) and (k).

Rule 18.4(h)—This paragraph has been modified to address additional requirements for submitting applications for sources impacting Federal Class I areas. A copy of the permit is required to be sent to the Federal Land Manager. The copy of the permit must be sent within 30 days of the application, and at least 60 days before any public hearings. The notification must include an analysis of the proposed source's impact on visibility in the Federal Class I area. These requirements are consistent with those in 40 CFR 51.166(p).

Rule 18.6(b)—Class I areas: The ambient air increments for TSP have been deleted and replaced with the ''Maximum allowable increase'' for PM_{10}. The ''annual geometric mean'' for TSP, formerly 5 ug/m^3, is now an ''annual arithmetic mean'' for PM_{10} of 4 ug/m^3. The ''24-hour maximum'' of 10 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 8 ug/m^3 for PM_{10}. The ''Annual arithmetic mean'' for Nitrogen Dioxide has also been added. This is set at 2.5 ug/m^3.

Class II areas: The ambient air increments for TSP have been deleted and replaced with the ''Maximum allowable increase'' for PM_{10}. The ''annual geometric mean'' for TSP, formerly 19 ug/m^3, is now an ''annual arithmetic mean'' for PM_{10} of 17 ug/m^3. The ''24-hour maximum'' of 37 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 30 ug/m^3 for PM_{10}. The ''Annual arithmetic mean'' for Nitrogen Dioxide has also been added. This is set at 25 ug/m^3.

Class III areas: The ambient air increments for TSP have been deleted and replaced with the ''Maximum allowable increase'' for PM_{10}. The ''annual geometric mean'' for TSP, formerly 37 ug/m^3, is now an ''annual arithmetic mean'' for PM_{10} of 34 ug/m^3. The ''24-hour maximum'' of 10 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 60 ug/m^3 for PM_{10}. The ''Annual arithmetic

mean'' for Nitrogen Dioxide has also been added. This is set at 50 ug/m^3.

These changes were made in accordance with the requirements of 40 CFR 51.166(c).

Rule 18.6(c)—The exclusions from increment consumption have been revised to add an exclusion for ''*the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.*''

Rule 18.6(d)—The Class I variances have been revised. The maximum allowable increase has been changed by deleting those previously allowed for TSP and adding them for PM_{10}. The ''annual geometric mean'' for TSP, formerly 19 ug/m^3 is now an ''annual arithmetic mean'' for PM_{10} of 17 ug/m^3. The ''24-hour maximum'' of 37 ug/m^3 for TSP has been deleted and replaced with a 24-hour maximum of 30 ug/m^3 for PM_{10}. The ''Annual arithmetic mean'' for Nitrogen Dioxide has also been added. This is set at 25 ug/m^3. This is consistent with the requirements of 40 CFR 51.166(p)(4).

Rule 18.6 (e) and (f)—A sulfur dioxide variance, by the Governor, has been added to this rule, along with emission limitations for Presidential or gubernatorial variances. These are consistent with 40 CFR 51.166(p) (5) and (6).

5. Section 4–41, Rule 20.4(2)d

This rule has been revised to delete the phrase ''that are removed during surgery and autopsy'' when referring to human pathological waste.

6. Section 4–41, Rule 21

''Table 1'' has been renamed as ''Table I.'' The Primary standards for TSP have been deleted. The secondary standard of 60 ug/m^3 has also been deleted, leaving the secondary standard of 150 ug/m^3 in place. The primary standards for gaseous fluorides have been deleted, leaving in place only the secondary standards.

7. Section 4–41, Rule 25.2(33)

The definition of VOCs has been revised to add the phrase ''which participates in atmospheric photochemical reactions.'' Parachlorobenzotrifluoride (PCBTF) and cyclic, branched, or linear completely methylated siloxanes have been added to the list of exempt compounds.

8. Section 4–41, Rule 27, Particulate Matter Controls for New Sources and New Modifications

This rule has been added to impose the requirement for the utilization of BACT in appropriate cases for particulate matter. A new source which emits fifteen (15) tons per year (tpy) or more of PM_{10}, or more than twenty-five (25) tons per year particulate matter shall utilize ''particulate matter best available control technology'' (particulate BACT). This rule is consistent with the requirements and definitions in 40 CFR 51.166(b).

9. Section 4–41, Rule 9.4

This rule has been deleted, thereby deleting the former requirement that vehicle testing be part of the semiannual safety lane inspection. This rule was not required in Chattanooga/Hamilton County and has never been implemented in this area.

10. Section 4–41, Rule 26.8(1)(b)

This rule for grain elevators has been revised to correct the spelling of the word ''sieve.''

The following revisions are those included in the June 26, 1996, submittal (reference file TN 179–01).

11. Section 4–2

The definitions for the following terms have been added and are equivalent to the definitions in 40 CFR 51.100: PM_{10}, PM_{10} emissions, and Total Suspended Particulate. The definitions for ''pathological waste'' and ''pathological waste incinerator'' have been deleted. Definitions for ''malfunction'' and ''opacity'' have been added which are equivalent to the definitions in the State's SIP. These definitions are as follows:

Malfunction—Any sudden and unavoidable failure of air pollution control equipment, fuel-burning equipment, refuse-burning equipment or process equipment, or for a process to operate in an abnormal or unusual manner. Failures that are caused by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Opacity—The degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

12. Section 4–41, Rule 7.4

This rule has been deleted, thereby deleting the particulate emission limitations for pathological waste incinerators. These have been moved to Rule 20 of the local regulations.

13. Section 4–41, Rule 19. Regulation of Lead Emissions

A new lead rule was added to the SIP. This rule includes definitions for the following terms: Significant source of lead, Source, and Permit unit. These definitions are consistent with the requirements of 40 CFR 51.100 and 51.117. The general limitations for lead emissions have been established. New sources with actual emissions greater than 5.0 tons per year are required to utilize BACT. Any modifications to a source which result in an increase of emissions in excess of 0.6 tons per year must also use BACT. Source sampling and analysis, along with ambient monitoring, are also required, in accordance with 40 CFR 51.100 and 51.117.

14. Section 4–41, Rule 22. Good Engineering Practices Stack Heights

This rule has been added to fully address the requirements for stack heights. It is consistent with the requirements of 40 CFR 51.100 and 51.118.

a. Definitions—Definitions which are consistent with 40 CFR 51.100 have been added for the following terms: Dispersion technique, Emission limitation, Good engineering practice, Excessive concentration, stack, and A stack in existence.

b. Stack height requirements and specific emissions limitations have been included in this rule in accordance with the requirements of 40 CFR 51.118.

15. Section 4–41, Rule 25.2

The definition for ''prime coat'' has been changed from ''* * * in a multiple-coat operation'' to ''* * * to a multiple-coat operation.''

16. Section 4–41, Rule 25.21(6), Surface Coating of Miscellaneous Metal Parts and Products

This rule has been revised to expand its application to facilities with potential VOC emissions of twenty-five (25) tons per year, rather than the former level of 100 tons per year. This approval corrects the previous disapproval of this rule which was published on May 8, 1990, in 55 FR 19068. It was disapproved at that time because the 100 tpy limit was less stringent that the State's regulations and was not adequate to maintain the NAAQS in Chattanooga/Hamilton County.

17. Section 4–41, Rule 25.27(3), Manufacture of Synthesized Pharmaceutical Products

This rule has been revised to expand application to facilities with potential VOC emissions of twenty-five (25) tons per year, rather than the former level of 100 tons per year.

Final Action

The EPA is approving the aforementioned revisions contained in the State's December 11, 1995, and June 26, 1996, submittals. EPA is also approving these same revisions in the Hamilton County Code and the city/town codes of the remaining municipalities in Hamilton County, Soddy-Daisy, Ridgeside, Signal Mountain, Walden, Lookout Mountain, East Ridge, Red Bank, Collegedale, and Lakesite. Although EPA has not reviewed the substance of the regulations for Hamilton County or the other nine municipalities, the substantive codes of Hamilton County and the nine municipalities rules have been certified by the State as essentially the same as the City of Chattanooga's regulations. The EPA's approval of these additional ordinances for the County and the remaining nine municipalities does not imply any position with respect to the approvability of the substantive rules.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 14, 1997 unless, by September 11, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 14, 1997.

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

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Regional Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 16, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(154) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(154) Revisions to Chattanooga/Hamilton County portion of the Tennessee state implementation plan submitted to EPA by the State of Tennessee on December 11, 1995, and June 26, 1996, regarding nitrogen oxides, prevention of significant deterioration (PSD), lead sources, stack heights, infectious waste incinerators, and volatile organic compound (VOC) reasonably available control technology (RACT) for miscellaneous metal parts coaters and synthesized pharmaceutical products, and PM_{10}.

(i) Incorporation by reference.

(A) Chapter 4, Section 4–13 except (b)(6), and Section 4–41, Rules 2.4, 2.6, 2.7; 16.5; 18; 20.4(2)d, 21, 25.2(33), 27; 3.5; 8, Table 1; 9.4, 13.1, and 26.8 of the ''Chattanooga Air Pollution Control Ordinance,'' adopted on August 15, 1995.

(B) Section 13, except (b)(6); Section 41, Rules 2.4, 2.6, 2.7; 16.5; 18; 20.4(2)d; 21; 24.2(33); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8(f)(4) of the regulation known as the ''Hamilton County Air Pollution Control Regulation,'' adopted by Hamilton County on September 6, 1995. The identical regulations were also adopted by the following municipalities as part of their air pollution control ordinances: Signal Mountain, adopted on December 11, 1995; Walden, adopted on December 12, 1995; Lookout Mountain, adopted on November 14, 1995; and Ridgeside, adopted on April 16, 1996.

(C) Chapter 7 for Section 8–713, except (b)(6); Section 8–741, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); to Chapter 3 for Section 8–541, Rule 26; and to Chapter 7, Section 8–741, for Rules 27; 3.5, 8, Table 1, and 13.1; Section 8–708(f)(4) of the ''East Ridge City Code,'' adopted on September 28, 1995.

(D) Chapter 3: Section 8–313, except (b)(6); Section 8–341, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8–308(f)(4) of the ''Red Bank Municipal Code,'' adopted on November 7, 1995.

(E) Chapter 1: Section 8–113, except (b)(6); Section 8–141, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1, and 13.1; and Section 8–108(f)(4) of the ''Soddy-Daisy Municipal Code,'' adopted on October 5, 1995.

(F) Chapter 3: Section 8–513, except (b)(6); Section 8–541, Rules 2.4, 2.6, 2.7; 7.4; 16.5; 18; 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8–108(f)(4) of the ''Collegedale Municipal Code,'' adopted on October 2, 1995.

(G) Chapter 3, Section 41, Rules 19; 21; 22; 25.2(21); 26; 27; 3.5; 8, Table 1; and 13.1; and Section 8(f)(4) of the ''Lakesite Municipal Code'' adopted November 16, 1995.

(H) Chapter 4: Section 4–2; Section 4–41, Rules 19; 21, Table 1; 22; 25.2; 25.21(6); and 25.27(3) of the ''Chattanooga Air Pollution Control Ordinance,'' adopted on May 30, 1989.

(I) Section 9, Rules 19; 21, Table 1; 22; 25.2; 25.21(6); and 25.27(3); and Section 16 of the regulation known as the ''Hamilton County Air Pollution Control Regulation,'' adopted on June 7, 1989.

* * * * *

[FR Doc. 97–21270 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH104–3a; FRL–5874–4]

Approval and Promulgation of Implementation Plans; Ohio Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delay of the effective date.

SUMMARY: On May 14, 1997 (62 FR 26396), EPA approved a revision submitted on July 9, 1996, and January 31, 1997, to the ozone maintenance plans for the Dayton-Springfield Area (Miami, Montgomery, Clark, and Greene Counties), Toledo Area (Lucas and Wood Counties), Canton area (Stark County), Ohio portion of the Youngstown-Warren-Sharon Area (Mahoning and Trumbell Counties), Columbus Area (Franklin, Delaware, and Licking Counties), Cleveland-Akron-Lorain Area (Ashtabula, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, and Geauga Counties), Preble County, Jefferson County, Columbiana and Clinton County. The revision was based on a request from the State of Ohio to revise the federally approved maintenance plan for those areas to provide the State and the affected areas with greater flexibility in choosing the appropiate ozone contingency measures for each area in the event such a measure is needed. On June 13, 1997 (62 FR 32204), the EPA delayed the effective date of the May 14, 1997, direct final rule for 60 days, until September 12, 1997, to allow for a 60-day extension of the public comment period. The EPA is postponing the effective date of this rule for an additional 120 days to allow for an additional 120-day extension of the public comment period. In the proposed rules section of this **Federal Register**, EPA announces an additional 120-day extension of the public comment period on these maintenance plans.

DATES: The direct final rule published at 62 FR 26396 becomes effective January 9, 1998 unless substantive written adverse comments not previously addressed by the State or EPA are received by December 10, 1997. If the effective date is further delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), at the address below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Section, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6084.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: August 5, 1997.

Jo Lynn Traub,

Acting Regional Administrator.

Therefore the effective date of the amendment to 40 CFR part 52 which added § 52.1885(a)(5), published at 62 FR 26396, May 14, 1997, and delayed at 62 FR 32204, June 13, 1997, is further delayed until January 9, 1998.

[FR Doc. 97–21382 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 148

[FRL–5873–8]

Final Decision To Grant Chemical Waste Management, Inc. a Modification of an Exemption From the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984 Regarding Injection of Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on a request to modify an exemption from the hazardous and solid waste amendments of the Resource Conservation and Recovery Act.

SUMMARY: Notice is hereby given by the Environmental Protection Agency (EPA or Agency) that modification of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA) has been granted to Chemical Waste Management, Inc. (CWM) of Oakbrook, Illinois. This modification allows CWM to inject RCRA-regulated hazardous wastes which will be banned from land disposal on August 11, 1997, as a result of regulations promulgated on May 12, 1997. Wastes designated by a total of 11 additional RCRA waste codes, may continue to be land disposed through four waste disposal wells at the facility at Vickery, Ohio. As required by 40 CFR part 148, CWM has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone utilized by CWM's waste disposal facility located near Vickery, Ohio, for as long as the newly exempted waste remains hazardous. This decision constitutes a final Agency action for which there is no administrative appeal.

DATES: This action is effective as of August 12, 1997.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish or Nathan Wiser, Lead Petition Reviewers, Region 5, telephone (312) 886–2939 or (312) 353–9569, respectively. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative record.

SUPPLEMENTARY INFORMATION:

Background

CWM submitted a petition for an exemption from the restrictions on land disposal of hazardous wastes on January 19, 1988. Revised documents were received on December 4, 1989, and several supplemental submittals were subsequently made. The exemption was granted on August 7, 1990. On September 12, 1994, CWM submitted a petition to modify the exemption to include wastes bearing 23 additional RCRA wastes codes. Region 5 reviewed documents supporting the request and granted the modification of the exemption on May 16, 1995. A notice of the modification appeared on June 5, 1995, at 60 FR 29592 et seq. On April 9, 1996, CWM submitted a petition to again modify the exemption to allow 91 additional RCRA waste codes. Region 5 reviewed documents supporting the request and granted the modification on the exemption on June 24, 1996. A notice of the modification appeared on July 15, 1996, at 61 FR 36880 et seq.

On May 13, 1997, in response to the Land Disposal Restrictions Rule published in the **Federal Register** at 62 FR 25998 et seq. on May 12, 1997, which set ban dates for a number of hazardous waste codes, CWM submitted a request to add a total of 11 additional RCRA waste codes to its exemption. Three (3) of these codes (F032, F034 and F035) are banned by the May 12, 1997, rule. The remaining eight (8) codes (F020, F021, F022, F023, F025, F026, F027 and F028) have been banned since 1988, but CWM anticipates a future need for their injection. The underlying chemicals found in all the codes of interest today were already the subject of previous technical consideration during the modeling for the originally-issued exemption. The newly-promulgated rule bans codes F032, F034 and F035 from deep injection after August 11, 1997, unless CWM makes a no-migration demonstration. CWM made a no-migration demonstration in 1990. After careful review of the material submitted, the EPA has determined, as required by 40 CFR part 148.20(f), that there is a reasonable degree of certainty that waste streams containing constituents designated by these codes will behave hydraulically and chemically like wastes for which CWM was granted its original exemption and will not migrate from the injection zone within 10,000 years. The injection zone is the Mt. Simon Sandstone and the Rome, Conasauga, Kerbel, and Knox Formations. The confining zone is comprised of the Wells Creek and Black River Formations.

Effective May 29, 1997, the United States Court of Appeals for the District of Columbia Circuit vacated 24 RCRA waste codes that had been previously listed. These 24 RCRA waste codes therefore are not banned from injection under Federal law as they no longer exist as Federally-defined RCRA waste codes. Notwithstanding the effect of the Court's action at the Federal level, the Ohio Environmental Protection Agency rules governing these 24 RCRA waste codes prohibit injection of these coded wastes without a Federal exemption from the Land Disposal Restrictions. Hence, the action taken by modifying the exemption issued to CWM remains effective for these RCRA waste codes since without the inclusion of these codes, CWM would be barred from injecting them under State law. CWM's modified exemption therefore contains these 24 RCRA waste codes. The effect of this exemption is limited to those wastes coded as K160, U277, U366, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U390, U391, U392, U393, U396, U400, U401, U402, U403 and U407, effective the date that these 24 RCRA waste codes were originally promulgated. If these particular codes should be re-promulgated as RCRA wastes, different in chemical character from the originally-promulgated RCRA waste codes, the burden will be incumbent on CWM to show that the injection of such newly-promulgated RCRA waste codes will result in a reasonable degree of certainty that there will be no migration from the injection zone within 10,000 years, and a modification of CWM's exemption will be required to inject them.

As a result of this action, CWM may continue to inject the wastes bearing the codes:

F020, F021, F022, F023, F025, F026, F027, F028, F032, F034, and F035,

after wastes denoted by these codes are banned from land disposal on August 11, 1997. These waste codes are added to the waste codes which have been previously exempted and the current total approved listing of codes follows.

List of Approved RCRA Waste Codes for Injection

D001	D043	K015	K071	K142	P030	P078	P190	U031	U076	U120	U162	U208	U366
D002	F001	K016	K073	K143	P031	P081	P191	U032	U077	U121	U163	U209	U367
D003	F002	K017	K083	K144	P033	P082	P192	U033	U078	U122	U164	U210	U372
D004	F003	K018	K084	K145	P034	P084	P194	U034	U079	U123	U165	U211	U373
D005	F004	K019	K085	K147	P036	P085	P196	U035	U080	U124	U166	U213	U375
D006	F005	K020	K086	K148	P037	P087	P197	U036	U081	U125	U167	U214	U376
D007	F006	K021	K087	K149	P038	P088	P198	U037	U082	U126	U168	U215	U377
D008	F007	K022	K088	K150	P039	P089	P199	U038	U083	U127	U169	U216	U378
D009	F008	K023	K093	K151	P040	P092	P201	U039	U084	U128	U170	U217	U379

List of Approved RCRA Waste Codes for Injection—Continued

D010	F009	K024	K094	K156	P041	P093	P202	U041	U085	U129	U171	U218	U381
D011	F010	K025	K095	K157	P042	P094	P203	U042	U086	U130	U172	U219	U382
D012	F011	K026	K096	K158	P043	P095	P204	U043	U087	U131	U173	U220	U383
D013	F012	K027	K097	K159	P044	P096	P205	U044	U088	U132	U174	U221	U384
D014	F019	K028	K098	K160	P045	P097	U001	U045	U089	U133	U176	U222	U385
D015	F020	K029	K099	K161	P046	P098	U002	U046	U090	U134	U177	U223	U386
D016	F021	K030	K100	P001	P047	P099	U003	U047	U091	U135	U178	U225	U387
D017	F022	K031	K101	P002	P048	P101	U004	U048	U092	U136	U179	U226	U389
D018	F023	K032	K102	P003	P049	P102	U005	U049	U093	U137	U180	U227	U390
D019	F024	K033	K103	P004	P050	P103	U006	U050	U094	U138	U181	U228	U391
D020	F025	K034	K104	P005	P051	P104	U007	U051	U095	U139	U182	U234	U392
D021	F026	K035	K105	P006	P054	P105	U008	U052	U096	U140	U183	U235	U393
D022	F027	K036	K106	P007	P056	P106	U009	U053	U097	U141	U184	U236	U394
D023	F028	K037	K107	P008	P057	P108	U010	U055	U098	U142	U185	U237	U395
D024	F032	K038	K108	P009	P058	P109	U011	U056	U099	U143	U186	U238	U396
D025	F034	K039	K109	P010	P059	P110	U012	U057	U101	U144	U187	U239	U400
D026	F035	K040	K110	P011	P060	P111	U014	U058	U102	U145	U188	U240	U401
D027	F037	K041	K111	P012	P062	P112	U015	U059	U103	U146	U189	U243	U402
D028	F038	K042	K112	P013	P063	P113	U016	U060	U105	U147	U190	U244	U403
D029	F039	K043	K113	P014	P064	P114	U017	U061	U106	U148	U191	U246	U404
D030	K001	K044	K114	P015	P065	P115	U018	U062	U107	U149	U192	U247	U407
D031	K002	K045	K115	P016	P066	P116	U019	U063	U108	U150	U193	U248	U408
D032	K003	K046	K116	P017	P067	P118	U020	U064	U109	U151	U194	U249	U409
D033	K004	K047	K117	P018	P068	P119	U021	U066	U110	U152	U196	U271	U410
D034	K005	K048	K118	P020	P069	P120	U022	U067	U111	U153	U197	U277	U411
D035	K006	K049	K123	P021	P070	P121	U023	U068	U112	U154	U200	U278	
D036	K007	K050	K124	P022	P071	P122	U024	U069	U113	U155	U201	U279	
D037	K008	K051	K125	P023	P072	P123	U025	U070	U114	U156	U202	U280	
D038	K009	K052	K126	P024	P073	P127	U026	U071	U115	U157	U203	U328	
D039	K010	K060	K131	P026	P074	P128	U027	U072	U116	U158	U204	U353	
D040	K011	K561	K132	P027	P075	P185	U028	U073	U117	U159	U205	U359	
D041	K013	K062	K136	P028	P076	P188	U029	U074	U118	U160	U206	U364	
D042	K014	K069	K141	P029	P077	P189	U030	U075	U119	U161	U207	U365	

Conditions

General conditions of this exemption are found at 40 CFR part 148. The exemption granted to CWM on August 7, 1990, included a number of specific conditions. Conditions numbered (1), (2), (3), (4), and (9) remain in force. Monitoring under condition 5, which called for construction and operation of a deep monitoring well, will continue through the life of the facility. Conditions numbered (5), (6), (7), and (8) have been satisfied. The results of the work carried out under these conditions confirms that the model used to simulate fluid movement within the injection zone for the next 10,000 years is valid and results of the simulation bound the region of the injection zone within which the waste will be contained.

Rebecca L. Harvey,

Acting Director, Water Division.

[FR Doc. 97–21275 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5870–8]

New York: Final Authorization of State Hazardous Waste Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of New York has applied for final authorization of certain revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The Environmental Protection Agency (EPA) has reviewed New York's application and has made a decision, subject to EPA's receipt and evaluation of public comment, that New York's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve New York's hazardous waste program revisions, which are described later in this notice. New York's application for program revision is available for public review and comment.

DATES: Final authorization for New York shall be effective October 14, 1997 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on New York's program revision application must be received by the close of business September 11, 1997.

ADDRESSES: Copies of New York's program revision application are available during the business hours of 9 a.m. to 4:30 p.m. at the following addresses for inspection and copying: New York State Department of Environmental Conservation, 50 Wolf Road, Room 204, Albany, New York 12233–7253, (518) 457–3273; U.S. EPA Library (M2904), 401 M Street, S.W., Washington, DC 20460, 202/260–5922. U.S. EPA Region II Library, 16th Floor, 290 Broadway, New York, New York 10007–1866, Phone (212) 637–3185. Written comments should be sent to: Ms. Kathleen Callahan, Director, Division of Environmental Planning and Protection, U.S. EPA, Region II, 290 Broadway, New York, New York 10007–1866, (212) 637–3726.

FOR FURTHER INFORMATION CONTACT: Steven Venezia, (212) 637–4218.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal

hazardous waste program. In addition, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter HSWA) allows States to revise their programs to become equivalent to RCRA requirements promulgated under HSWA authority. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260–266, 268, 124, 270 and 279.

B. New York

New York initially received final authorization for the base program on May 29, 1986. New York received authorization for revisions to its program on July 3, 1989, May 7, 1990, October 29, 1991, May 22, 1992, and July 29, 1994. In September 1996, New York submitted a program revision application for additional program approvals. Today, EPA is proposing approval of New York's program revision in accordance with 40 CFR 271.21(b)(3).

In order to obtain Final Authorization, the State of New York has demonstrated and certified that its authority to regulate the following is equivalent to the Federal RCRA authority, including the requirements promulgated under HSWA authority:

Provision	Federal authority*	State authority*
Toxicity Characteristic Revisions (55 FR 11798; 03/29/90) (55 FR 26986: 06/29/90).	RCRA §1006, 2002(a), 3001, 3002, 3004, 3005, & 3006; 40 CFR Parts 261, 264, 265, & 268.	ECL §27–0703, 0900, 0911, 0912 & 0913; 6NYCRR 371.1, 371.3, 371.4, 373–2, 373–3, & Appendix 35.
Criteria for Listing Toxic Wastes; Technical Amendment (55 FR 18726 05/04/90).	RCRA §3001(a); 40 CFR 261.11(a)(3)	ECL §27–0903; 6NYCRR 371.2(b)(1)(iii).
Hazardous Waste Treatment, Storage, and Disposal Facilities—Organic Air Emission Standards for Process Vents and Equipment Leaks (55 FR 25454; 06/21/90).	RCRA §1006, 2002, 3001–3007, 3010, 3014 & 7004; 40 CFR 260.11(a), Parts 261, 264, 265, & 270.	ECL §27–0703, 0900, 0903, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 370.1(e)(1), 371.1(g), 373–2.2 (e)(2) & (g)(2), 373–2.5 (c)(2) & (g)(3), 373–3.2 (d)(2) & (f)(2), 373–3.5 (c)(2) & (g)(4), 373–2.27, 373–3.28, & 373–1.5 (a)(2), (k) & (1).
Toxicity Characteristic; Hydrocarbon Recovery Operations (HSWA) (55 FR 40834; 10/05/90) (56 FR 3978; 02/01/91) (56 FR 13406; 04/02/91).	5 USC §553 & 705; RCRA §3001; 40 CFR 261.4(b)(11).	ECL §27–0903, 6NYCRR 371.1(e)(2).
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038) (55 FR 46354; 11/02/90) (55 FR 51707; 12/17/90).	RCRA §3001; 40 CFR 261.31(b) & Part 261 Appendix VII.	ECL §27–0903, 6NYCRR 371.4(b) & Appendix 22.
Wood Preserving Listings (HSWA and Non-HSWA) (55 FR 50450; 12/06/90).	RCRA §2002(a), & 3001; 40 CFR 261.4(a)(9), 261.31, 261.35, 263.34(a)(2), Parts 264 & 265, 270.26, Part 261 Appendices III, VII, & VIII.	ECL §27–0703, 0903, & 0913; 6NYCRR 371.1(e)(1), 373–1.5(m), 371.4 (b) & (f), 373–1.1(d)(1), 373–2.10(a), 373–2.23 (a)–(f), 373–3.10(a), 373–3.23 (a)–(f), & Appendices 21, 22, & 23.
Land Disposal Restrictions for Third Third Scheduled Waste; Technical Amendment (55 FR 3978; 02/01/91).	RCRA §3001(b), & 3004(d)–(k) & (m), 40 CFR Parts 261, 262, 264, 265, 268, & 270, & Part 261 Appendix VII & Part 268 Appendices IV, & V.	ECL §27–0903, 0911, & 0912; 6NYCRR 371.1, 371.3, 371.4, 372.2, 373–2.2, 373–3.2, 376.1, 376.3(c), & 376.4 (a)–(d), & Appendices 22, 38, & 39.
Toxicity Characteristic; Chlorofluoro-carbon Refrigerants (HSWA) (56 FR 5910; 02/13/91).	RCRA §3001; 40 CFR 261.4(b)(12)	ECL §27–0903; 6NYCRR 371.1(e)(2)(xii).
Burning of Hazardous Waste in Boilers & Industrial Furnaces (HSWA/Non-HSWA) (56 FR 7134; 02/21/91).	RCRA §1006, 2002, 3001–3007, 3010, & 7004; 40 CFR 260.10, 260.11, 260.20, 261.2(d)(2) & (e)(2), 261.4(a)(10), 261.4(b)(4), (7), & (8), 261.6, 264.1, 264.112, 264.340, 265.112, 265.113, 265.340, 265.370, Part 266 Subpart H, & Appendices I–X, 270.22, 270.42(g), 270.42 Appendix I, 270.66, 270.72 (a)(6), & (b)(7), 270.73 (f), & (g).	ECL §27–0703, 0705, 0900, 0903, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 370.1, 370.2(b), 370.3, 371.1 (c), (d), (e), & (g), 373–1.3 (g) & (h), 373–1.5(i), 373–1.7 (c), (d), & (g), 373–1.9(d), 373–2.1(a), 373–2.7(c), 373–2.15, 373–3.1(a), 373–3.7 (c) & (d), 373–3.15, 373.16, 374–1.8, & Appendices 41–50.
Removal of Strontium Sulfide from the List of Hazardous Waste; Technical Amendment (Non-HSWA) (56 FR 7567; 02/25/91).	RCRA §3001(b); 40 CFR 261.33(e), & Appendix VIII.	ECL §27–0903; 6NYCRR 371.4(d), Appendix 23.
Organic Air Emission Standards for Process Vents & Equipment Leaks; Technical Amendment (HSWA) (56 FR 19290; 04/26/91).	RCRA §1006, 2002, 3001–3007, 3010, 3014 & 7004; 40 CFR Parts 261, 264, 265 & 270.	ECL §27–0703, 0900, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 371.1(g), 373–2.2 (e)(2) & (g)(2), 373–2.5 (c)(2) & (g)(3), 373–2.27, 373–2.28, 373–3.2 (d)(2) & (f)(2), 373–3.5 (c)(2) & (g)(4), 373–3.27, 373–3.28, & 373–1.5(a)(2), (k) & (1)
Administrative Stay for K069 Listing (Non-HSWA) (56 FR 19951; 05/01/91)..	RCRA §3001(b); 40 CFR 261.32	ECL §27–0903; 6NYCRR 371.4(c).
Revision to F037 & F038 Listings (HSWA) (56 FR 21955; 05/13/91).	RCRA §3001(b); 40 CFR 261.31	ECL §27–0903; 6NYCRR 371.4(b).
Mining Exclusion III (Non-HSWA) (56 FR 27300; 06/13/91).	RCRA §3001(b)(3); 40 CFR 260.10, & 261.4(b)(7).	ECL §27–0903; 6NYCRR 370.2(b), & 371.1(e)(2)(vi).
Administrative Stay for F032, F034, & F035 Listings (HSWA/Non-HSWA) (56 FR 27332; 06/13/91).	5 USC 705; RCRA §2002(a), & 3001(b) & (e)(1); 40 CFR 261.31, 264.572(a)(4), & 265.443(a)(4).	ECL §27–0703, & 0903; 6NYCRR 371.4(b), 373–2.23(c)(1), & 373–3.23(d)(1).

Provision	Federal authority *	State authority *
Wood Preserving Listings (HSWA and Non-HSWA) (56 FR 30192; 07/01/91).	RCRA § 2002(a), & 3001; 40 CFR 261.4(a)(9), 261.35, 263.34(a)(2), Parts 264 & 265, & 270.26.	ECL § 27–0703 0903, & 0913; 6NYCRR 371.1(e)(1), 373–1.5(m), 371.4(f), 373–1.1(d)(1), 373–2.10(a), 373–2.23 (a)–(f), 373–3.10(a), & 373–3.23 (a)–(f).
Burning of Hazardous Waste in Boilers & Industrial Furnaces; Corrections & Technical Amendments I (HSWA/Non-HSWA) (56 FR 32688; 07/17/91).	RCRA § 1006, 2002, 3001–3007, 3010, & 7004; 40 CFR 260.10, 260.11, 260.20, 261.2 (d)(2) & (e)(2), & (8), 261.6, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340, 265.370, Part 266 Subpart H, & Appendices I–X, 270.22, 270.42(g), 270.42 Appendix I, 270.66, 270.72 (a)(6), & (b)(7), & 270.73 (f), & (g).	ECL § 27–0703, 0705, 0900, 0903, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 370.1, 370.2(b), 370.3, 371.1 (c), (d), & (g), 373–1.3 (g) & (h), 373–1.5(i), 373–1.7 (c), (d), & (g), 373–1.9(d), 373–2.1(a), 373–2.7(c), 373–2.15, 373–3.1(a), 373–3.7 (c) & (d), 373–3.15, 373–16, 374–1.8, & Appendices 41–50.
Land Disposal Restrictions for Electric Arc Furnace Dust (K061) (HSWA) (56 FR 41164; 08/19/91).	RCRA § 3001, 3004 (d)–(k), & (m); 40 CFR 261.3(c)(2)(ii)(C), 261.4(a)(11), 268.41, & 268.42.	ECL § 27–0903, 0911, 0912; 6NYCRR 371.1(d)(3)(ii), 371.1(e)(1)(xi), 376.4 (b), & (c).
Burning of Hazardous Waste in Boilers & Industrial Furnaces; Technical Amendments II (HSWA/Non-HSWA) (56 FR 42504; 08/27/91).	RCRA § 1006, 2002, 3001–3007, 3010, & 7004; 40 CFR 260.10, 260.11, 260.20, 261.2 (d)(2) & (e)(2)(iv), 261.3, 261.6, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340, 265.370 Part 266 Subpart H, & Appendices I–X.	ECL § 27–0703, 0705, 0900, 0903, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 370.1, 370.2(b), 370.3, 371.1 (c)(5)(ii), & (c)(6)(ii), 371.1 (d), & (g), 373–2.1(a), 373–2.7(c), 373–2.15, 373–3.1(a), 373–3.7 (c) & (d), 373–3.15, 373–3.16, 374–1.8, & Appendices 41–50.
Exports of Hazardous Waste; Technical Correction (HSWA) (56 FR 43704; 09/04/91).	RCRA § 3017; 40 CFR 262.53(b), & 262.56(b)	ECL § 27–0907; 6NYCRR 372.5 (c)(2) & (f)(2).
Coke Ovens Administrative Stay (HSWA) (56 FR 43874; 09/05/91).	5 USC 705; RCRA § 2002(a), & 3001(b), & (e)(1); 40 CFR 266.100(a).	ECL § 27–0703, & 0903; 6NYCRR 374–1.8(a)(1).
Amendments to Interim Status Standards for Downgradient Groundwater Monitoring Well Locations (Non-HSWA) (56 FR 66365; 12/23/91).	RCRA § 1006, 2002(a), 3001, 3004, 3005, & 3015; 40 CFR 260.10, & 265.91(a)(3).	ECL § 27–0703, 0707, 0903, 0911, & 0913; 6NYCRR 370.2(b), & 373–3.6(b)(1)(iii).
Liners & Leak Detection Systems for Hazardous Waste Land Disposal Units (HSWA/Non-HSWA) (57 FR 3462; 01/29/92).	RCRA § 3004, 3005, 3006, & 3015; 40 CFR Parts 264 & 265, 270.4(a), 270.17(b), & (c), 270.18 (c), & (d), & 270.21 (b), & (c).	ECL § 27–0707, 0900, 0911, & 0913; 6NYCRR 373–1.5 (d), (e), & (h), 373–2.2(k), 373–2.11, 373–2.12, 373–2.14, 373–3.2(j), 373–3.11, 373–3.12, & 373–3.14
Administrative Stay for the Requirement that Existing Drip Pads be Impermeable (HSWA/Non-HSWA) (57 FR 5859; 02/18/92).	5 USC 705; RCRA § 2002(a), & 3001 (b) & (e)(1), 40 CFR 264.573(a)(4), & 265.443(a)(4).	ECL § 27–0703, & 0903; 6NYCRR 373–2.23(d)(1), & 373–3.23(d)(1).
Second Correction to the Third Third Land Disposal Restrictions (HSWA) (57 FR 8086; 03/06/92).	RCRA § 3001, & 3004 (d)–(k) & (m); 40 CFR Parts 261, 262, 264, 265, 268, & 270.	ECL § 27–0903, 0911, & 0912; 6NYCRR 371.1, 371.3, 371.4, 372.2, 373–2.2, 373–3.2, 376.1, 376.3(c), & 376.4 (a)–(d).
Hazardous Debris Case-by-Case Capacity Variance (HSWA) (57 FR 20766; 05/15/92).	RCRA § 3004(h)(3); 40 CFR 268.35 (c)–(e)	ECL § 27–0911, & 0912; 6NYCRR 376.2, & 376.3 (c), & (d).
Oil Filter Exclusion (HSWA) (57 FR 21524; 05/15/92).	RCRA § 1004, 1006, 2002, 3001, & 3014; 40 CFR 261.4(b)(15).	ECL § 3–0301, 27–0703, 0901, 0903, 0922; 6NYCRR 371.1(e)(2)(xi).
Recycled Coke By-Product Exclusion (HSWA) (57 FR 27880; 06/22/92).	5 USC 705; RCRA § 2002(a), 3001 (b), (e) (1) & (2), & (h); 40 CFR 261.4(a)(10), 266.100(a).	ECL § 27–0703, & 0903; 6NYCRR 371.1(e)(1)(x), 374–1.8(a)(1).
Lead-Bearing Hazardous Materials Case-by-Case Variance (HSWA) (57 FR 28628; 06/26/92).	RCRA § 3004(h)(3); 40 CFR 268.35 (c), & (k)	ECL § 27–0911, & 0912; 6NYCRR 376.3(c)(2), 376.3(d)(1)
Used Oil Filter Exclusion Corrections (HSWA) (57 FR 29220; 07/01/92).	RCRA § 1004, 1006, 2002, 3001, & 3014; 40 CFR 261.4(b)(15).	ECL § 3–0301, 27–0703, 0901, 0903, 0922; 6NYCRR 371.1(e)(2)(xi)
Toxicity Characteristic Revisions (HSWA) (57 FR 30657; 07/10/92).	RCRA § 1006, 2002(a), 3001, 3002, 3004, 3005, & 3006; 40 CFR Parts 261, 264, 265, 268.	ECL § 27–0703, 0900, 0911, & 0913; 6NYCRR 371.1, 371.3, 371.4, 373–2, 373–3, & Appendix 35
Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris (HSWA) (57 FR 37194; 08/18/92).	RCRA § 3004 (d)–(k), & (m); 40 CFR 260.10, 261.3 (a)–(c), & (f), 262.34, Parts 264, 265, & 268, 270.13, 270.14, 270.42, 270.72.	ECL § 27–0911, & 0912; 6NYCRR 370.2(b), 371.1(d)(1), (3), & (5), 373–1.1(d)(1), 373–1.3(g), 373–1.5(a), 373–1.7 (c)&(d), 373–2.7 (a)–(c), 373–2.8, 373–2.30, 373–3.7 (a)–(c), 373–3.8 (a)&(c), 373–3.11(i), 373.30, Subpart 376
Coke-by-Products Listings (HSWA) (57 FR 37284; 08/18/92).	RCRA § 3001 (b), (e)(2), & (h); 40 CFR 261.4(a)(10), 261.32, & Appendix VII.	ECL § 27–0903; 371.1(e)(1)(x), 371.4(c), & Appendix 2.
Burning of Hazardous Waste in Boilers & Industrial Furnaces; Technical Amendments III (HSWA/Non-HSWA) (57 FR 38558; 08/25/92).	RCRA § 1006, 2002, 3001–3007, 3010, & 7004; 40 CFR 260.10, 260.11, 260.20, 261.2 (d)(2) & (e)(2)(iv), 261.3, 261.6, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340, 265.370 Part 266, Subpart H, & Appendices I–X.	ECL § 27–0703, 0705, 0900, 0903, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 370.1, 370.2(b), 370.3, 371.1 (c)(5)(ii), & (c)(6)(ii), 371.1(d), & (g), 373–2.1(a), 373–2.7(c), 373–2.15, 373–3.1(a), 373–3.7 (c), & (d), 373–3.15, 373–3.16, 374–1.8, & Appendices 41–50.

Provision	Federal authority*	State authority*
Consolidated Liability Requirements: Financial Responsibility for Third-Party Liability, Closure, & Post-Closure (Non-HSWA) (57 FR 42832; 09/16/92) (53 FR 33938; 09/01/88) (56 FR 30200; 07/01/91).	RCRA § 2002(a), 3004, & 3005; 40 CFR 264.141, 264.147, 264.151, 265.141, 265.147.	ECL § 27–0703, 0911, 0913, 0917; 6NYCRR 373–2.8 (b), (h), & (j), 373–3.8 (b) & (h).
Boilers & Industrial Furnaces; Technical Amendments IV (HSWA/Non–HSWA) (57 FR 44999; 09/30/92).	RCRA § 1006, 2002, 3001–3007, 3010, & 7004; 40 CFR 260.10, 260.11, 260.20, 261.3, 261.6, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340, 265.370, Part 266 Subpart H, & Part 266, Appendices I–X.	ECL § 27–0703, 0705, 0900, 0903, 0907, 0909, 0911, 0913, & 0915; 6NYCRR 370.1, 370.2(b), 370.3, 371.1 (d), & (g), 373–2.1(a), 373–2.7(c), 373–2.15, 373–3.1(a), 373–3.7 (c) & (d), 373–3.15, 373–3.16, 374–1.8, & Appendices 41–50.
Chlorinated Toluenes Production Waste Listing (HSWA) (57 FR 47376; 10/15/92).	RCRA § 3001(b); 40 CFR 261.32, & Part 261 Appendix VII.	ECL § 27–0903; 6 NYCRR 371.4(c), & Appendix 22.
Hazardous Soil Case-by-Case Capacity Variance (HSWA) (57 FR 47772; 10/20/92).	RCRA § 3004(h)(3); 40 CFR 268.35 (c)–(e)	ECL § 27–0911, 0912; 6NYCRR 376.2, & 376.3 (c) & (d).
Reissuance of the ''Mixture'' & ''Derived-From'' Rules (HSWA/Non-HSWA) (57 FR 7628; 03/03/92) (57 FR 23062; 06/01/92) (57 FR 49278; 10/20/92).	RCRA § 1006, 2002(a), 3001–3005; 40 CFR 261.3.	ECL § 3–0301, 27–0703, 0903, 0907, 0909, 0911, & 0913; 6NYCRR 371.1(d) (1), (2), (3), & (4).
Toxicity Characteristic Amendment (HSWA) (57 FR 23062; 06/01/92).	RCRA § 1006, 2002(a), 3001, 3002, 3004, 3005, & 3006; 40 CFR Parts 261, 264, 265, & 268.	ECL § 27–0703, 0900, 0911, & 0913; 6NYCRR 371.1, 371.3, 371.4, 373–2, 373–3, & Appendix 35.
Liquids in Landfills II (HSWA) (57 FR 54452; 11/18/92).	RCRA § 3004(c); 40 CFR 260.10, 264.13, 264.314, 264.316, 265.13, 265.314, & 265.316.	ECL § 27–0911: 6NYCRR 370.2(b), 373–2.2(e), 373–2.14(j) & (l), 373–3.2(d), & 373–3.14(g) & (i).
Toxicity Characteristic Revision; TCLP Correction (HSWA) (57 FR 55114; 11/24/92) (58 FR 6854; 02/02/93).	RCRA § 1006, 2002, 3001, 3002, & 3006; 40 CFR 261 Appendix II.	ECL § 27–0703, 0900, 0903, & 0907; 6NYCRR Appendix 35.
Wood Preserving; Amendments to Listings & Technical Requirements (HSWA/Non–HSWA) (57 FR 61492; 12/24/92).	5 USC 705; RCRA § 2002(a), 3001 (b), & (e)(1); 40 CFR 261.31, 262.34(a)(2), & Parts 264 & 265.	ECL § 27–0703, & 0903; 6NYCRR 371.4(b), 373–1.1(d)(1), 373–2.10(a), 373–2.23 (a)–(f), 373–3.10(a), 373–3.23 (a)–(f).
Corrective Action Management Units & Temporary Units (HSWA) (58 FR 8658; 02/16/93).	RCRA § 1006, 2002(a), 3004 (u), & (v), 3005(c), 3007, & 3008(h); 40 CFR 260.10, 264.3, 264.101(b), 264.552, 264.553, 265.1(b), 268.2(c), 270.2, & 270.42 Appendix I.	ECL § 27–0703, 0911, 0913, 0915, & 0916; 6NYCRR 370.2(b), 373–2.1(b), 373–2.6 (1) & (2), 373–2.19 (a) & (b), 373–3.19(a)(2), 376.1(b) (1), 373–1.1(i), & 373–1.7 (c)(15), & (d)(13).
Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance (HSWA) (58 FR 28506; 05/14/93).	RCRA § 3004(h)(3); 40 CFR 268.35 (c)–(e)	ECL § 27–0911, 0912; 6NYCRR 376.2, & 376.3 (c) & (d).

*The regulatory citations appearing in the ''Federal Authority'' and the ''State Authority'' columns are included to provide general information on where the regulations being authorized can be located.

EPA has reviewed New York's application and has made an immediate final decision that New York's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to New York. The public may submit written comments on EPA's immediate final decision up until September 11, 1997. Copies of New York's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of New York's program revision shall become effective 60 days after the date of publication of this notice unless an adverse comment pertaining to the State's revision discussed in this notice is received during the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a Notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision. New York is applying for final authorization of the following Federal hazardous waste requirements:

	HSWA/FR reference	Promulgation or HSWA date
RCRA Checklist, Non-HSWA Cluster VI: Criteria for Listing Toxic Wastes; Technical Amendment	55 FR 18726	05/04/90
HSWA Cluster II:		
Toxicity Characteristic Revisions	55 FR 11798	03/29/90
Hazardous Waste Treatment, Storage, and Disposal Facilities—Organic Air Emission Standards for Process Vents and Equipment Leaks.	55 FR 25454	06/21/90
Toxicity Characteristic Revisions; Correction	55 FR 26986	06/29/90
RCRA Cluster I:		
Toxicity Characteristic; Hydrocarbon Recovery Operations (HSWA)	55 FR 40834	10/05/90
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038) ...	55 FR 46354	11/02/90
Wood Preserving Listings (HSWA/Non-HSWA)	55 FR 50450	12/06/90
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings; Correction	55 FR 51707	12/17/90
Land Disposal Restrictions for Third Scheduled Wastes; Technical Amendment	56 FR 3864	01/31/91
Toxicity Characteristic; Hydrocarbon Recovery Operations	56 FR 3978	02/01/91

	HSWA/FR reference	Promulgation or HSWA date
Toxicity Characteristic; Chlorofluorocarbon Refrigerants (HSWA)	56 FR 5910	02/13/91
Burning of Hazardous Waste in Boilers and Industrial Furnaces (HSWA/Non-HSWA)	56 FR 7134	02/21/91
Removal of Strontium Sulfide from the List of Hazardous Waste; Technical Amendment (Non-HSWA)	56 FR 7567	02/25/91
Toxicity Characteristic; Hydrocarbon Recovery Operations	56 FR 13406	04/02/91
Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment (HSWA)	56 FR 19290	04/26/91
Administrative Stay for K069 Listing (Non-HSWA)	56 FR 19951	05/01/91
Revision to F037 and F038 Listings (HSWA)	56 FR 21955	05/13/91
Mining Waste Exclusion III (Non-HSWA)	56 FR 27300	06/13/91
Administrative Stay for F032, F034, and F035 Listings (HSWA/Non-HSWA)	56 FR 27332	06/13/91
RCRA Cluster II:		
Wood Preserving Listings; Technical Correction	56 FR 30192	07/01/91
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I (HSWA/Non-HSWA).	56 FR 32688	07/17/91
Land Disposal Restrictions for Electric Arc Furnace Dust (K061) (HSWA)	56 FR 41164	08/19/91
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II (HSWA/Non-HSWA).	56 FR 42504	08/27/91
Exports of Hazardous Waste; Technical Correction (HSWA)	56 FR 43704	09/04/91
Coke Ovens Administrative Stay (HSWA)	56 FR 43874	09/05/91
Amendments to Interim Status Standards for Downgradient GroundWater Monitoring Well Locations (Non-HSWA).	56 FR 66365	12/23/91
Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units (HSWA/Non-HSWA)	57 FR 3462	01/29/92
Administrative Stay for the Requirement that Existing Drip Pads be Impermeable (HSWA/Non-HSWA)	57 FR 5859	02/18/92
Second Correction to the Third Third Land Disposal Restrictions (HSWA)	57 FR 8086	03/06/92
Hazardous Debris Case-by-Case Capacity Variance (HSWA)	57 FR 20766	05/15/92
Used Oil Filter Exclusion (HSWA)	57 FR 21524	05/20/92
Recycled Coke By-Product Exclusion (HSWA)	57 FR 27880	06/22/92
Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance (HSWA)	57 FR 28628	06/26/92
RCRA Cluster III:		
Used Oil Filter Exclusion Corrections (HSWA)	57 FR 29220	07/01/92
Toxicity Characteristic Revisions: Technical Corrections (HSWA)	57 FR 30657	07/10/92
Land Disposal Restrictions for New Waste and Hazardous Debris (HSWA)	57 FR 37194	08/18/92
Coke-By-Products Listings (HSWA)	57 FR 37284	08/18/92
Boilers and Industrial Furnaces; Technical Amendment III (HSWA/Non-HSWA)	57 FR 38558	08/25/92
Consolidated Liability Requirements: Financial Responsibility for Third-Party Liability, Closure, and Post-Closure (Non-HSWA).	57 FR 42832	09/16/92
Liability Coverage (Non-HSWA) (formerly withheld Revision Checklist 51)	53 FR 33938	09/01/88
Liability Requirements; Technical Amendment (Non-HSWA) (formerly withheld Revision Checklist 93)	56 FR 30200	07/01/91
Boilers and Industrial Furnaces; Technical Amendment IV (HSWA)	57 FR 44999	09/30/92
Chlorinated Toluenes Production Waste Listing (HSWA)	57 FR 47376	10/15/92
Hazardous Soil Case-by-Case Capacity Variance (HSWA)	57 FR 47772	10/20/92
Reissuance of the ''Mixture'' and ''Derived-From'' Rules (HSWA/Non-HSWA)		
''Mixture'' and ''Derived-From'' Rules; Response to Court Remand	57 FR 7628	03/03/92
''Mixture'' and ''Derived-From'' Rules; Technical Correction	57 FR 23062	06/01/92
''Mixture'' and ''Derived-From'' Rules; Final Rule	57 FR 49278	10/30/92
Toxicity Characteristic Amendment (HSWA)	57 FR 23062	06/01/92
Liquids in Landfills II (HSWA)	57 FR 54452	11/18/92
Toxicity Characteristic Revision; TCLP Correction (HSWA)	57 FR 55114	11/24/92
Wood Preserving; Amendments to Listings and Technical Requirements (HSWA/Non-HSWA)	57 FR 61492	12/24/92
Toxicity Characteristic Revision; TCLP Correction	58 FR 6854	02/02/93
Corrective Action Management Units and Temporary Units (HSWA)	58 FR 8658	02/16/93
Land Disposal Restrictions; Renewal of Hazardous Waste Debris Case-by-Case Capacity Variance (HSWA)	58 FR 28506	05/14/93

New York has only applied for authorization for the above listed requirements as part of this particular Federal Register approval process. This list does not include some federal requirements, including, but not limited to, rules such as the rules establishing organic air emission standards for tanks, surface impoundments, and containers.

It should be noted that this program modification authorization is granted based on the information submitted to EPA by the State of New York in September of 1996 and supplements subsequently received. Should the program approvability status of New York program change in the future for any reasons, including changes in State laws, regulations or procedures which limit the New York State Department of Conservation's enforcement authority or program administration and enforcement, EPA will revisit this approval and exercise its authority as provided in 40 CFR 271.22 to afford New York an opportunity to correct any program deficiencies or withdraw program approval. Furthermore, the authorization of this program modification shall not be deemed in any way as a waiver by EPA of any of its statutory rights under RCRA including but not limited to sections 3007, 3008, 3013 and 7003.

The public should be aware that EPA is not authorizing the following New York regulations that appear at 6 NYCRR Part 376 (Land Disposal Restrictions): §§ 376.1(e) and (f), 376.4(c)(2) and 376.4(e). These regulations adopt language from EPA regulations at 40 CFR 268.5, 268.6, 268.42 and 268.44. Presently, EPA deems these federal regulations to be non-delegable to the states. Furthermore, EPA is not authorizing at this time the program modifications that appear at 6 NYCRR Part 376: §§ 376.1(a)(3)(i), 376.4(a)(3)(ii), and 376.4(a)(2). These New York regulations cross-reference, without any mention of

the federal regulations, three of the non-authorized state regulations mentioned above.

C. Decision

The EPA concludes, subject to receipt and evaluation of public comment, that New York's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, New York is granted final authorization to operate its hazardous waste program as revised.

The version of the regulations being authorized by EPA at this time are the regulations which were in effect as of January, 1995. The regulations so authorized are available at the repositories noted above and appear in the revised version of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York that the New York Secretary of State has already published.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a ''Federal Mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because the requirements of the New York program are already imposed by the State and subject to State law. Second, the Act also generally excludes from the definition of a ''Federal Mandate'' duties that arise from participation in a voluntary Federal program. New York participation in an authorized hazardous waste program is voluntary.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the New York program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under existing State law which are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDF's are already subject to the regulatory requirements under existing State law which are being authorized by EPA. EPA's authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

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

Authority: This Notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 16, 1997.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 97–20970 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, and 97

[ET Docket No. 97–124; FCC 97–153]

Use of Radio Frequencies Above 40 GHz for New Radio Applications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a *Second Report and Order* designating the frequency spectrum band between 47.2 and 48.2 GHz for commercial use on a licensed basis. The Commission decides to permit fixed, fixed-satellite, and mobile uses consistent with the Table of Frequency Allocations governing the band. The Commission also decides to define service rules in a future rulemaking, based on the dominant use of the spectrum, and finds that the most likely dominant use will be fixed, point-to-multipoint services delivered through the deployment of fixed platforms located in the stratosphere. The Commission adopts the proposal to license operations on an area-wide basis and determines to divide the spectrum into five pairs of license blocks of 200 megahertz each pair, with each pair separated by 500 megahertz of spectrum. These actions are taken to promote the commercial availability of millimeter wave

technology in providing the potentially valuable uses of licensed spectrum above 40 GHz.

EFFECTIVE DATE: October 14, 1997.

ADDRESSES: Room 7002, 2025 M Street, NW., Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara Reideler, Policy Division, Wireless Telecommunications Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Second Report and Order* in ET Docket No. 94–124, FCC 97–153, adopted May 2, 1997, and released July 21, 1997. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Synopsis of Second Report and Order

1. This action is part of an ongoing proceeding to open for commercial development portions of the spectrum known as the millimeter wave bands above 40 GHz.[1] The Commission initiated this proceeding by *Notice of Proposed Rulemaking (First NPRM)* in 1994 (59 FR 61304, March 1, 1995).

2. In this *Second Report and Order (Second R&O),* the Commission adopts the proposal contained in the *First NPRM* to designate for commercial use on a licensed basis the 47.4–48.2 GHz band, together with the 47.2–47.4 GHz band made available in the *First Report and Order* (61 FR 14041, March 29, 1996) for a total of one gigahertz of spectrum (47 GHz band). Further, the Commission adopts proposals to establish a licensing framework that permit the full range of services allowed under the Table of Frequency Allocations (Allocation Table) in our rules[2] and to define service rules based on our best judgment of what the dominant use of the spectrum is likely to be. The Commission finds that the most likely dominant use will be fixed, point-to-multipoint services delivered through the deployment of fixed platforms located in the stratosphere, without foreclosing the other uses under the Allocation Table. The Commission adopts the proposal to license operations on an area-wide basis and we determine to divide the spectrum into five pairs of license blocks of 100 megahertz each, with each pair separated by 500 megahertz of spectrum.

3. The Commission concludes that opening this spectrum for commercial licensed use under our licensing framework will stimulate the development of millimeter wave technology to provide new wireless communications services that are in demand by consumers. The broad degree of flexibility regarding the permissible range of services will ensure the ability of carriers to respond to the market, will promote competition, and will provide for the most efficient and effective services. The Commission will initiate a proceeding in the near future to propose service rules in order to implement our determinations in this *Second R&O* for the licensing of the 47 GHz band. The proposed rules will include proposals relating to auctions. The Commission also defers to future proceedings our consideration of the additional frequency bands above 40 GHz that we proposed for licensed use in the *First NPRM,* as well as the additional bands proposed for unlicensed use that were not considered in the *First Report and Order.*

4. In this *Second Report and Order,* the Commission limits consideration of the bands we proposed to designate for commercial, licensed use in the *First NPRM* to the 47 GHz band. This band consists of the 47.4–48.2 GHz segment originally set forth in the *First NPRM* and the adjoining 47.2–47.4 GHz segment made available for such use in the *First Report and Order.* The Commission did not propose any changes to this band in the *36–51 GHz Band Plan NPRM* in IB Docket No. 97–95 (62 FR 16129, April 4, 1997) where we designated the band for predominantly wireless terrestrial services. The Commission found that comments had already been received on this band segment in response to the *First NPRM* on which we could proceed to take action without delay. Thus, the Commission's proposals in the *First NPRM* as they apply to the 47 GHz band are ripe for disposition at this time.

5. The comments filed in this docket consist of two sets, the comments filed in direct response to the Commission's proposals in the *First NPRM* (to the extent those comments are pertinent to the issues we resolve in this *Second Report Order*), and the comments filed in response to the respective public notices accepting the Request To Establish New GSTS Service, Additional Comments, and Petition for Rulemaking (hereinafter cited as Request and Petition) and the Application, filed by Sky Station International, Inc. (Sky Station) on March 20, 1996, in this docket. Both the filings by Sky Station and the responsive pleadings concern the Commission's proposals to license the 47 GHz band, but were filed after the comment period to the *First NPRM* closed and raise issues not addressed in our proposals. Because the Sky Station filings and responsive pleadings are pertinent to the issues before us, the Commission has decided to take these filings and pleadings into account in connection with the decisions we make in this *Second Report and Order.*

6. In the Request and Petition, Sky Station requests that the Commission authorize use of the spectrum at 47.2–47.5 GHz and 47.9–48.2 GHz for a new commercial, licensed service described as the Global Stratospheric Telecommunications Service (GSTS), and that the Commission adopt service rules either in this proceeding or a separate rulemaking to implement the service. Sky Station filed concurrently an application (hereinafter cited as Application) for authorization to construct and operate its proposed service to provide a global network of wireless communications services, subject to amendment pending the outcome of its Request and Petition. A public notice was issued accepting the Application for filing and accepting petitions, oppositions, and other pleadings filed in response to that public notice. (FCC Public Notice, Sky Station International, Inc., File No. 96–SAT–P/LA–96, released April 22, 1996.) Comments to the request and petition, and to the Application, are listed in Appendix A in the full text of this decision.

7. Sky Station, in its Request and Petition, states that it has developed a new technology for delivery of a new paradigm of wireless telecommunications services that it identifies as GSTS, to compete with existing satellite and terrestrial wireless services. Sky Station explains that GSTS is based on the concept of using a network of platforms in the stratosphere that are kept aloft in fixed positions by hydrogen or helium elements at an altitude of 30 kilometers, or 18 miles, above 99 percent of the atmosphere. Unlike satellite services, these platforms are not launched into orbit in space, but rather are lifted by balloons similar to dirigibles to an area in the stratosphere above flight patterns and below satellite orbits.

8. In the request and petition, Sky Station argues that opening up a portion of the 47 GHz band for the proposed system will promote the policy goals we established in the *First NPRM* and meet

[1] The term ''millimeter wave'' refers to the fact that the wavelength of radio signals for frequencies between 30 GHz and 300 GHz ranges from 10 millimeters down to 1 millimeter.

[2] 47 CFR 2.106.

numerous environmental, economic, and social public interest objectives. It requests that the Commission adopt proposed technical, financial, implementation, and licensing standards that encourage commercial development of the unused 47 GHz band and promote competition consistent with the flexible framework proposed in the *First NPRM.* The service rules advocated by Sky Station in its Request and Petition would enable all qualified applicants to construct and operate their own systems as part of the entire GSTS, and the GSTS would be designed to cover 80 percent of the world's population by a certain date.

9. Sky Station requests that the Commission dedicate exclusively for GSTS that portion at 47.2–47.5 GHz for earth-to-stratosphere communications and 47.9–48.2 GHz for stratosphere-to-earth communications. Sky Station argues that its service is covered by the Allocation Table, which provides for fixed and mobile service. However, it requests that the Commission modify the Table to permit only fixed and mobile GSTS stations to operate in the two portions of the 47 GHz band, inasmuch as it contends that the service cannot share co-channel frequencies with conventional fixed, mobile, or fixed satellite services. It also requests that International footnote 901 be modified, as well as U.S. footnote 297, in order to eliminate sharing with broadcasting-satellite service feeder links, which also could interfere with GSTS and could operate elsewhere.

10. Sky Station requests authorization in the Application to implement its proposed service. It argues that the Application demonstrates that Sky Station is in compliance with the technical, financial, licensing, and other regulations it has requested we adopt in the Request and Petition. Sky Station reserves the right to amend this application to comply with any future rules the Commission may adopt for its proposed service. The Application includes a request for a pioneer preference in the event that mutually-exclusive applications are filed.

11. On December 24, 1996, Sky Station submitted further comments to clarify its request and petition. Sky Station argues that the Commission should grant its alternative request in the request and petition to treat the filing as additional comments in response to the *First NPRM,* and that a new rulemaking proceeding to adopt separate service rules for its proposed stratospheric service is neither necessary nor appropriate. It requests that the Commission hold the Application in abeyance. Sky Station argues that the Commission's proposal for the commercial, licensed use of the 47 GHz band has been open for comment since the *First NPRM* and that its comments on the pending issues together with the other comments in this docket provide an adequate record on which to resolve the issues to be determined in this Order.

12. In its further comments, Sky Station argues that its proposed service is a fixed terrestrial service and that we need not allocate the requested spectrum to a new global stratospheric service, apart from other fixed service millimeter wave uses. It argues that a generic terrestrial allocation for a flexible fixed (non-satellite) service would suffice, so that it would compete with other aspiring fixed service providers in auctions for this spectrum. Sky Station argues that its proposed operations generally fit well within the service rules the Commission proposed in the *First NPRM* to adopt for licensed services above 40 GHz, including the 47 GHz band, which rules are now contained in Part 101. (*See* Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules To Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services, WT Docket No. 94–148, Amendment of Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services, CC Docket No. 93–2, and McCaw Cellular Communications, Inc., Petition for Rulemaking, RM–7681, Report and Order, 61 FR 26670, May 28, 1996.) Sky Station submits modifications to the proposed rules that it argues are minor but necessary to accommodate its proposed service in the 47 GHz band, including segmentation of the band to prevent sharing with other services, license blocks of 100 megahertz paired blocks separated by 500 megahertz, and larger area-wide licensing, among other operating and technical rules.

13. The Commission grants Sky Station's alternative request to accept its request and petition as late-filed comments in this proceeding. In addition, the Commission will also accept the Application as part of the comments, inasmuch as Sky Station acknowledges that the Application is filed preliminarily and is intended to illustrate the service it could provide under its proposals in the request and petition. As discussed more fully in the text of this *Second R&O,* petitioners filing in response to request and petition do not raise issues that prevent the Commission from including the Sky Station filings for consideration together with other comments filed in response to the *First NPRM* to open the 47 GHz band for commercial, licensed use.

14. Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association (TIA), Motorola Satellite Communications, Inc. (Motorola), and Harris Corporation-Farinon Division (Harris) argue that the nature of Sky Station's service proposal as terrestrial or satellite service is not clear, and that it does not fit existing definitions. They request that the Commission establish a separate allocation category for any airborne terrestrial wireless communications service.

15. TIA argues that the nature of Sky Station's proposed service must be identified to determine how to classify the service and find the appropriate regulatory niche before we may adopt its proposals. TIA contends that the filings are contradictory regarding whether the service is terrestrial or satellite, fixed or mobile. It contends that the service does not fit the international service definition that defines Radio-Relay Systems to be fixed services operating via terrestrial stations. TIA argues that the proposed service would be similar to a satellite based system as an interference source, that the platform qualifies as a Space Station under the definitions, and that it should be considered to be a Mobile-Satellite System.

16. TIA proposes that the Commission and the 1997 World Radio Conference (WRC–97) establish a new service category for any airborne service operating in the stratosphere or below, apart from aviation services, that would be defined as a Global Airborne Telecommunications Service. The category would stimulate innovative airborne services and would be consistent with allocation requirements. Harris agrees that the nature of the service should be clarified and that the Global Airborne category might be the solution to accommodating various airborne services that will have characteristics similar to the Sky Station proposal.

17. Motorola also argues that the proposed service requires a new allocation. It contends that terrestrial fixed and mobile service allocations do not contemplate stratosphere-to-earth and earth-to-stratosphere communications provided by means of stratospheric balloon-supported platforms. It asserts that the platforms should be disqualified as fixed or mobile terrestrial services because of their placement above the earth's atmosphere, and should instead be defined as spacecraft. Motorola further argues that the platforms would lie within sovereign airspace, and that

countries may view the proposed service as an infringement of their rights. It contends that we should refrain from pursuing an international allocation for the proposed service.

18. In the *36–51 GHz Band Plan NPRM*, the Commission determined that Sky Station's proposed use of spectrum in the 47 GHz band for its stratospheric radio relay repeater system is considered to be a terrestrial service. In its Further Comments, Sky Station has clarified its previous filings, which TIA points out are contradictory, in order to demonstrate that the proposed service is a terrestrial, fixed operation. Users permanently mount their terminals or antennas, which communicate with the repeaters located on the platforms. The Commission disagrees with TIA and Motorola that the platform qualifies as a space station and that the proposed service should be considered to be a satellite service. The platforms proposed for use by Sky Station clearly are not satellites and, unlike satellites, will not be in earth orbit. Although the platforms will be located 30 kilometers above the earth's surface, they still will be within the earth's atmosphere and will rely on atmospheric lift to keep them at that fixed altitude, which is far below the location of the lowest satellite orbit.

19. Motorola and TIA point out that there are international definitions and other international concerns that require that Sky Station's proposed service be considered in the appropriate international forums. In that context, the Commission further points out that world spectrum management experts recently participated in the work of ITU–R WP4–9S and WP 9B and concluded that a radio-relay service like Sky Station's proposed service that uses stratospheric-based repeaters is in the fixed service. The groups developed two Proposed Draft New Recommendations relating to platform-based stratospheric radio relay repeaters in the fixed service.[3] Moreover, in the *36–51 GHz Band Plan NPRM* the Commission noted that the Ad Hoc Millimeter Wave group of the Commission's WRC–97 Advisory Committee had discussed, among other things, the possibility of satellite and fixed terrestrial services, as well as other terrestrial services operating from alternative delivery platforms, sharing spectrum in the band. Thus, the use of such stratospheric-based platforms for a global service is being addressed in the appropriate forums, where issues of sovereignty and other concerns will be examined. The Commission denies the requests of Motorola, Harris, and TIA to establish a separate allocation category for any airborne terrestrial wireless communications service as unnecessary and inefficient, inasmuch as the spectrum Sky Station seeks to use is the subject of this proceeding in which rules can be proposed to accommodate its service, as well as other terrestrial services in 47 GHz. The Commission finds these requests unnecessary and inefficient, inasmuch as the spectrum Sky Station seeks to use is the subject of this proceeding in which rules can be proposed to accommodate its service, as well as other terrestrial services in 47 GHz.

20. HCI and Motorola argue that the Application and the Request and Petition leave open many technical, financial, and safety concerns that must be addressed before the Commission can act on Sky Station's request and allocate the spectrum it requests. The Commission intends to solicit comment on the necessary technical and financial requirements for platform-based stratospheric services at the time we consider service rules, in a separate Notice of Proposed Rulemaking. At the same time the Commission will seek comment on the safety concerns that the platforms raise. These matters are important features of the service rules that the Commission must adopt before any service in the 47 GHz band can be implemented. They need not be considered in this *Second R&O*, however, which is limited to deciding whether to open the band to commercial, licensed use under a flexible licensing framework. The matters that HCI and Motorola ask the Commission to address now are not factors in that decision.

21. HCI, Lockheed Martin Corporation, and Motorola express concern that, as members of the satellite community, they will not be able to share the 47 GHz band with Sky Station's proposed service. Since the filings of these pleadings, the Commission has initiated a spectrum plan in the *36–51 GHz Band Plan NPRM* in order to address the competing demands between satellite and terrestrial interests for spectrum allocations for provision of commercial services. Although the Commission maintained the 47 GHz band for predominantly wireless services, we identified additional bands for predominantly satellite services that include the adjacent 48.2–50.2 GHz bands, among others. Thus, the spectrum management issues raised by petitioners here are matters addressed in that proceeding and are not a basis for delaying this proceeding. As for the additional matters the parties seek to raise here concerning licensed uses of the band, the Commission will include those comments in our consideration of licensing issues in the full text of this *Second R&O*.

22. The *Second R&O* adopts the proposal to open the 47 GHz band for commercial applications and technologies. As stated in the *First NPRM*, the millimeter wave bands such as 47 GHz are a major resource that essentially is undeveloped and unavailable today for commercial use. The Commission finds that there is broad consensus that our proposal to open frequency bands above 40 GHz to commercial development will provide the public with access to new products and communications services and provide new opportunities for business and economic growth.

23. The *Second R&O* also adopts the proposal to license the 47 GHz band for commercial service and finds that our proposal to allow any use under the Allocation Table reflects the best approach to licensing this band. As a ''frontier'' band located in the frequencies above 40 GHz that are yet to be opened for commercial development, the exact nature of the services to emerge from the development of the 47 GHz band cannot be predicted in the comments. The Commission concludes that all identified uses of the 47 GHz band may be valuable and should be permitted. The record also confirms that both the technology and potential applications of millimeter wave spectrum will continue to evolve rapidly. Since the Commission initiated this proceeding we have seen important new technologies proposed for the millimeter wave spectrum, and it is likely that other technologies also will be developed. Under the circumstances, the Commission decides not to limit the types of services that can be offered in the band.

24. Accordingly, the Commission will license the 47 GHz band based on the services currently allowed under the Allocation Table. The spectrum from 47.2 to 50.2 GHz is allocated domestically for Government and non-Government Fixed, Fixed-Satellite, and Mobile uses, and internationally for the same uses. The Commission finds that the range of services covers all of the services identified as potential uses of the 47 GHz band. The Commission confirms the view expressed in the *First NPRM* that a broadly defined service allocation coupled with the licensing, technical, and operating rules to be proposed in a subsequent rulemaking will provide the best means of assuring that this spectrum will be used to the greatest benefit of the public.

[3] Doc. 4–9S/TEMP/30(Rev.1) and Doc. 9B/TEMP/38(Rev.1).

25. The Commission denies the requests of AT&T Corp, Hewlett-Packard, Millimeter Wave Advisory Group, Alcatel Network Systems, Harris, and TIA to expand the band to include spectrum up to 51 GHz in order to provide for point-to-point services. That additional spectrum in the adjacent bands will be addressed in response to the *36–51 GHz Band Plan NPRM*, in which the Commission proposes to designate the portion 48.2–50.2 GHz for predominantly satellite use. The Commission points out that point-to-point services may be provided in the 47 GHz band under the allocations for that band.

26. The Commission disagrees with TIA's assertion that licensing on such an ''open-market'' basis, which provides licensees with broad flexibility to engage in any uses under the Allocation Table, evades our statutory responsibilities under section 303(c) and, in light of the Commission's proposal to auction the spectrum, is inconsistent with Section 309(j) of the Communications Act. The Commission has broad authority under the Communications Act to designate spectrum usage, as well as the authority to perform any and all acts necessary in the execution of our functions.[4] In light of the range of possible uses, the likelihood that new uses can be developed in the future, and the lack of a record for specific service designations that would better serve the public interest and the goals of the Communications Act, our broad service designation comports with the public interest and with our statutory authority. The Commission's decision to designate this spectrum in this manner is unrelated to the proposal in the *First NPRM* to award licenses through competitive bidding.

The designation is not entirely open-ended and will be subject to technical rules we will adopt. Therefore, the Commission has not delegated to private parties our responsibility to allocate spectrum and adopt appropriate technical standards.

27. The Commission finds that, when we propose licensing and other service rules for the 47 GHz band, we will follow the approach proposed in the *First NPRM* to tailor the rules to reflect what we expect will likely be the dominant use of this spectrum, while retaining the flexibility allowed under the Allocation Table. Especially for ''frontier'' bands such as those above 40 GHz, this approach should set allocation and licensing rules that promote rapid, efficient use of this spectrum to meet all the communications needs advanced by commenters, while allowing the market to adjust to changing needs and technologies and providing scope for innovative uses. It will also minimize regulatory barriers and requirements that might otherwise hamper entrepreneurial efforts to develop effective commercial uses of this spectrum.

28. However, the Commission does not find that the dominant use of spectrum in the 47 GHz band is likely to be similar to LMDS in the 28 GHz band, as we proposed. As Avant-Garde Telecommunications, Inc. requests, the Commission has reexamined our proposal, and we have taken into account the anticipated uses and changed circumstances reflected in the record for purposes of determining whether another licensing methodology would better meet the needs posed by those anticipated uses. The Commission finds that the dominant use of the 47 GHz band is likely to be a fixed, point-to-multipoint service that employs stratospheric platforms at fixed locations.

29. The Commission emphasizes, however, that we anticipate that ongoing technological developments can be expected to generate other types of delivery systems for fixed, point-to-multipoint services in the band. Thus, while the Commission will seek to tailor our licensing rules to accommodate the likely dominant use we have identified based on the current record, we will not foreclose other uses permitted by the Allocation Table, including new and innovative uses and technologies.

30. The Commission denies Sky Station's request that we dedicate to its exclusive use two portions of the 47 GHz band for its service and modify the Allocation Table to that effect. Sky Station is concerned about interference to its stratospheric signal when it is in the main path of a conventional fixed co-channel signal of greater power. The problems of interference do not necessarily require a change in the service allocation, but rather are the subject of operational and technical mitigation techniques that can be included in the Commission's service rules to be used to reduce or eliminate these types of interference problems. Accordingly, Sky Station should ensure that its concerns are addressed when the Commission seeks to adopt appropriate service rules in a subsequent proceeding to implement services under the Allocation Table.

31. Similarly, the Commission defers the request of United States Satellite Broadcasting Company (USSB) that we accept a service rule requirement submitted by Sky Station to protect DBS–TV from interference from Sky Station's service. USSB requested that the Commission consider the impact of Sky Station's proposed platform-based service on the operations of other telecommunications services and, in particular, on the reception of DBS signals on the surface of the earth. The Commission will consider the requested restriction when we consider the need for other use restrictions to ensure the performance of the authorized services under appropriate service rules.

32. The Commission also denies the request of TIA for a guardband of 500 MHz to ensure adequate signal selectivity between the licensed services in the 47 GHz band and the fixed point-to-point services that TIA requests we designate for use in the adjacent band at 48.5–51.4 GHz. The adjacent band is under consideration in the *36–51 GHz Band Plan NPRM* and TIA's request can be addressed there. The Commission will consider the need for protections of licensed users from interference in developing service rules that govern the uses of 47 GHz.

33. The *Second R&O* adopts the Commission's proposal to issue area-wide licenses for services in the 47 GHz band as a necessary component of the flexible licensing framework we are adopting. The Commission has found that the predominant use of the band is a fixed point-to-multipoint service, which is a service provided on a point-radius basis within an area and not on a fixed point-to-point basis. However, fixed point-to-point service is not precluded and may be provided within the area. Moreover, authorization of a geographic area is consistent with the Allocation Table for the 47 GHz band, which also provides for mobile services in addition to fixed services. The Commission does not decide the size of the geographic area in this *Second R&O*, inasmuch as that is a matter for the service rules.

34. The *Second R&O* also adopts the Commission's plan to divide the spectrum into license blocks for exclusive assignment in each area. However, we modify our proposal to divide the entire band into only one contiguous pair and instead divide it into five separated pairs. Based on the comments filed in response to the Commission's inquiry into whether the licensed blocks should be contiguous or further subdivided into paired blocks to facilitate two-way transmission, the Commission finds that our original proposed division into one paired block would not be appropriate and would inhibit the most efficient and effective

[4] *See* Section 4(i) of the Communications Act, 47 U.S.C. 154(i).

use of the 47 GHz band. The Commission believes that Sky Station's proposal to divide the entire block into five pairs of 200 MHz channels each pair, separated by 500 megahertz, effectively accommodates the predominant use as well as the other likely uses of the band. The Commission further believes that paired 100-MHz channels would provide adequate bandwidth for the dominant use, while fostering competition and diversity of uses among licensees.

35. Finally, in the *First NPRM*, the Commission proposed to impose a spectrum cap and limit each licensee to a single spectrum block in each band in the same area, so that the licensee would not be permitted to own both licenses in the same band in any area. The Commission will address any spectrum limitation in the proceeding to establish the service rules to implement the framework we adopt here, which proceeding we will initiate shortly.

36. It is the Commission intent to complete the licensing of the 47 GHz band as quickly as possible to achieve our goal as stated in the *First NPRM*—to promote the commercial availability of millimeter wave technologies in providing the potentially valuable uses of licensed spectrum above 40 GHz.

Procedural Matters and Ordering Clauses

Final Regulatory Flexibility Analysis

37. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *First NPRM* in this proceeding. The Commission sought written public comments on the proposals in the *First NPRM*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Second R&O* conforms to the RFA, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Pub. L. 104–121, 110 Stat. 846 (1996).

I. Need for and Objectives of Action

38. We proposed in the *First NPRM* to open spectrum in the 47.4–48.2 GHz band for commercial, licensed use on an area-wide basis in a paired license block in order to promote the use of the millimeter wave region of the spectrum above 40 GHz. We adopt our proposals, with modification to the licensing blocks, for the entire 47.2–48.2 GHz band (47 GHz band) in order to achieve our goal to expedite the commercial development of this spectrum.

39. Advances in millimeter wave technology will enable new commercial uses to be achieved and will help meet consumer demand for a wide range of potential commercial services, which would stimulate research and the growth of technology. We adopt a licensing framework that allows the full range of services in the Table of Frequency Allocations to provide licensees the flexibility to provide the most efficient and effective services. We identify the potential dominant use of the 47 GHz band to ensure that the service rules we will propose in a future proceeding are adequate and appropriate. Licensing on the basis of a geographic area will ensure that licensees have the flexibility to provide new services in the most rapid and efficient manner. Dividing the spectrum into five separated pairs of spectrum blocks for licensing ensures that licensees in the 47 GHz bands are able to offer the predominant service, as well as other potential services, in the most efficient manner.

II. Summary of Significant Issues Raised by the Public Comments in Response to Initial Regulatory Flexibility Statement

40. Avant-Garde and M/A-Com, Inc. (MACOM) are small entities that generally support opening the bands above 40 GHz for commercial use to take advantage of the developments in millimeter wave technology. They argue that the technology is available for commercial uses and that we should designate any of the bands for commercial use in order to stimulate market demand for their products. Sky Station argues that its proposal to provide a fixed, terrestrial, global service in the 47 GHz band using stratospheric-based platforms will meet many commercial uses and promote the growth of a new stratospheric-based technology, rather than traditional tower-based technology, for delivery of service.

41. Metricom, Inc. (Metricom) requests that we adopt a flexible regulatory approach for licensed operations that includes very broad and general rules to encourage the development of equipment and services. Avant-Garde argues that the spectrum to be made available for licensing should not be artificially constrained in the manner in which it is licensed or used. It requests that we reexamine our proposal to use the LMDS service rules to govern the predominant uses of the bands above 40 GHz in light of the anticipated uses and changed circumstances reflected in the filings. It questions whether the licensing scheme we proposed remains appropriate or whether some other methodology would better meet the needs of commercial service providers.

42. Sky Station argues that its stratospheric-based platforms would deliver point-to-multipoint services that can be licensed under the terrestrial, flexible rules we proposed to adopt for 47 GHz. It argues that its technology is uniquely suited to take advantage of the characteristics of the 47 GHz band and will promote the maximum use of that spectrum. Sky Station argues that the service cannot share co-channel frequencies with other services and requests we dedicate the segments of the band at 47.2–47.5 Ghz and 47.9–48.2 GHz to its exclusive use and modify the Table of Frequency Allocations accordingly.

43. Sky Station supports the use of area-wide licensing and requests that we adopt large service areas that are super-regional in size. Sky Station opposes our proposal to adopt a single pair of contiguous license blocks, and argues that the spectrum should be divided into five pairs of 100 MHz each that are separated by 500 MHz to ensure flexibility. P-Com, Inc. argues that we should be careful to divide the spectrum to reflect the proposed use, and that paired blocks with maximum frequency separation are required for fixed service, two-way links such as point-to-multipoint operations.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

44. The determinations we adopt to open 47 GHZ for commercial use under a flexible licensing framework authorizing any service under the Table of Frequency Allocations on an area-wide basis would apply to all entities that apply for a license, including small entities.

45. The definition that SBA has developed that approximates most closely the services that may be provided by the licensees would be the definition applicable to radiotelephone companies. The definition of radiotelephone companies provides that a small entity is a radiotelephone company employing 1,500 or fewer persons.[5] The size data provided by SBA do not enable us to make an accurate estimate of the number of telecommunications providers which are small entities because it combines all radiotelephone companies with 500 or more employees.[6] We therefore use the 1992 Census of Transportation,

[5] 13 CFR 121.201, Standard Industrial Classification (SIC) 4812.

[6] U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, Table 3, SIC 4812 (radiotelephone communications industry data adopted by the SBA Office of Advocacy).

Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. This document shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[7] Therefore, the majority of entities to provide telecommunications services in the 47 GHz band may be small businesses under SBA's definition.

46. The Commission has not developed a definition of small entities applicable to licensees in the 47 GHz band, because the band is being opened for the first time for commercial, licensed use in this *Second R&O* and has not been subject to licensing. The RFA amendments were not in effect when the *First NPRM* was released, and no data has been received establishing the number of small businesses to be associated with services in the band. Although we proposed to auction the spectrum for assignment, we did not request information regarding the potential number of small businesses interested in obtaining licenses. We do not adopt in the *Second R&O* our proposal to auction the spectrum, and instead will seek additional comment in a future Notice of Proposed Rulemaking in which we will also propose the service rules to implement services in the 47 GHz band. Thus, we are unable to estimate the potential number of entities that may apply for a license that may be small businesses.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

47. We do not adopt any rules that entail reporting, recordkeeping, and third party consultation. Until we adopt service rules to govern the licensing, operating, and technical aspects of our decision, there are no requirements to impose on any entities.

V. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

48. We agree with many small entities that opening up the 47 GHz band for commercial uses is timely and feasible, and would be in the public interest. Small entities, such as Avant-Garde and MACOM, see many future market opportunities and have developed equipment, or expect to readily modify equipment, to meet consumer demand for the kinds of services to be provided. Sky Station has developed an innovative technology that uses platforms fixed in the stratosphere to deliver services in an efficient and effective manner. They and other small or new entities will benefit from the demand for commercial applications of their technologies.

49. We agree with commenters, such as Avant-Garde and Metricom, to adopt the flexible licensing framework we proposed that authorizes any service allowed under the Table of Frequency Allocations. We find that a broadly defined service allocation assures that the 47 GHz band will be used to the greatest benefit of the public by giving licensees, including small entities, the flexibility to meet demands. We also adopt our proposal to prescribe service rules for the licensing of the band based on what the dominant use is likely to be, as demonstrated by the comments. We agree with Avant-Garde to reexamine the likely uses and find that, while the predominant uses are the fixed point-to-multipoint uses we predicted, they would not be based on LMDS-type technology but rather on millimeter wave technology based on stratospheric platforms for delivery of service as proposed for the 47 GHz band by Sky Station. We deny Sky Station's request to modify the Table of Frequency Allocations to protect its service, and find that its need for protection from interference is properly addressed in the future proceeding in which we will establish the technical and operational service rules to govern the authorized services in the band.

50. We decide to adopt our proposal to license on the basis of geographic areas in order to enable the broadest range of uses for the band and ensure efficient and effective operations. Area-based licensing provides greater operational flexibility and ease of administration that is particularly beneficial to small entities. We defer questions about the appropriate size of the area as raised by Sky Station to our consideration of service rules in a future proceeding.

51. Because of the change in the potential predominant use for the band, we do not adopt our proposed channelization plan and instead revise the subdivision of the spectrum to reflect the proposed uses, as P-Com requests. We agree with Sky Station to divide the bands into five pairs of 100 megahertz channels, with each pair separated by 500 megahertz. This provides adequate bandwidth to accommodate the predominant uses.

VI. Report to Congress

52. We will submit a copy of this Final Regulatory Flexibility Analysis, along with the Order, in a report to Congress pursuant to 5 U.S.C. 801(a)(1)(A).

53. It is ordered that the actions of the Commission herein are taken pursuant to sections 4(i), 257, 303(r), and 309(j) of the Communications Act of 1934, 47 U.S.C. 154(i), 257, 303(r), 309(j).

54. It is further ordered that these actions shall take effect October 14, 1997.

55. It is further ordered that the Request and Petition and Application filed by Sky Station, the Further Comments filed by Sky Station, and the comments and reply comments filed in response thereto, are accepted in this record as late-filed comments.

56. It is further ordered that the spectrum 47.2–48.2 GHz (47 GHz band) is designated for licensed, commercial use on the basis of area-wide licenses in accordance with the terms of this *Second R&O*.

57. It is further ordered that a division of the spectrum for license blocks is adopted for the 47 GHz band that divides the band into five spectrum blocks of 200 megahertz each for licensing, with each block consisting of a pair of 100 megahertz channels separated by 500 megahertz.

List of Subjects

47 CFR Part 2

Communications equipment.

47 CFR Part 15

Communications equipment, Radio.

47 CFR Part 97

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–21180 Filed 8–11–97; 8:45 am]

BILLING CODE 6712–01–P

[7] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC 4812 (issued May 1995).

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32 and 53

[CC Docket No. 96–150; FCC 96–490]

Accounting Safeguards Under the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule; establishment of effective date.

SUMMARY: The requirements and regulations established by the

Accounting Safeguards Order, including the modifications to our affiliate transactions rules, shall become effective August 12, 1997. These amendments, which contained information collection requirements, were published in the **Federal Register** of January 21, 1997, and corrected by a document published on March 6, 1997.

EFFECTIVE DATE: The amendments to 47 CFR parts 32 and 53 published at 62 FR 2918 and corrected at 62 FR 10220 are effective August 12, 1997.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Common Carrier Bureau, (202) 418–0844.

SUPPLEMENTARY INFORMATION: On December 24, 1996, the Commission released the *Accounting Safeguards Order* (FCC 96–490) establishing the accounting safeguards necessary to satisfy the requirements of sections 260 and 271 through 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 62 FR 2918, January 21, 1997. This Order prescribed the way incumbent local exchange carriers, including the Bell Operating Companies (''BOCs''), must account for transactions with affiliates involving, and allocate costs incurred in the provision of, both regulated telecommunications services and nonregulated services, including telemessaging, interLATA telecommunications, information, manufacturing, electronic publishing, alarm monitoring and payphone services, to ensure compliance with the Act. The *Accounting Safeguard Order* amended 47 CFR 32.27 and added several provisions to part 53 of our rules. Because they imposed new or modified information collection requirements, these particular rule changes could not become effective until approved by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. In an *Errata* released February 19, 1997 and published in the **Federal Register** March 6, 1997, 62 FR 10220, we stated that the requirements and regulations established in the *Accounting Safeguards Order* with regard to part 32 of our rules shall become effective upon approval by OMB, but no sooner than six months after publication in the **Federal Register**. We also stated that the remaining new and/or modified information collections established in this Order shall become effective upon approval by OMB, but no sooner than thirty days after publication in the **Federal Register**. OMB approved these rule changes on May 7, 1997.

In the **Federal Register** Summary of the *Errata,* we stated that ''[t]he Commission will publish a document at a later date establishing the effective dates of these rules.'' This statement requires further action by the Commission to establish the effective date, notwithstanding the preceding statement in the summary that the rule changes imposing new or modified information collection requirements would become effective upon OMB approval. In order to resolve this matter in a manner that most appropriately provides interested parties with proper notice, the rule changes adopted in the *Accounting Safeguards Order* shall become effective August 12, 1997.

List of Subjects

47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

47 CFR Part 53

Accounting, Bell Operating Companies, Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–21187 Filed 8–11–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–77; RM–8780, RM–8918]

Radio Broadcasting Services; Hobbs, Tatum and Jal, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of MTD, Inc., allots Channel 296C to Tatum, NM, as the community's first local aural transmission service, substitutes Channel 279C1 for Channel 296C1 at Jal, NM, and modifies Station KXJW's construction permit to specify operation on the alternate Class C1 channel. *See* 61 FR 18541, April 26, 1996, 62 FR 18558, April 16, 1997. The request of Great Plains Broadcasting Co., Inc., to allot Channel 279A to Hobbs, NM, as the community's fifth local FM and seventh local aural service, is denied. Channel 296C can be allotted to Tatum in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.2 kilometers (8.2 miles) west, at coordinates 33–15–27 NL; 103–27–22 WL, to avoid a short-spacing to Stations KPOS–FM, Channel 297C2, Post, TX, and KSMX, Channel 298C1, Clovis, NM. Channel 279C1 can be allotted to Jal at coordinates 32–25–53 NL; 103–09–08 WL, which is the transmitter site specified in Station KXJW's construction permit. Tatum and Jal are both located within 320 kilometers (199 miles) of the U.S.-Mexican border. Mexican concurrence in these allotments has been requested but not yet received. Therefore, in an effort to introduce a new FM service to Tatum, the allotment is subject to the following condition: ''Operation with the facilities specified herein is subject to modification, suspension, or termination without right to a hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement.'' With this action, this proceeding is terminated.

DATES: Effective September 15, 1997. The window period for filing applications for Channel 296C at Tatum, NM, will open on September 15, 1997, and close on October 16, 1997.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–77, adopted July 23, 1997, and released August 1, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 296A

and adding Channel 279C1at Jal, and adding Tatum, Channel 296C.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–20658 Filed 8–11–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[I.D. 080497A]

RIN 0648–AH97

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Notice of exemption and request for comments.

SUMMARY: NMFS issues this document to allow use of 55-minute tow times by shrimp trawlers in inshore waters in Alabama as an alternative to the requirement to use Turtle Excluder Devices (TEDs). This area was affected by Hurricane Danny on and about July 19, 1997. NMFS has been notified by the Director of the Marine Resources Division of the Alabama Department of Conservation and Natural Resources that large amounts of debris in Alabama's bays as a result of the hurricane are causing extraordinary difficulty with the performance of TEDs. NMFS will monitor the situation to ensure that there is adequate protection for sea turtles in this area and to determine whether impacts from the hurricane continue to make TED use impracticable.

DATES: This action is effective from August 6, 1997 through September 5, 1997. Comments on this action are requested, and must be received by September 5, 1997.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Barbara A. Schroeder, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of these species, as a result of shrimp trawling activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 227.72. Existing sea turtle conservation regulations (50 CFR part 227, subpart D) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year round.

The sea turtle conservation regulations provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 227.72 (e)(3)(ii) specify that the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), may authorize ''compliance with tow time restrictions as an alternative to the TED requirement, if [he] determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.'' The provisions of 50 CFR 227.72(e)(3)(i) specify the maximum tow times that may be used when authorized as an alternative to use of TEDs. The tow times may be no more than 55 minutes from April 1 through October 31 and no more than 75 minutes from November 1 through March 31. NMFS has selected these tow time limits to minimize the level of mortality of sea turtles that are captured by trawl nets that are not equipped with TEDs.

Recent Events

On July 19, 1997, Hurricane Danny hit the Alabama coast. The hurricane remained stationary over Mobile Bay and the south Alabama coast for an entire day and deposited record amounts of rain on the area. The Director of the Marine Resources Division of the Alabama Department of Conservation and Natural Resources (Alabama Director) stated in a July 28 letter to the NMFS Southeast Regional Administrator that ''[t]he aftermath of the destructive wind and seas left a tremendous amount of debris in Alabama's bays.'' He further stated that the ''inordinate amount of debris is causing extraordinary difficulty with the performance of [TEDs] in these areas'' and that ''TEDs are being rendered inoperable by the debris that is being picked up.'' His letter requested that NMFS use its authority to allow the use of 55-minute tow times as an alternative to TEDs for a 30-day period in Alabama's inshore waters that are open to shrimping.

Special Environmental Conditions

The Assistant Administrator finds that the impacts of Hurricane Danny may have created special environmental conditions that may make trawling with TED-equipped nets impracticable. Therefore, the Assistant Administrator issues this document to authorize the use of restricted tow times as an alternative to the use of TEDs in the inshore waters of Alabama. The State of Alabama is continuing to investigate the situation and is cooperating with NMFS in determining the ongoing extent and nature of the debris problem in Alabama inshore waters. Moreover, the Alabama Director has stated that Alabama's enforcement officers would assist with the enforcement of the restricted tow times. Ensuring compliance with tow time restrictions is critical to effective sea turtle protection, and the commitment from the Alabama Director to provide additional enforcement of the tow time restrictions is an important factor enabling NMFS to issue this authorization.

Continued Use of TEDs

NMFS encourages shrimp trawlers in Alabama inshore waters to continue to use TEDs if possible, even though they may be authorized under this notice to use restricted tow times. NMFS studies have shown that the problem of clogging, either by seagrass, algae, or other debris is not unique to TED-equipped nets. When fishermen trawl in problem areas, they may experience clogging with or without TEDs. A particular concern of fishermen, however, is that clogging in a TED-equipped net may hold open the turtle escape opening and increase the risk of shrimp loss. On the other hand, TEDs also help exclude certain types of debris and allow shrimpers to conduct longer tows.

NMFS gear experts provide several operational recommendations to fishermen to maximize the debris exclusion ability of TEDs that may allow some fishermen to continue using TEDs without resorting to restricted tow times. NMFS has had good experience with hard TEDs made of either solid rod or hollow pipe that incorporate a bent angle at the escape opening and recommends use of this type of TED, in a bottom-opening configuration, to help exclude debris. In addition, the installation angle of a hard TED in the trawl extension is an important performance element in excluding debris from the trawl. High installation angles can result in debris clogging the bars of the TED; NMFS recommends an installation angle of 45°, relative to the normal horizontal flow of water through the trawl, to optimize the TED's ability to exclude turtles and debris. Furthermore, the use of accelerator funnels, which are allowable modifications to hard TEDs, is not recommended in areas with heavy amounts of debris or vegetation. Lastly, the webbing flap that is usually installed to cover the turtle escape opening may be modified to help exclude debris quickly: The webbing flap can either be cut horizontally to shorten it so that it does not overlap the frame of the TED or it may be slit in a fore-and-aft direction to facilitate the exclusion of debris.

All of the above-listed recommendations represent legal configurations of TEDs for shrimpers in the inshore areas of Alabama (not subject to special requirements effective in the Gulf Shrimp Fishery-Sea Turtle Conservation area). This notice authorizes the use of restricted tow times as an alternative to the required use of TEDs. This document does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

Alternative to Required Use of TEDs

The authorization provided by this document applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 227.72(e)(2) who are operating in inshore waters of the State of Alabama, in areas which the State has opened to shrimping. ''Inshore waters,'' as defined at 50 CFR 217.12, means the marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80. Instead of the required use of TEDs, shrimp trawlers may opt to comply with the sea turtle conservation regulations by using restricted tow times. A shrimp trawler using this authorization must limit tow times to no more than 55 minutes, measured from the time trawl doors enter the water, until they are retrieved from the water.

Additional Conditions

NMFS expects that shrimper trawlers operating in Alabama inshore waters without TEDs in accordance with this authorization will retrieve debris that is caught in their nets and return it to shore for disposal, or to other locations defined by the Alabama Director, rather than simply disposing of the debris at sea. Proper disposal of debris should help the restoration of the shrimping grounds in the wake of the hurricane. Shrimp trawlers are reminded that regulations under 33 U.S.C. 1901 *et seq.* (Act to Prevent Pollution from Ships) may apply to disposal at sea.

Alternative to Required Use of TEDs; Termination

The Assistant Administrator, at any time, may modify the alternative conservation measures through notice in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the Assistant Administrator may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times or synchronized tow times, if the Assistant Administrator determines that the alternative authorized by this document is not sufficiently protecting turtles, as evidenced by observed lethal takes of turtles aboard shrimp trawlers, elevated sea turtle strandings, or insufficient compliance with the authorized alternative. The Assistant Administrator may also terminate this authorization for these same reasons, or if compliance cannot be monitored effectively, or if conditions do not make trawling with TEDs impracticable. The Assistant Administrator may modify or terminate this authorization, as appropriate, at any time. A notice will be published in the **Federal Register** announcing any additional sea turtle conservation measures or the termination of the tow time option in Alabama inshore waters. This authorization will expire on September 5, 1997, unless it is explicitly extended through another document published in the **Federal Register**.

Classification

This action is taken under 50 CFR 227.72 and is exempt from review under E.O. 12866.

Pursuant to section 553(b)(B) of the Administrative Procedures Act (APA), the Assistant Administrator finds that there is good cause to waive prior notice and opportunity to comment on this action. It is impracticable, unnecessary, and contrary to the public interest to provide prior notice and opportunity for comment. The Assistant Administrator finds that an unusually large amount of debris exists in the aftermath of Hurricane Danny, creating special environmental conditions that may make trawling with TED-equipped nets impracticable. The Assistant Administrator has determined that the use of limited tow times for the described area and time would not result in a significant impact to sea turtles. Notice and comment are contrary to the public interest in this instance because providing notice and comment would prevent the agency from providing relief within the necessary time frame. Furthermore, the public had notice and an opportunity to comment on 50 CFR 227.72(e)(3)(ii) when that regulation was finalized.

Pursuant to section 553(d)(1) of the APA, for the reasons cited above, and because this action relieves a restriction, this action is effective immediately. As prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or any other law, the analytical requirements of 5 U.S.C. 601 *et seq.*, are inapplicable.

The Assistant Administrator prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notices such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: August 6, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service..

[FR Doc. 97–21170 Filed 8–6–97; 4:11 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 080597D]

Atlantic Tuna Fisheries; Fishery Reopening

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

ACTION: Reopening.

SUMMARY: NMFS has determined that the 1997 Atlantic bluefin tuna (ABT) June-August period General category subquota has not been reached. Therefore, NMFS reopens the General category fishery for large medium and giant ABT for all areas for one additional day. This action is being taken to allow full harvest of the General category June-August period subquota.

DATES: Effective 1 a.m. local time through 11:30 p.m. local time on Friday, August 8, 1997.

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

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

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

General Category Reopening

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 285.22 provide for a subquota of 374 mt of large medium and giant ABT to be harvested from the regulatory area by vessels permitted in the General category during the period beginning June 1 and ending August 31. Based on reported catch and effort, NMFS filed an action with the Office of the Federal Register on August 1, 1997, to close the General category fishery on August 3, 1997. NMFS has determined that, due to lower than expected fishing effort and landings, the full 374 mt has not been taken. Recent average catch rates indicate that the remaining subquota could be taken in one fishing day. Therefore, NMFS is reopening the General category fishery for large medium and giant ABT effective 1 a.m., August 8, 1997, and closing 11:30 p.m., August 8, 1997. Fishing for, retaining, possessing, or landing large medium or giant ABT by vessels in the General category may not occur prior to 1 a.m., August 8, 1997, and must cease at 11:30 p.m. local time August 8, 1997. Closure of this one day fishery will be strictly enforced. The General category will reopen September 1, 1997 with a quota of 187 mt for the September period. If necessary, the September subquota will be adjusted based on actual landings from the current period.

The intent of this action is to allow full attainment of the June-August period subquota established for the General category as specified in the Atlantic bluefin tuna effort controls final rule (62 FR 38939, July 21, 1997).

Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

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

Dated: August 5, 1997.

Bruce Morehead,

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

[FR Doc. 97–21135 Filed 8–6–97; 4:11pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 961217359–7050–02; I.D. 080597A]

Pacific Halibut Fisheries; Area 2A Commercial Fishery

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

ACTION: Inseason action.

SUMMARY: NMFS announces that the Area 2A commercial harvest of Pacific halibut incidental to the salmon troll fishery is closed.

The action is necessary because the non-Indian commercial halibut fishery quota has been taken and no halibut quota remains for an incidental catch during the salmon troll fisheries.

DATES: Effective August 1, 1997, through December 31, 1997. Comments will be accepted through August 27, 1997.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, Seattle, WA 98115. Information relevant to this action is available for public review during business hours at this address.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206–526–6143.

SUPPLEMENTARY INFORMATION: The Area 2A Catch Sharing Plan (Plan) for Pacific halibut off Washington, Oregon, and California is implemented in the annual management measures for the Pacific halibut fisheries published on March 18, 1997 (52 FR 12759). The non-Indian commercial halibut fishery quota of 144,235 lb (65 metric tons (mt)) is divided into two components: A directed fishery targeting on halibut managed by the International Pacific Halibut Commission (IPHC) with a subquota of 122,600 lb (55.6 mt), and an incidental catch fishery during the salmon troll fisheries off Washington, Oregon, and California managed by NMFS with a subquota of 21,635 lb (9.8 mt). In accordance with the Plan, the management measures for the incidental halibut catch fishery were implemented with the annual management measures for the ocean salmon fisheries published in the **Federal Register** on May 5, 1997 (62 FR 24355). Paragraph C.9. of Table 1 of the annual management measures stipulates that, if the subquota for this incidental catch is not harvested during the May/June salmon troll fishery, the remaining subquota will be made available by the IPHC to the directed halibut fishery. If the overall quota for the non-Indian commercial fisheries has not been harvested by July 31 and the subquota for the salmon troll fishery was not harvested during the May/June fishery, landings of halibut caught incidentally during salmon troll fisheries would be allowed effective August 1 and would continue until the subquota for the troll fishery was taken or the overall non-Indian commercial halibut quota was estimated to have been achieved by the IPHC.

An estimated total of 17,570 lb of halibut was harvested in the May/June salmon troll fishery, and the remaining 4,065 lb in the quota for this fishery were ''rolled-over'' to the directed commercial halibut fishery by the IPHC. In its July 11, 1997 News Release, the IPHC announced that the directed halibut commercial fishery in Area 2A had harvested approximately 135,000 lb and no quota remained to be ''rolled-over'' into the incidental catch fishery.

The IPHC closed all Area 2A non-Indian commercial halibut fisheries, including the incidental catch of halibut during the salmon troll fisheries that opened on August 1. Notice of the closure has been provided on the NMFS hotline at 206–526–6667.

Accordingly, NMFS announces that Pacific halibut caught during the salmon troll fisheries may not be retained, possessed or sold for the remainder of 1997.

Classification

This action is authorized by Section 10 of the annual management measures for Pacific halibut fisheries published on March 18, 1997 (62 FR 12759) and Paragraph C.9. of Table 1 of the annual management measures for the ocean salmon fisheries published in the **Federal Register** on May 5, 1997 (62 FR 24355). This action has been determined to be not significant for purposes of E.O. 12866.

Because of the need to implement the IPHC closure and prevent the commercial catch of halibut in excess of the quota, NMFS has determined that good cause exists for this action to be issued without affording a prior opportunity for public comment.

Dated: August 6, 1997.

Bruce Morehead,

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

[FR Doc. 97–21283 Filed 8–11–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346–7035–02; I.D. 070397G]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Adjustments to the 1997 State Quotas; Commercial Quota Harvested for North Carolina; Correction

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

ACTION: Correction to commercial quota adjustments for the State of Maryland.

SUMMARY: NMFS corrects the rulemaking announcing adjustments to the commercial state quotas for the 1997 summer flounder fishery published July 15, 1997.

DATES: The 1997 commercial state quotas are effective July 9, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing summer flounder management measures (50 CFR part 648, subparts A and G) require annual specification of a commercial quota that is apportioned among the Atlantic coastal states from Maine through North Carolina. Section 648.100(d)(2) of the regulations provides that all landings for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of a state's quota must be deducted from that state's annual quota for the following year.

On March 7, 1997 (62 FR 10473), NMFS published the final specifications for the summer flounder 1997 commercial fishery and deductions for overages in the 1996 quota year. At that time, Maryland's initial landings data for 1996 indicated that the state had underharvested its quota by 1,519 lb (689 kg). Revised data were subsequently provided that altered the landings figures for several states. These data were used as a basis for readjusting the states' commercial quotas (July 15, 1997, 62 FR 37741). In the case of Maryland, revised data indicated an additional 39,835 lb (18,069 kg) of summer flounder were landed in 1996. The underharvest of 1,519 lb (689 kg) should have been subtracted from the additional landings of 39,835 lb (18,069 kg) to derive an actual overharvest for Maryland in 1996 of 38,316 lb (17,380 kg). Instead, the additional landings for Maryland in 1996 were incorrectly subtracted in their entirety from that state's 1997 quota in the July 15, 1997, rulemaking. This notice announces that the total overage for Maryland in 1996 was actually 38,316 lb (17,380 kg), and corrects the state's 1997 commercial quota accordingly, by adding 1,519 lb (689 kg) to the published quota of 186,735 lb (84,702 kg).

Since Maryland is the only state that moved from an underharvest to an overharvest based on the revised landings data, it was the only state to have an erroneous quota result. All other state-readjusted 1997 quotas as published July 15, 1997, are correct for the landings data received.

Correction of Publication

Accordingly, the publication on July 15, 1997 (62 FR 37741), of the commercial quota adjustments [I.D. 070397G], which were the subject of rule document 97–18462, is corrected as follows:

On page 37743, in Table 2, under the State of Maryland, in the fourth column under ''Readjusted 1997 Quota'', under the subheading ''lb'', ''186,735'' should read ''188,254'' and in the fifth column, under the subheading ''(Kg)'', ''84,702'' should read ''85,391''.

In the same table, under ''Total'', in the fourth column, under the subheading ''lb'', ''8,382,277'' should read ''8,383,796'' and in the fifth column, under the subheading ''(Kg)'', ''3,802,137'' should read ''3,802,826''.

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

Dated: August 5, 1997.

Bruce Morehead,

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

[FR Doc. 97–21185 Filed 8–11–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 155
Tuesday, August 12, 1997

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–56–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50

Series Airplanes, and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes. This proposal would require a one-time visual inspection to determine if all corners of the doorjamb of the forward service door have been previously modified. The proposal would also require various repetitive inspections to detect cracks of the fuselage skin and doubler at all corners of the doorjamb of the forward service door, and to detect cracks on the skin adjacent to the modification; and various follow-on actions. This proposal is prompted by reports of fatigue cracks found in the fuselage skin and doubler at the corners of the doorjamb of the forward service door. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

DATES: Comments must be received by September 29, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–56–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of fatigue cracks in the fuselage skin and doubler at the corners of the doorjamb of the forward service door on Model DC–9 series airplanes. These cracks were discovered during inspections conducted as part of the Supplemental Structural Inspection Document (SSID) program, required by AD 96–13–03, amendment 39–9671 (61 FR 31009, June 19, 1996). Investigation revealed that such cracking was caused by fatigue-related stress. Fatigue cracking in the fuselage skin or doubler at the corners of the doorjamb of the forward service door, if not detected and corrected in a timely manner, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–279, dated December 10, 1996, and Revision 1, dated May 6, 1997. The service bulletins describes the following procedures:

1. Performing a one-time visual inspection to determine if all corners of the upper cargo doorjamb have been previously modified;

2. For certain airplanes: Performing a low frequency eddy current (LFEC) or x-ray inspections to detect cracks of the fuselage skin and doubler at all corners of the doorjamb of the forward service door;

3. For certain other airplanes: Performing high frequency eddy current inspection (HFEC) or LFEC, as applicable, to detect cracks on the skin adjacent to the modification;

4. Conducting repetitive inspections, or modifying the corner skin of the doorjamb of the forward service door and performing follow-on action eddy current inspections, if no cracking is detected;

5. Performing repetitive eddy current inspections to detect cracks on the skin

adjacent to any corner that has been modified; and

6. Modifying any crack that is found to be 2 inches or less in length at all corners that have not been modified and performing follow-on repetitive eddy current inspections.

Accomplishment of the modification will minimize the possibility of fatigue cracks in the fuselage skin and doubler.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time visual inspection to determine if all corners of the doorjamb of the forward service door have been previously modified. The proposed AD would also require various repetitive inspections to detect cracks of the fuselage skin and doubler at all corners of the doorjamb of the forward service door, and to detect cracks on the skin adjacent to the modification; and various follow-on actions. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Operators should note that, although the service bulletins specify that the manufacturer must be contacted for disposition of certain conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA,Transport Airplane Directorate.

Cost Impact

There are approximately 823 McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 575 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection proposed by this AD on U.S. operators is estimated to be $34,500, or $60 per airplane.

Should an operator be required to accomplish the proposed HFEC, LFEC, or x-ray inspection, it would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $60 per airplane, per inspection cycle.

Should an operator be required to accomplish the proposed modification, it would take approximately 30 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,256, $1,420, $5,804, or $6,113 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $3,056, $3,220, $7,604, or $7,913 per airplane, respectively.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 97–NM–56–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, as listed in McDonnell Douglas Service Bulletin DC9–53–279, Revision 1, dated May 6, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the fuselage skin or doubler at the corners of the doorjamb of the forward service door, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Note 2: Where there are differences between the service bulletin and the AD, the AD prevails.

Note 3: The words ''repair'' and ''modify/modification'' in this AD and the referenced service bulletin are used interchangeably.

Note 4: This AD is related to AD 96–13–03, amendment 39–9671, (61 FR 31009, June 19, 1996), and will affect Principal Structural Element (PSE) 53.09.033 of the DC–9 Supplemental Inspection Document (SID).

(a) Prior to the accumulation of 50,000 total landings, or within 3,225 landings after the effective date of this AD, whichever occurs later, perform a one-time visual inspection to determine if the corners of the doorjamb of the forward service door have been modified prior to the effective date of this AD.

(b) *Group 1.* If the visual inspection required by paragraph (a) of this AD reveals that the corners of the upper cargo doorjamb *have not been modified,* prior to further flight, perform a low frequency eddy current (LFEC) or x-ray inspection to detect cracks of the fuselage skin and doubler at all corners of the doorjamb of the forward service door, in accordance with McDonnell Douglas Service Bulletin DC9–53–279, dated December 10, 1996, or Revision 1, dated May 6, 1996.

(1) Condition 1. If no crack is detected during any inspection required by paragraph (b) of this AD, accomplish either paragraph (b)(1)(i) or (b)(1)(ii) of the AD.

(i) *Option 1.* Repeat the inspections as follows until paragraph (b)(1)(ii) of this AD is accomplished:

(A) If the immediately preceding inspection was conducted using LFEC techniques, conduct the next inspection within 3,225 landings.

(B) If the immediately preceding inspection was conducted using x-ray techniques, conduct the next inspection within 3,075 landings.

(ii) *Option 2.* Prior to further flight, modify the corners of the doorjamb of the forward service door in accordance with the service bulletin; this modification constitutes terminating action for the repetitive inspection requirements of paragraph (b)(1)(i) of this AD. Prior to the accumulation of 28,000 landings after accomplishment of the modification, perform a high frequency eddy current (HFEC) inspection to detect cracks on the skin adjacent to the modification, in accordance with the service bulletin. Within 20,000 landings after accomplishment of the HFEC inspection, perform an eddy current inspection to detect cracks in the subject area, in accordance with the service bulletin.

(A) If no crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (b)(1)(ii) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 20,000 landings.

(B) If any crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (b)(1)(ii) of this AD, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(2) Condition 2. If any crack is found during any inspection required by paragraph (b) of this AD and the crack is 2 inches or less in length: Prior to further flight, modify it in accordance with the service bulletin. Prior to the accumulation of 28,000 landings after accomplishment of the modification, perform a HFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with the service bulletin. Within 20,000 landings after accomplishment of the HFEC inspection, perform an eddy current inspection to detect cracks in the subject area, in accordance with the service bulletin.

(i) If no crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (b)(2) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 20,000 landings.

(ii) If any crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (b)(2) of this AD, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(3) Condition 3. If any crack is found during any inspection required by this paragraph and the crack is greater than 2 inches in length: Prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(c) *Group 2, Condition 1.* If the visual inspection required by paragraph (a) of this AD reveals that the corners of the doorjamb of the forward service door *have been modified* in accordance with the DC–9 Structural Repair Manual (SRM) (using a steel doubler), accomplish either paragraph (c)(1) or (c)(2) of this AD in accordance with McDonnell Douglas Service Bulletin DC9–53–279, dated December 10, 1996, or Revision 1, dated May 6, 1997.

(1) *Option 1.* Prior to the accumulation of 6,000 landings after the effective date of this AD, perform a HFEC inspection to detect cracks on the skin adjacent to the modification in accordance with the service bulletin. Within 3,000 landings after accomplishment of the HFEC inspection, perform an eddy current inspection to detect cracks in the subject area, in accordance with the service bulletin.

(i) If no crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (c)(1) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 3,000 landings.

(ii) If any crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (c)(1) of this AD, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(2) *Option 2.* Prior to further flight, modify the corners of the doorjamb of the forward service door in accordance with the service bulletin. Prior to the accumulation of 28,000 landings after accomplishment of the modification, perform a HFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with the service bulletin. Within 20,000 landings after accomplishment of the HFEC inspection, perform an eddy current inspection to detect cracks in the subject area, in accordance with the service bulletin.

(i) If no crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (c)(2) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 20,000 landings.

(ii) If any crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (c)(2) of this AD, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(d) *Group 2, Condition 2.* If the visual inspection required by paragraph (a) of this AD reveals that the corners of the doorjamb of the forward service door *have been modified* in accordance with DC–9 SRM or Service Rework Drawing (using an aluminum doubler), prior to the accumulation of 28,000 landings since accomplishment of the modification, or within 3,225 after the effective date of this AD, whichever occurs later, perform an HFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with McDonnell Douglas Service Bulletin DC9–53–279, dated December 10, 1996, or Revision 1, dated May 6, 1997. Within 20,000 landings after accomplishment of the HFEC inspection, perform an eddy current inspection to detect cracks in the subject area, in accordance with the service bulletin.

(1) If no crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (d) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 20,000 landings.

(2) If any crack is detected on the skin adjacent to the modification during any eddy current inspection required by paragraph (d) of this AD, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(e) *Group 2, Condition 3.* If the visual inspection required by paragraph (a) of this AD reveals that the corners of the doorjamb of the forward service door *have been modified*, but not in accordance with DC–9 SRM or Service Rework Drawing, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

Issued in Renton, Washington, on July 29, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–20438 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 1000, 1003 and 1005

[Docket No. FR–4170–N–12]

Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee; Meetings

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Negotiated rulemaking committee meetings.

SUMMARY: This document announces the final series of implementation meetings sponsored by HUD to develop the regulations necessary to carry out the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub.L. 104–330, approved October 30, 1996).

DATES: The meetings will be held on: August 21, 22, 23, 24, 25, 26, 27, 28, and 29, 1997.

The August 21, 1997 meeting will begin at approximately 1:00 pm and end at approximately 5:00 pm, local time. All other meetings will begin at approximately 9:00 am and end at approximately 5:00 pm on each day, local time.

ADDRESSES: The meetings will be held at The Westin Hotel, 1672 Lawrence Street, Denver, Colorado 80202; telephone (303) 572–9100; fax (303) 572–7288 (these are not toll-free numbers).

FOR FURTHER INFORMATION CONTACT: Karen Garner-Wing, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO; telephone (303) 675–1600 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Secretary of HUD established the Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee (Committee) to negotiate and develop a proposed rule implementing NAHASDA. The proposed rule was published on July 2, 1997 (62 FR 35718) and provided for a 45-day public comment period. The public comment deadline is August 18, 1997. The Committee is meeting for a final time to consider the public comments submitted on the July 2, 1997 proposed rule.

The meeting dates are: August 21, 22, 23, 24, 25, 26, 27, 28, and 29, 1997.

The agenda planned for the meetings includes: (1) the distribution of copies of the public comments; (2) discussion of the significant issues raised by the public commenters; and (3) development of responses to the comments.

The meetings will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this notice. Summaries of Committee meetings will be available for public inspection and copying at the address in the same section.

Dated: August 6, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–21163 Filed 8–11–97; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–97–020]

RIN–2115–AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of the Flagler Memorial, Royal Park, and Southern Boulevard drawbridges at Palm Beach. The proposal is being made as a result of complaints about extensive highway traffic delays caused by bridge openings. This change is intended to relieve highway congestion while still meeting the reasonable needs of navigation.

DATES: Comments must be received on or before October 14, 1997.

ADDRESSES: Comments may be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Avenue, Miami, Florida 33131–3050, or may be delivered to room 406 at the above address between 7:30 a.m. and 4:00 p.m. Monday through Friday, except federal holidays. The telephone number is (305) 536–6546. The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Evelyn Smart, Project Manager, Bridge Section, (305) 536–6546.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify the rulemaking [CGD07–97–020] and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments received.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Ms. Evelyn Smart at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The present opening schedules for the three drawbridges to Palm Beach are as follows:

→The Flagler Memorial (SR A1A) Drawbridge which crosses the Atlantic Intracoastal Waterway, mile 1021.9 at Palm Beach presently opens on signal; except that, from November 1 to May 31, Monday through Friday except Federal holidays, from 8 a.m. to 9:30

a.m. and from 4 p.m. to 5:45 p.m., the draw need open only at 8:30 a.m. and 4:45 p.m. From 9:30 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

The Royal Park (SR 704) Drawbridge which crosses the Atlantic Intracoastal Waterway, mile 1022.6 at Palm Beach presently opens on signal; except that, from November 1 through May 31, Monday through Friday except Federal holidays, from 8 a.m. to 9:30 a.m. and from 3:30 p.m. to 5:45 p.m., the draw need open only at 8:45 a.m., 4:15 p.m., and 5 p.m. From 9:30 a.m. to 3:30 p.m., the draw need open only on the quarter-hour and three-quarter hour.

The Southern Boulevard (SR 700/80) Drawbridge which crosses the Atlantic Intracoastal Waterway, mile 1024.7 at Palm Beach presently opens on signal; except that, from November 1 through May 31, Monday through Friday except Federal holidays, from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., the draw need open only at 8:15 a.m. and 5:30 p.m.

In 1995, the Florida Department of Transportation provided bridge logs, highway traffic data and traffic analysis to support extending the seasonal timed openings year round.

The Coast Guard's analysis of the traffic data indicated the reduced highway level of service and limited number of bridge openings for all three bridges does not warrant additional bridge opening restrictions during the off season summer months. However, the data does show that highway traffic levels increase significantly during the month of October at all three bridges. In addition, the heavy weekend traffic level and increased number of bridge openings during seasonal months warrants additional opening restriction during weekends and holidays.

Discussion of Proposed Rules

The proposal would add seasonal 30 minute weekend and holiday opening restrictions for all three drawbridges similar to the existing weekday restrictions at the Flagler and Royal Park bridges. In addition, a 30 minute opening schedule would be established at the Southern Boulevard Bridge during weekdays in the winter season. The seasonal restrictions for all three bridges would also commence a month earlier on 1 October to help reduce traffic congestion created by earlier arrival of seasonal visitors to the Palm Beach area.

This change is intended to relieve seasonal highway congestion while still meeting the reasonable needs of navigation.

Regulatory Evaluation

This rule is not a significant regulatory action under Section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under Section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation. (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We conclude this because the proposal would exempt tugs with tows.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Caost Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. *Small entities* may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field and (2) governmental jurisdictions with populations of less than 50,000.

Because it expects the impact of the proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way, and to what degree this proposal will economically affect it.

Collection of Information

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

Federalism

The Coast Guard has analyzed the rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and has determined pursuant to section 2.B.2.e(32) of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—[AMENDED]

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

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

2. Section 117.261 is amended by revising paragraph (u), (v) and (w) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

* * * * *

(u) *Flagler Memorial (SR A1A) bridge, mile 1021.9 at Palm Beach.* The draw shall open on signal; except that from October 1 to May 31, from 9:30 a.m. to 4 p.m., the draw need open only on the hour and half-hour. On Monday through Friday, except Federal holidays, from 8 a.m. to 9:30 a.m. and from 4 p.m. to 5:45 p.m., the draw need open only at 8:30 a.m. and 4:45 p.m.

(v) *Royal Park (SR 704) bridge, mile 1022.6 at Palm Beach.* The draw shall open on signal; except that from October 1 through May 31, from 9:30 a.m. to 3:30 p.m., to draw need open only on the quarter-hour and three-quarter hour. On Monday through Friday, except Federal holidays, from 8 a.m. to 9:30 a.m. and from 3:30 p.m. to 5:45 p.m., the draw need open only at 8:45 a.m., 4:15 p.m., and 5 p.m.

(w) *Southern Boulevard (SR 700/80) bridge, mile 1024.7 at Palm Beach.* The draw shall open on signal; except that from October 1 through May 31, from 9 a.m. to 4:30 p.m., the draw need open only on the quarter-hour and three-quarter hour. On Monday through Friday except Federal holidays, from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., the draw need open only at 8:15 a.m. and 5:30 p.m.

* * * * *

Dated: June 30, 1997.

Norman T. Saunders,

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

[FR Doc. 97–21256 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–14–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Regulatory negotiation committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet on: Wednesday, September 24, 1997, 2:00 p.m. to 6:00 p.m.; Thursday, September 25, 1997, 8:30 a.m. to 5:30 p.m.; Friday, September 26, 1997, 8:30 a.m. to 5:00 p.m.

ADDRESSES: The committee will meet at the Holiday Inn, 611 Ocean Street, Santa Cruz, California. On September 25, 1997, the committee will meet at Beneficial Designs Inc., 5858 Empire Grade, Santa Cruz, California from 4:00 p.m. to 5:30 p.m. for a presentation on research projects related to outdoor developed areas.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request. This document is also available on the Board's web site (http://www.access-board.gov/rules/outdoor.htm).

SUPPLEMENTARY INFORMATION: In June 1997, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. (62 FR 30546, June 4, 1997). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by September 2, 1997, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 97–21281 Filed 8–11–97; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL137–1b; FRL–5868–6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision request submitted by the State of Illinois on May 14, 1996, for the purpose of making a change to the regulatory control period used in Illinois' current 7.2 pounds per square inch Reid Vapor Pressure rules for the Metro-East St. Louis ozone nonattainment area which includes Madison, Monroe, and St. Clair Counties. In addition, EPA is proposing to approve a correction to the identification number for the Clark Oil Company listed in Illinois' Marine Vessel Loading rule. In the final rules section of this **Federal Register**, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives written adverse comments, the direct final rule will be withdrawn and all written public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Written comments on this proposed rule must be received on or before September 11, 1997.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

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

Dated: July 1, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97–21141 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 042–4067b; FRL–5874–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Definitions for the Pennsylvania VOC and NO_X RACT and New Source Review Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes definitions for twenty-seven terms used in the new source review and reasonably available control technology (RACT) regulations. The intended effect of this action is to approve the definitions in Pennsylvania regulation, Chapter 121.1. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed

rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 11, 1997.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 597–9337, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 4, 1997.

Marcia E. Mulkey,

Acting Regional Administrator, Region III.

[FR Doc. 97–21268 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 041–4013; FRL–5873–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Conditional Limited Approval of the Pennsylvania VOC and NO_X RACT Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing conditional limited approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires major sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) to implement reasonably available control technology (RACT). The intended effect of this action is to propose conditional limited approval of the Pennsylvania RACT regulation (Chapter 129.91–129.95).

DATES: Comments must be received on or before September 11, 1997.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 566–2180, at the EPA Region III address above, or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1994, the Pennsylvania Department of Environmental Protection (PA DEP, then known as the Pennsylvania Department of Environmental Resources) submitted a revision to its State Implementation Plan (SIP) for the control of VOC and NO_X emissions from major sources (Pennsylvania Chapters 129.91 through 129.95. This submittal was amended with a revision on May 3, 1994 correcting and clarifying the presumptive NO_X RACT requirements under Chapter 129.93. The submittal was again amended on September 18, 1995 by the withdrawal from EPA consideration of the provisions 129.93(c) (6) and (7) pertaining to best available control technology (BACT) and lowest achievable emission rate (LAER). The Pennsylvania SIP revision consists of regulations that would require sources that emit or have the potential to emit 25 tons or more of VOC or NO_X per year in the Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area) or 50 tons or more of VOC per year in the remainder of the Commonwealth to comply with reasonably available control technology requirements by May 31, 1995. Outside the Philadelphia ozone nonattainment area, sources of NO_X that emit or have the potential to emit 100 tons or more per year are required to comply with RACT by no later than May 31, 1995. While the Pennsylvania regulations contain specific provisions requiring major VOC and NO_X sources to implement RACT, the regulations under review do not contain specific emission limitations in the form of a specified overall percentage emission reduction requirement or other numerical emission standards. Instead, the Pennsylvania regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources and all covered major VOC sources, the submittal contains a ''generic'' RACT provision. Pennsylvania's generic RACT regulation does not impose specific up-front emission limitations, but instead allows for future case-by-case determinations. This regulation allows PA DEP to make case-by-case RACT determinations that are then submitted to EPA for approval as revisions to the Pennsylvania SIP.

On January 12, 1995 (60 FR 2912), EPA proposed three alternative rulemaking actions pertaining to the Pennsylvania RACT regulation (60 FR 2912). Many comments were received in response to that proposed **Federal Register** notice. EPA is hereby withdrawing that notice of proposed actions and reproposing conditional limited approval of this Pennsylvania SIP revision. Because EPA is withdrawing its January 12, 1995 proposed actions, the comments submitted on the January 12, 1995 notice of proposed rulemaking will not be addressed. Any comments in response to today's notice should be sent to the EPA Region III address located in the **ADDRESSES** section of this notice.

Today's Rulemaking Action

EPA is proposing conditional limited approval of the Pennsylvania VOC and NO_X RACT regulations, Chapter 129.91 through 129.95. EPA is proposing to conditionally approve the SIP revision based upon PA DEP meeting its commitment to submit all the case-by-case RACT proposals, for all of the sources it has identified as being subject to the major source RACT regulations, as source-specific revisions to the SIP no later than twelve months from the effective date of EPA's final conditional limited approval of the Pennsylvania VOC and NO_X RACT regulations. Pennsylvania submitted its commitment

in a letter to EPA dated September 23, 1996. Once the Commonwealth has satisfied this condition, EPA shall remove the conditional status of its approval and the Pennsylvania VOC and NO_X regulations SIP revision will, for the time being, retain its limited approval status. EPA is also proposing limited approval of the Pennsylvania VOC and NO_X RACT regulations SIP revision on the basis that its approval will strengthen the SIP. The limited approval of the generic VOC and NO_X regulations SIP revision shall be converted to full approval once EPA has approved each of Pennsylvania's case-by-case RACT proposals as SIP revisions. This conditional limited approval action is action that is being taken under section 110 of the Clean Air Act.

Summary of Pennsylvania's VOC and NO_X RACT Regulations SIP Revision

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). The entire Commonwealth is located in the OTR. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. The Philadelphia ozone nonattainment area is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements for major stationary sources (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

The SIP submittal under review consists of Pennsylvania regulations codified at 25 Pa. Code Chapters 129.91 through 129.95.

Chapter 129.91—Chapter 129.91 contains the applicability section, and requires owners and operators of covered sources (i.e. all major NO_X sources and major VOC sources not covered by the source-specific and mobile source RACT requirements of 25 Pa. Code sections 129.51–129.72, 129.81, and 129.82) to provide PA DEP with identification and emission information by May 16, 1994. Covered sources must submit a written RACT proposal to PA DEP by July 15, 1994. PA DEP is to approve, deny or modify each RACT proposal. Upon notification of approval, covered sources must implement RACT ''as expeditiously as practicable'' but no later than May 31, 1995.

Following implementation of RACT, certain large combustion units are required to determine emission rates through continuous emissions monitoring or a PA DEP approved source testing or modeling program. 25 Pa. Code 129.91(d) provides for the case-by-case RACT determinations to be approved through the SIP revision process.

Chapter 129.92—Chapter 129.92 details the information required in the RACT proposals submitted by these major VOC and NO_X sources. Except for sources that opt for the presumptive RACT emission limitations, the proposal must include a RACT analysis. This RACT analysis must rank the available control options in descending order of control effectiveness, provide information on baseline emissions and emission reductions, and evaluate the cost effectiveness of each control option. The Pennsylvania regulation requires that, at a minimum, the cost effectiveness portion of the RACT analysis use the procedures in ''OAQPS Control Cost Manual'' (Fourth Edition), EPA 450/3–90–006, January 1990 and subsequent revisions. This provision clearly requires sources to provide relevant information in their RACT proposal, including cost factors, but does not limit the consideration of factors that determine what control option is chosen as RACT to cost factors alone, nor does it limit the method of evaluating costs to those found in the OAQPS Control Cost Manual. The Pennsylvania generic regulation properly does not specify a dollar per ton figure as a threshold over which control options are ineligible for consideration from RACT.

Chapter 129.93 (Presumptive NO_X RACT requirements)—Chapter 129.93 provides certain major NO_X sources with an alternative to case-by-case RACT determinations. Chapter 129.93(b)(1) specifies that presumptive RACT for coal-fired combustion units with a rated heat input equal to or greater than 100 million British Thermal Units per hour (mmBTU/hr) is the installation of low NO_X burners with separate overfired air. Chapter 129.93(b)(2) provides that presumptive RACT for combustion units with a rated heat input between 20 mmBTU/hr and 50 mmBTU/hr is an annual adjustment or tune-up of the combustion process. Chapter 129.93(b) (4) and (5) provides that owners and operators of oil, gas and combination oil/gas-fired units are required to keep records of fuel certification and to perform annual adjustment in accordance with the EPA document ''Combustion Efficiency Optimization Manual for Operators of Oil and Gas-Fired Boilers'', September 1983, EPA–340/1–83–023, or equivalent PA DEP procedures.

For the following groups of sources, Pennsylvania proposes that RACT is the installation, maintenance and operation of sources in accordance with manufacturer's specifications. These groups are listed in Chapter 129.93(c) (1) through (7), as follows: (1) Boilers and combustion sources with individual rated gross heat inputs of less than 20 mmBTU/hr; (2) combustion turbines with individual heat input rates of less than 25 mmBTU/hr, which are used for natural gas distribution; (3) internal combustion engines rated at less than 500 brake horsepower (bhp), which are set and retarded 4° relative to standard timing; (4) incinerators or thermal/catalytic oxidizers used primarily for air pollution control; and (5) any fuel burning equipment, gas turbine or internal combustion engine with an annual capacity factor of less than 5%, or an emergency standby engine operating less than 500 hours in a consecutive 12-month period.

Chapter 129.94 (NO_X Averaging)—Chapter 129.94 permits major NO_X sources to submit a RACT proposal that includes averaging of emissions at two or more facilities provided several conditions are met and the proposal is approved by EPA as a revision to the Pennsylvania SIP. Among other conditions, the averaging scheme must require emission caps and enforceable emission rates at each participating source, telemetry links between the participating sources, and an up-front agreement that a violation at one of the participating sources is considered a violation at all of the participating sources.

Chapter 129.95—Chapter 129.95 is the record keeping provision that is applicable to all VOC and NO_X sources in the Commonwealth. This section clearly requires that records be kept for a period of at least 2 years and that such records must provide sufficient data and calculations to demonstrate compliance with the applicable RACT requirements. This section also requires that sources of VOC and NO_X that claim exemptions from the RACT requirement maintain records that clearly demonstrate their exempt status.

EPA's Analysis of the SIP Revision

RACT Proposal Requirements—Chapter 129.92 requires sources to

provide information on the emission reduction, technological feasibility, and cost of control options. This requirement is consistent with EPA's definition of RACT as the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. See NO_X Supplement to the General Preamble on Title I, 57 FR 55620, 55622–23 (Nov. 25, 1992); CTG Supplement to the General Preamble on SIP revisions to Nonattainment Areas, 44 FR 53761, 53762 (Sept. 17, 1979); ''Guidance for Determining Acceptability of SIP regulations in Nonattainment Areas,'' Memorandum of Roger Strelow, Assistant Administrator for Air and Waste Management (Dec. 9, 1976).

Generic VOC and NO_X RACT Requirements—Chapter 129.91 contains Pennsylvania's generic, or ''case-by-case,'' RACT provisions. Under this approach, the applicable sources are not subject to specific, ''up-front'' (i.e. immediately ascertainable) emission limitations. Instead, the regulations establish a process for the state to review and approve individual RACT emission limitations proposed by the sources, which are then to be submitted to EPA as SIP revisions. Since the wood furniture emission standards contained in the existing Pennsylvania regulation have not been federally approved, Chapter 129.91 states that wood furniture sources are required to comply with the RACT requirements of Chapter 129.91.

Pennsylvania believes that the case-by-case approach is consistent with the RACT requirements of the Clean Air Act. Pennsylvania notes that section 172(c)(1) requires that nonattainment plan provisions ''shall provide for the implementation of [RACT] as expeditiously as practicable * * *.'' Section 182(b)(2) provides that SIP submittals for moderate ozone nonattainment areas shall ''include provisions to require implementation of [RACT],'' and further requires that the submittals ''provide for the implementation of required measures as expeditiously as practicable, but no later than May 31, 1995.'' The Commonwealth believes that the design, age, and nature of the industrial processes of the individual sources, for which RACT must be required, vary so widely that case-by-case RACT determinations are warranted, as no ''across the board'' emission limitations could be reasonably imposed as satisfying the definition of RACT, namely the lowest emission limitation that a source is capable of meeting considering technological and economic feasibility.

However, EPA's interpretation of the statutory requirements, and the one that accords with EPA's longstanding definition of RACT, is that a state submittal of a SIP revision to satisfy the Act's requirements for RACT must include specific, up-front emission limitations for all covered sources, rather than a process leading to the development of emission limitations at some later date. States are required to establish these specific, up-front emission limitations and submit them as SIP revisions to EPA for approval as RACT. EPA evaluates these SIP submittals to determine whether or not the emission limitations imposed by the state satisfy the definition of RACT for the covered sources. EPA defines RACT as the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Section 302 of the Act in turn defines ''emission limitation'' as a ''requirement * * * which limits the quantity, rate or concentration of air pollutants on a continuous basis, * * *, and any design, equipment, work practice or operational standard promulgated under this chapter.'' Process-oriented generic regulations, such as those submitted by Pennsylvania, which do not include specific and ascertainable emission limitations, do not by themselves provide standards for EPA to approve or disapprove as satisfying the definition of RACT. Therefore, the Act's RACT requirements are satisfied only after the specific limitations imposed by the Commonwealth on its major sources have been submitted to EPA as SIP revisions and approved by EPA as RACT for the subject sources.

Furthermore, EPA believes that the May 31, 1995 RACT implementation deadline specified in section 182(b)(2) of the Act does not authorize states to delay the promulgation of RACT standards beyond the SIP submittal deadline of November 15, 1992. EPA believes that the extended implementation deadline was designed to give sources an adequate opportunity to understand and comply with newly-promulgated RACT standards, and to give EPA the opportunity to review RACT SIP submittals prior to the implementation date. Under its generic case-by-case RACT approach, the Commonwealth was not in a position to submit case-by-case RACT emission limitations as SIP revisions until some months after July 15, 1994 (the date that sources are required to submit RACT proposals to PA DEP). While Pennsylvania has made substantial progress in the submittal of its case-by-case RACT proposals, it has not yet submitted all of the case-by-case RACT determinations required by its generic RACT regulation to EPA as source-specific SIP revisions.

As mentioned above, Pennsylvania's generic RACT regulation outlines a process that must be followed by those sources choosing to have RACT determined on a case-by-case basis. Included in this process outlined by the Pennsylvania regulation is a reference to the OAQPS Control Cost Manual and its subsequent amendments. Since the current OAQPS Control Cost Manual does not contain any specific chapters on NO_X control costs, more appropriate methods to determine estimated costs for NO_X controls must be used. The cost analysis methodology used to implement the Act's Acid Rain program is certainly a candidate. Because States and EPA do not have complete knowledge of any individual company's overall financial picture and must rely on the cost calculations and financial information submitted that company in making a source-specific RACT determination when considering the calculated cost (i.e., in terms of dollars per ton), judgement must be exercised so as to not overemphasize it as a factor in determination of economic feasibility or in the overall determination of RACT. The calculated costs submitted to the Commonwealth, and subsequently to EPA by PA DEP in support of the source-specific SIP revisions of RACT proposals, can be only one of the factors considered in the case-by-case determinations as to what RACT is for those sources. Using cost as one of many variables considered in determining RACT is consistent with both the Pennsylvania regulation and with EPA's policies and guidance on determining RACT.

Separate from its submittal of the generic RACT regulation to EPA, PA DEP has prepared its own guidance for industrial sources requiring case-by-case RACT determinations. Pennsylvania has stated that the intent of its guidance is to facilitate the approval of case-by-case RACT. EPA's review and approval of Pennsylvania's case-by-case RACT proposals, when they are duly submitted as SIP revisions, is based upon the information submitted for the official record and upon whether these proposals meet the criteria for technical and economic feasibility pursuant to EPA's and the Commonwealth's definition of RACT. Guidance and procedures that include such principles as establishing a maximum dollar per ton threshold for use in the

determination of all case-by-case RACTs or establishing a RACT emission limit based on the median of monitored data plus nearly three standard deviations, are examples of procedures that EPA finds inconsistent with the definition of RACT.

Because Pennsylvania's SIP revision submittal requesting approval of the generic VOC and NO_X RACT regulations, itself, does not reference or contain such guidance or procedures, EPA is able to propose conditional limited approval of the Pennsylvania generic RACT regulations.

Presumptive NO_X RACT Requirements—Pennsylvania gives major NO_X sources the option of complying with the ''presumptive RACT emission limitations'' of Chapter 129.93 as an alternative to developing and implementing a RACT limit on a case-by-case basis. The proposed presumptive RACT in Chapter 129.93(c)(3) for internal combustion engines, which requires the engines to be set and maintained at 4° retarded relative to standard timing, is acceptable to EPA.

EPA has identified deficiencies in the other presumptive RACT emission limitations of Chapter 129.93. For coal-fired combustion units (100 mmBTU/hr or greater), Chapter 129.93(b)(1) provides that presumptive RACT is low NO_X burners with separate overfired air control technology. Although EPA accepts Pennsylvania's determination that this technology constitutes RACT for this source category, the agency believes it is necessary and appropriate to quantify the emission reduction required to be obtained through this technology. While RACT for these types of units may specify the installation of low NO_X burners and separate overfired air, EPA believes that RACT for these sources must include the requirement to meet specific numeric emission limitations. Installation of low NO_X burners and separate overfired air does not ensure that these controls will be operated in a manner that minimizes NO_X emissions. EPA cannot agree that installation of low NO_X burners and separate overfired air alone represents RACT. Pennsylvania may correct this deficiency with an additional SIP submittal including enforceable, numerical emission limitations to be met through the installation of the low NO_X burner and separate overfired air control technology for each of those units subject to this provision of the Pennsylvania regulation. Coal-fired combustion units greater than or equal to 100 mmBTU/hr represent a significant portion of the NO_X emissions inventory in Pennsylvania. Establishing specific emission limitations for these sources in the SIP will allow Pennsylvania to quantify and rely on the expected emission reductions from these sources for air quality planning purposes.

The proposed presumptive RACT determinations contained in Chapters 129.93(b)(2) and 129.93(c) (1), (2), (4), and (5) have been found to be acceptable to EPA because Pennsylvania has provided information stating that there are no other technically or economically feasible controls. The emissions from these sources, in total, represent less than 5% of the total 1990 NO_X emissions inventory. It is not acceptable, however, for the RACT to be defined, without further elaboration, as ''installation, maintenance and operation of the source in accordance with manufacturer's specifications.'' Once approved by EPA, a RACT standard cannot be relaxed by action of a private party. Such a result might occur if RACT is defined simply as compliance with manufacturer's specifications. Pennsylvania must correct the deficiencies in Chapter 129.93(b)(2), (c) (1), (2), (4), and (5) by removing the ability of a private party to relax unilaterally a RACT standard by specifying that, in addition to being operated and maintained in accordance with a manufacturer's specifications, the equipment will also be maintained in accordance with good air pollution control practices. Pennsylvania has agreed to correct this deficiency in its regulation through additional language in each of the individual source permits where this is determined to be RACT. This additional language requires that these sources operate and maintain the emission units in accordance with good air pollution control practices and manufacturer's specifications. EPA has determined that Pennsylvania's solution of adding the ''good air pollution control practice'' language to the individual source permits is a practical and acceptable alternative to revising the Pennsylvania RACT regulations for these sources, Chapter 129.93. EPA has determined that Pennsylvania's alternative to require these sources to operate and maintain the emission units in accordance with good air pollution control practices and manufacturer's specifications is acceptable. EPA interprets ''good air pollution control practices'' to mean only those technically supportable operation and maintenance requirements that result in the equipment being operated, maintained and repaired in a manner that achieves the minimization of NO_X emissions.

NO_X Averaging Provision—The NO_X averaging provision in Chapter 129.94 is acceptable to EPA since there is the opportunity for further refinement of the averaging scheme conditions and assurance of enforceability, when the individual averaging proposals are submitted to EPA as SIP revisions.

Record keeping—The record keeping requirements of Chapter 129.95 are consistent with EPA requirements.

Terms of and Rationale for Conditional Approval

EPA's proposal includes proposed conditional approval of Pennsylvania's VOC and NO_X regulations SIP revision, based upon the Commonwealth's commitment to submit for approval into the SIP, the case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PA DEP. The Commonwealth submitted this commitment in a letter to EPA dated September 23, 1996. The case-by-case RACT proposals must be submitted by a date certain that is no later than 12 months after the effective date of EPA's final conditional approval.

Therefore, to fulfill the condition of this approval the Commonwealth must, by no later than 12 months after the effective date of EPA's final conditional approval of the generic VOC and NO_X RACT regulations SIP: (1) Certify that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PA DEP; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions, as defined below. Once EPA has determined that the Commonwealth has satisfied this condition, EPA shall remove the conditional nature of its approval and the Pennsylvania VOC and NO_X regulations SIP revision will, at that time, retain limited approval status. Should the Commonwealth fail to meet the condition specified above, the final conditional limited approval of the Pennsylvania VOC and NO_X RACT regulation SIP revision shall convert to a disapproval.

Definition of De Minimis

For states with a generic VOC RACT regulation intended to regulate all non-Control Technology Guideline (non-CTG) VOC sources, de minimis is determined by comparing the total 1990 emissions of all non-CTG VOC major sources in the Commonwealth, where a CTG had not been issued at the time of the state submittal of the generic VOC RACT regulation with the total emissions of those non-CTG VOC sources subject to the generic RACT where these source-specific RACTs have

not yet been approved by EPA. For example, while not applicable to the Pennsylvania generic RACT submittal, since EPA has issued CTGs for ship building and repair and wood furniture coatings in August 1996 and May 1996, respectively, EPA's de minimis procedure for a state submittal subsequent August 1996 would require that all RACTs for those CTG category sources and for shipbuilding and repair and wood furniture coating be approved and that the de minimis procedure as described in this notice apply only to those VOC emissions from sources that are neither CTG sources or shipbuilding or wood furniture sources. The VOC emissions from these remaining major sources are still subject to the RACT requirement but EPA can lift the conditional status of its approval of the state generic RACT rule prior to SIP approval for those sources that represent a de minimis amount of VOC emissions. In Pennsylvania's case, the generic RACT rule was submitted in February 1994. The post-1990 CTG issued prior to DEP's submittal is Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor Processes. Therefore, the VOC emissions from this source category are excluded from the pool of VOC total emissions used to determine whether the amount of emissions remaining is de minimis.

For Pennsylvania, de minimis is determined by comparing the total 1990 emissions of all NO_X major sources in the Commonwealth, subtracting those NO_X emissions attributed to utility boilers and then comparing this figure with those NO_X sources that are subject to the RACT requirement but where these source-specific RACTs have not yet been approved by EPA. EPA is specifically targeting utility boiler emissions and is requiring these emissions to be subtracted from the total NO_X inventory for this exercise because, while there has not been a CTG issued for them, there is an Alternative Control Technology (ACT) guidance document, guidance issued through the NO_X Supplement to the Title I General Preamble (57 FR 55620), and other non-EPA sources of information on reasonably available controls for these types of NO_X sources.

In addition, unlike any single source category in the non-CTG VOC emissions inventory, utility boiler emissions represent a very large part of the NO_X emissions inventory. For this reason, the case-by-case RACT proposals for all subject utility boilers must be submitted by the Commonwealth as SIP revisions within 12 months of the effective date of the final conditional limited approval of the generic VOC and NO_X regulations SIP revision, and any de minimis demonstration must be baselined from the amount of NO_X emissions from all major sources required to implement RACT minus the emissions from utility boilers.

Even after the conditional status of EPA's approval of the Pennsylvania RACT regulation is removed, PA DEP must still continue to submit, and have EPA approve into the Pennsylvania SIP, RACT requirements for the remaining de minimis amount of emissions. Therefore, removal of the conditional status to limited approval status in no way changes PA DEP's statutory obligation to implement RACT for all major sources.

Rationale for Also Proposing Limited Approval

The current Pennsylvania SIP does not contain a general requirement that all major sources must implement RACT. While EPA does not believe that the Pennsylvania generic VOC and NO_X RACT regulation satisfies the Act's RACT requirements as discussed previously in this notice, EPA is also proposing limited approval of the Pennsylvania generic RACT regulation on the basis that it strengthens the Pennsylvania SIP. Once EPA has approved all of the case-by-case RACT proposals as SIP revisions, the limited approval will convert to full approval.

EPA's review of this material indicates that proposing conditional limited approval is warranted. EPA is soliciting public comments on the issues discussed in this notice. These comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice. Further discussion and details of this rulemaking action can be found in the accompanying technical support document (TSD). Copies of the TSD may be obtained from that same EPA Regional office.

Proposed Action

EPA is proposing conditional limited approval of the Pennsylvania VOC and NO_x RACT regulation, Chapter 129.91 through 129.95. EPA is proposing conditional limited approval of this SIP revision based upon the commitment made by Pennsylvania to submit all the case-by-case RACT proposals for sources it is currently aware of as being subject to the major source RACT regulations. On September 23, 1996, Pennsylvania submitted a letter to EPA committing to: (1) Complete submission of the SIP revisions required by Chapter 129.91(h) containing RACT determinations for the major VOC and NO_x sources in the Commonwealth that are subject to the RACT rule, or for sources that are subject to the RACT rule but fail to submit a RACT plan, PA DEP will initiate appropriate enforcement action to obtain compliance with the rule; and (2) provide a written statement to EPA that, to the best of its knowledge, it has completed submission of the SIP revisions described above within one year of the effective date of the final conditional limited approval of the Pennsylvania generic RACT rule.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Approvals and conditional approvals of SIP submittals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this approval of this revision to the federal SIP would not impose any new requirements, EPA certifies that it would not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Today's actions are proposal actions upon which EPA is soliciting comments. In the unlikely event that Pennsylvania were to fail to meet its commitment and did not satisfy the condition described herein, the conditional limited approval would be converted to a disapproval. Such conversion would trigger the 18-month clock for the mandatory imposition of

sanctions under section 179(a) of the CAA and 40 CFR 52.31, EPA's sanction rule. If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal would not affect its state-enforceability. Moreover, EPA's disapproval of the submittal would not impose a new federal requirement. Therefore, EPA certifies that any such disapproval action would not have a significant impact on a substantial number of small entities because it would not remove existing requirements nor would it substitute a new federal requirement.

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

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

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the SIP revision, pertaining to the Pennsylvania generic VOC and NO_x RACT rule, will be based on whether it meets the requirements of section 110(a)(2) (A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 4, 1997.

Marcia E. Mulkey,

Acting Regional Administrator, Region III.

[FR Doc. 97–21269 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–178–02–9724b; TN 179–01–9723b; FRL–5871–8]

Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions to the Chattanooga/Hamilton County Portion Regarding Prevention of Significant Deterioration (PSD), Nitrogen Oxides, Lead Emissions, and Volatile Organic Compounds (VOC), and PM_{10} Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Chattanooga/Hamilton County (Chattanooga) portion of the Tennessee State Implementation Plan (SIP) regarding nitrogen oxides, prevention of significant deterioration (PSD), lead sources, stack heights, infectious waste incinerators, and volatile organic compound (VOC) reasonably available control technology (RACT) for miscellaneous metal parts coaters and synthesized pharmaceutical products, and PM_{10}. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by September 11, 1997.

ADDRESSES: Written comments on this action should be addressed to Karen Borel, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

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

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Chattanooga/Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407–2405, 423/867-4321.

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

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen Borel, Regulatory Planning and Development Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is 404/562–9029. Reference files TN178–02–9724 and TN 179–01–9723.

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

Dated: July 16, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–21271 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH104–3b; FRL–5874–5]

Approval and Promulgation of Implementation Plans; Ohio Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On May 14, 1997, EPA published a direct final rule (62 FR 26396) approving, and an accompanying proposed rule (62 FR 26463), proposing to approve a revision submitted on July 9, 1996 and January 31, 1997, to the ozone maintenance plans for the Dayton-Springfield Area (Miami, Montgomery, Clark, and Greene Counties), Toledo Area (Lucas and Wood Counties), Canton area (Stark County), Ohio portion of the Youngstown-Warren-Sharon Area (Mahoning and Trumbell Counties), Columbus Area (Franklin, Delaware, and Licking Counties), Cleveland-Akron-Lorain Area (Ashtabula, Cuyahoga, Lake, Lorain, Medina, Summit, Portage, and Geauga Counties), Preble County, Jefferson County, Columbiana and Clinton Counties. The revision was based on a request from the State of Ohio to revise the federally approved maintenance plan for those areas to provide the State and the affected areas with greater flexibility in choosing the appropriate ozone contingency measures for each area in the event such a measure is needed. On June 13, 1997 (62 FR 32257) EPA announced a 60-day extension of the public comment period until August 12, 1997. The EPA is announcing an additional 120-day extension of the public comment period on the May 14, 1997, proposed rule. In the rules section of this **Federal Register**, EPA is extending the effective date of the related final rule to allow for an additional 120-day extension of the public comment period on these maintenance plans.

DATES: Written comments on the May 14, 1997, proposed rule must be received by December 10, 1997.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), at the address below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6084.

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

Dated: August 5, 1997.

Jo Lynn Traub,

Acting Regional Administrator.

[FR Doc. 97–21381 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 62, No. 155

Tuesday, August 12, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Availability of Environmental Assessment and Preliminary Finding of No Significant Impact

SUMMARY: An environmental assessment on the Council's proposed regulatory revisions of its regulations implementing Section 106 of the National Historic Preservation Act was prepared in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and the Advisory Council on Historic Preservation's NEPA regulations, 36 CFR part 805. The environmental assessment made a preliminary determination that promulgation of its revised regulations will not have a significant impact on the quality of the human environment and that preparation of an environmental impact statement will not be necessary. Copies of the environmental assessment and proposed finding of no significant impact may be obtained by contacting the person listed below. Interested parties may submit comments on the environmental assessment and proposed finding of no significant impact to the address listed below no later than 30 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Woronowicz, Information Assistant, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW, Suite 809, Washington, D.C. 20004, (202) 606–8503.

Dated: August 7, 1997.

John M. Fowler,

Executive Director.

[FR Doc. 97–21282 Filed 8–11–97; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–49N]

Meeting of the National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will hold a meeting on August 12, 13, and 14, 1997 to discuss food safety issues related to fresh produce, meat, and poultry products; Hazard Analysis and Critical Control Point (HACCP) process control; risk assessment; and international issues pertaining to Codex Alimentarius initiatives.

DATES: The meeting will be held from 8:00 a.m. to 5:00 p.m. on August 12, 13, and 14, 1997.

ADDRESSES: The meeting will be held at the Best West SouthCenter, 15901 West Valley Road, Tukwila, Washington 98188. The meeting site is less than three miles from SeaTac International Airport.

FOR FURTHER INFORMATION CONTACT: Interested persons may file comments before and after the meeting. Comments should be addressed to Dr. Richard L. Ellis, Director, Scientific Research Oversight Staff, Department of Agriculture, FSIS, Suite 6913 Franklin Court Building, 1099 14th Street, NW, Washington, DC, 20250–3700 or FAX to (202) 501–7628.

SUPPLEMENTARY INFORMATION:

In the July 10, 1997, **Federal Register** notice announcing the July 24 and 25 meeting of NACMCF's Fresh Produce Subcommittee, it was noted that the full committee would meet in August to further discuss a number of issue related to food safety. This meeting will feature morning plenary sessions followed by breakout subcommittee meetings on August 12 and 13. The full committee will convene on August 14. The meeting is open to the public on a space available basis.

NACMCF provides advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed. NACMCF also provides advice and guidance to the Department of Commerce and the Department of Defense.

Done at Washington, DC, on August 7, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–21368 Filed 8–8–97; 2:31 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section 4 of the Maryland State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Maryland State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Maryland that changes must be made in the NRCS State Technical Guide specifically in practice standards 329A Residue Management; No-Till and Strip Till, 329B Residue Management; Mulch Till, 329C Residue Management; Ridge Till, and 344 Residue Management; Seasonal, to account for improved technology. These practices can be used in conservation systems that treat highly erodible land.

DATES: Comments will be received on or before September 11, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE STANDARD(S) CONTACT: David P. Doss, State Conservationist, Natural Resources Conservation Service, 339 Busch's Frontage Road, Suite 301, Annapolis, MD 21401; 410–757–0861; FAX 410–757–0687.

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 will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding disposition of those comments and a final determination of change will be made.

Dated: July 11, 1997.

David P. Doss,

State Conservationist.

[FR Doc. 97–21238 Filed 8–11–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Refinancing Water and Wastewater Loans

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: This notice describes the Rural Utilities Service's Water and Wastewater (WW) loan program refinancing policies, informs commercial lenders of the availability of a list of eligible WW borrowers that have the potential to refinance outstanding debt, and invites commercial credit sources to participate in refinancing loans from the Agency's portfolio.

FOR FURTHER INFORMATION CONTACT: Deanna Plauche' Loan Specialist, Rural Utilities Service, USDA, Room 2238, South Agriculture Building, 1400 Independence Ave., S.W., Washington, D.C. 20250, Telephone: (202) 720–9635.

SUPPLEMENTARY INFORMATION: The Agency provides credit to public entities such as municipalities, counties, special-purpose districts, Indian tribes, tribal organizations and nonprofit corporations. The eligible WW loan purposes are to construct, enlarge, extend, or otherwise improve water and wastewater systems. The Agency's credit programs are administered in a manner which ensures that they do not compete with credit available from other reliable sources. Loan agreements require financially capable borrowers to refinance debts owed to the Agency when other credit is available at reasonable rates and terms from a cooperative or private credit source.

The Agency would like to further develop its public/private partnerships while enhancing its refinancing efforts. As part of these efforts, each Rural Development State office, which administers the WW program in the field, will maintain a current listing of borrowers that have the potential to refinance. The Agency requests that any interested lenders contact the State office in each State for the current list of borrowers with potential to graduate. The Agency has developed a unified database of lenders interested in this refinancing initiative as part of the ongoing effort to establish a stronger alliance with private sector lenders. Each interested lender should submit its name and address to the State office located in its residing State. Each State office is required to provide a copy of its current lender list annually to the National office for compilation of a nationwide database. This list should be submitted to the National office by October 1, of each year.

Dated: July 31, 1997.

John Romano,

Deputy Administrator, Water and Wastewater.

[FR Doc. 97–21190 Filed 8–11–97; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Minnesota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on Thursday, September 25, 1997 at the Embassy Suites, 425 S. 7th Street, Minneapolis, Minnesota 55415. The purpose of the meeting is to discuss civil rights issues of interest and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Alan W. Weinblatt, 612–292–8770, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 5, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–21229 Filed 8–11–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Mexico Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 3:00 p.m. on September 15, 1997, at the Clovis Public Library, Ingram Room, 701 North Main Street, Clovis, New Mexico 88101. The purpose of the meeting is to discuss: (1) Food stamp fraud sting operation carried out in Clovis; (2) progress on the Farmingon project; and (3) plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Lynda Eaton, 505–326–4338, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 4, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–21227 Filed 8–11–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on Wednesday, September 10, 1997, at the Hyatt Regency, 350 North High Street, Columbus, Ohio 43215. The purpose of the meeting is to discuss civil rights issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Grace Ramos, 614–466–6715, or Constance Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the

services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 5, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–21228 Filed 8–11–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 911]

Grant of Authority; Establishment of a Foreign-Trade Zone, Springfield, Missouri

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 City of Springfield Airport Board, on behalf of the City of Springfield, Missouri (the Grantee), has made application to the Board (FTZ Docket 72–96, 61 FR 54153, 10/17/96), requesting the establishment of a foreign-trade zone at the Springfield-Branson Regional Airport complex in Springfield, Missouri, within the Springfield Customs port of entry; and,

Whereas, notice inviting public comment has been given in the **Federal Register**, and the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 225, at the site described in the application, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 1st day of August 1997.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 97–21280 Filed 8–11–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 909]

Grant of Authority; Establishment of a Foreign-Trade Zone, Spokane, Washington

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, Spokane Airport Board, on behalf of the City and County of Spokane, Washington (the Grantee), has made application to the Board (FTZ Docket 70–96, 61 FR 52909, 10/9/96), requesting the establishment of a foreign-trade zone in Spokane, Washington, within the Spokane Customs port of entry; and,

Whereas, notice inviting public comment has been given in the **Federal Register**, and the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 224, at the sites described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 1st day of August 1997.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 97–21279 Filed 8–11–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080597B]

Endangered Species; Permits

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

ACTION: Issuance of permit 1055 (P646) and modification 2 to permit 1025 (P622).

SUMMARY: Notice is hereby given that NMFS has issued a permit to Amy Harris, a student of California State University at Sacramento, CA and a modification to a permit to the California Department of Fish and Game at Sacramento, CA (CDFG) providing authorization for takes of an endangered species for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6064).

SUPPLEMENTARY INFORMATION: The permit and the permit modification were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on May 12, 1997 (62 FR 25927) that an application had been filed by Amy Harris (P646) for a scientific research permit. Permit 1055 was issued to Amy Harris on August 1, 1997. Permit 1055 authorizes Amy Harris an annual take of juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to compare the relative abundance of juvenile chinook salmon in restored and naturally-occurring shallow-water habitats in the northern

Sacramento-San Joaquin Delta. Permit 1055 expires on June 30, 1999.

Notice was published on May 12, 1997 (62 FR 25927) that an application had been filed by CDFG (P622) for modification 2 to scientific research permit 1025. Modification 2 to permit 1025 was issued to CDFG on August 1, 1997. For the permit modification, CDFG is authorized an increase in the annual take of juvenile, endangered Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with a new study to be conducted within Butte Creek in the Sutter Bypass. The purpose of the study is to evaluate the timing and relative abundance of juvenile anadromous salmonids, particularly spring-run chinook salmon, as they pass through the Sutter Bypass en route to the Delta. This information will be used to assess, monitor, and adaptively manage operations of Delta water exports by the State Water Project and Central Valley Project. Modification 2 to permit 1025 is valid for the duration of the permit. Permit 1025 expires on June 30, 2001.

Issuance of the permit and permit modification, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that is the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: August 5, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–21186 Filed 8–11–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of the Air Force.

ACTION: Notice.

In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Air Force announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. 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 information collection; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 14, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to HQ AFROTC/RRUA, Scholarship Actions Section, 551 East Maxwell Blvd, ATTN: Mrs. Sonia D. Rudolph, Maxwell Air Force Base AL 36112–6102.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call HQ AFROTC/RRUA, Scholarship Actions Section, at (334) 953–6588.

Title, Associated Form, and OMB Number: Air Force ROTC Scholarship Nomination, AFROTC Form 36, August 97, OMB Number 0701–0103.

Needs and Uses: The information collection requirement is used by the Air Force to identify the best-qualified applicants for the scholarship, providing for a ''whole person'' evaluation.

Affect Public: Individuals and household.

Number of Respondents: 500.

Responses Per Respondent: 1.

Average Burden Per Response: 42 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are college students between the ages of 18 and 29 years. This form collects general identification and academic performance data, academic aptitude, and Professor of Aerospace Studies (PAS) evaluation of Air Force ROTC Scholarship applicant's performance and potential. It is used by AFROTC Scholarship Selection Boards to determine eligibility and competitiveness for award of scholarships involving expenditures of Federal funds.

Barbara A. Carmichael,

Alternate Air Force Liaison Officer.

[FR Doc. 97–21230 Filed 8–11–97; 8:45 am]

BILLING CODE 3901–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent to Prepare Environmental Impact Statement for F–22 Aircraft Follow-On Operational Testing and Evaluation and Weapons School Permanent Beddown at Nellis Air Force Base (AFB), Nevada

The United States Air Force (Air Force) is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) to assess the potential environmental impacts of a proposal to station F–22 Tactical Fighter Aircraft at Nellis AFB, NV. A total of 17 F–22 aircraft would be permanently based in phases at Nellis AFB between the years 2002 and 2010. The aircraft, to be assigned to the Operational Test and Evaluation and USAF Weapons School programs at Nellis AFB, would use the Nellis AFB Range Complex and associated airspace for the purposes of fully testing and evaluating F–22 operational capabilities and to provide training to Air Force pilots. The proposed action entails facility construction activities on Nellis AFB over a 6 year period starting in FY 1999. Approximately 370 personnel would be added to the installation between FY 2001 and 2009. Because of the unique nature of the Air Force's Fighter Weapons School at Nellis AFB, only the proposed action and the no-action alternative have been identified. If feasible alternatives are developed as part of the scoping process, they will be included in the draft EIS document. The data in this EIS will be considered in making the beddown decision and documented in the Air Force's Record of Decision addressing the proposal. A separate EIS currently being conducted by the Air Force to address Nellis Range Renewal issues, will include potential cumulative impacts of F–22 flying operations resulting from this proposed action.

The Air Force intends to hold three public scoping meetings to be held on the following dates and times at the indicated locations:

1. Convention Center, 301 Brougher, Tonopah, NV, August 26, 1997, 7:00 p.m.

2. Dell H. Robison Middle School, 825 Marion Drive, Las Vegas, NV, August 27, 1997, 7:00 p.m.

3. Youth Center, Highway 93N, Caliente, NV, August 28, 1997, 7:00 p.m.

These meetings are the first step in soliciting public and government agency comments on the proposed action. Comments provided at these meetings and throughout the scoping process

should focus on the merits of the proposal, alternatives, and the nature and scope of environmental issues and other concerns that need to be assessed in the EIS. During the meetings, the Air Force will describe the proposed action and no-action alternative, define the process involved in preparing the EIS, and outline the opportunities for public involvement in the process. The scoping period for the F–22 Permanent Beddown at Nellis AFB EIS, will extend through September 30, 1997.

Written and oral comments will be accepted at the scoping meetings and at any time during the scoping period for the F–22 Beddown Nellis AFB EIS. To ensure the Air Force has sufficient time to consider public input in the preparation of the Draft EIS, comments should be submitted to the address below by September 30, 1997. F–22 Aircraft Beddown, Nellis Air Force Base, NV, EIS, HQ AFCEE/ECP, 3207 North Road, Brooks Air Force Base, TX 78235–5363, Phone: (210) 536–6544, FAX (210) 536–3890.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–21240 Filed 8–11–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers; Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Whitewater River Basin (Thousand Palms) Flood Control Feasibility Study, Riverside County, CA

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (EIS).

SUMMARY: The Los Angeles District intends to prepare an EIS to support the proposed flood protection study within the Thousand Palms area of the Coachella Valley. The area to be studied extends from Long Canyon to Indio, and from the Indio, and from the Interstate-10 Freeway to the Indio Hills. The purpose of the proposal is to identify measures that will provide flood protection of the FEMA flood hazard zone and flood plain. Secondary objectives include: consideration of environmental opportunities to enhance the viability of the Coachella Valley Preserve (an endangered species preserve); and development of coincidental recreation opportunities along project rights-of-way. Alternative measures include detention basins, channels, and, or, levees to control runoff from the Indio Hills, as well as a no action alternative. The EIS will analyze potential impacts on the environment of a range of alternatives, including the recommended plan.

FOR FURTHER INFORMATION CONTACT: Ms. Hayley Lovan, Project Environmental Coordinator, (213) 452–3863, or Mr. Brian Whelan, Study Manager, (213) 452–3795.

SUPPLEMENTARY INFORMATION: The U.S. Army Corps of Engineers intends to prepare an EIS to assess the environmental effects associated with the proposed flood protection measures within the Thousand Palms area. The public will have the opportunity to comment on this analysis before any action is taken to implement the proposed action.

Scoping

a. The U.S. Army Corps of Engineers will conduct a scoping meeting prior to preparing the EIS to aid in determination of significant environmental issues associated with the proposed action. The public, as well as Federal, State, and local agencies are encouraged to participate in the scoping process by submitting data, information, and comments identifying relevant environemtal and socioeconomic issues to be addressed in the environmental analysis. Useful information includes other environmental studies, published and unpublished data, alternatives that could be addressed in the analysis, and potential mitigation measures associated with the proposed action.

b. A public scoping meeting will be held in the community of Thousand Palms the week of August 5, 1997, concurrent with a public workshop. The location, date, and time of the public scoping meeting will be announced in the local news media. A separate notice of this meeting will be sent to all parties on the study mailing list.

c. Individuals and agencies may offer information or data relevant to the environment or socioeconomic impacts by attending the public scoping meeting. Comments, suggestions, and requests to be placed on the mailing list for announcements should be sent to Hayley Lovan, U.S. Army Corps of Engineers, Los Angeles District, P.O. Box 532711, Los Angeles, CA 90053–2325, ATTN: CESPL–PD–RQ.

Availability of the Draft EIS

The draft EIS is scheduled to be published and circulated in December, 1998, and a public hearing to receive comments on the Draft EIS will be held after it is published.

Dated: July 28, 1997.

Herbert M. Chong,

Captain, Corps of Engineers, Acting District Engineer.

[FR Doc. 97–21226 Filed 8–11–97; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Grant Exclusive Patent License; Childrens Hospital Los Angeles

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Childrens Hospital Los Angeles, a revocable, nonassignable, exclusive license in the United States to practice the Government owned invention described in U.S. Patent No. 4,710,472 entitled ''Magnetic Separation Device,'' issued December 1, 1987.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: July 28, 1997.

M.D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–21237 Filed 8–11–97; 8:45 am]

BILLING CODE 3810–FF–P

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 October 14, 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 SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the PaperworkReduction 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: August 6, 1997.

Gloria Parker,

Deputy, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Application for Grants Under the Magnet Schools Assistance Program (MSAP).

Frequency: Triennially.

Affected Public: State, Local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden: Responses: 180. Burden Hours: 4,500.

Abstract: The application is used by local educational agencies to apply under the magnet schools program. The Department uses this information to make grant awards.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Annual Client Assistance Program (CAP) Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden: Responses: 57. Burden Hours: 342.

Abstract: Form RSA–227 is used to analyze and evaluate the Client Assistance Program (CAP) administered by designated CAP agencies. These agencies provide services to clients and client applicants of programs, projects, and community rehabilitation programs authorized by the Rehabilitation Act of 1973, as amended. Data also are reported on information and referral services to any individual with a disability.

Office of Postsecondary Education

Title: Applications for the Programs to Encourage Minority Students to Become Teachers.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden: Responses: 150. Burden Hours: 4,800.

Abstract: This application is essential to conducting the competition for new awards in fiscal year 1998 for eligible institutions of higher education and state and local educational agencies for the Programs to Encourage Minority Students to Become Teachers.

[FR Doc. 97–21189 Filed 8–11–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia); Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATES: Wednesday, August 20, 1997: 6:30 p.m.–9:30 p.m. (Mountain Daylight Time).

ADDRESSES: Wyndam Hotel Albuquerque, 2910 Yale Boulevard, SE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, PO Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

6:30 p.m.—Public Comments
6:40 p.m.—Approval of Agenda; Approval of 7/16/97 Minutes
6:45 p.m.—Chair's Report—Jesse D. Dompreh
6:50 p.m.—Environmental Restoration/ Waste Management Quarterly Meeting
7:35 p.m.—Budget and Planning Committee Report
7:45 p.m.—Break
7:50 p.m.—Accelerating Cleanup: Focus on 2006 Presentation
8:05 p.m.—Accelerating Cleanup: Focus on 2006 Recommendations by Issues Committee
8:25 p.m.—Issues Committee Recommendation on ''No Further Action'' Requests
8:35 p.m.—Procedures for Action Request Form
8:50 p.m.—Staff Report
8:55 p.m.—Membership and Nominating Committee Report
9:05 p.m.—New/Other Business
9:10 p.m.—Public Comment Period
9:15 p.m.—Agenda Items for 9/17/97 Meeting
9:20 p.m.—Agenda Items for 8/26/97 Executive Committee Meeting
9:25 p.m.—Announcement of Next Meeting/Adjourn

A final agenda will be available at the meeting Wednesday, August 20, 1997.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

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 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy, Kirtland Area Office, PO Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on August 6, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–21264 Filed 8–11–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, August 12, 1997: 6:30 p.m.–9:30 p.m.; 7 p.m. to 7:30 p.m. (public comment session).

ADDRESSES: Rio Grande Treatment Center Community Room, Highway 518 at Mile Marker 33, approximately 2.5 miles North of Mora, in Cleveland, New Mexico (for directions, call 505–387–2261).

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Los Alamos National Laboratory Citizens' Advisory Board, 528 35th Street, Los Alamos, New Mexico 87544, (505) 665–5048.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Tuesday, August 12, 1997.

6:30 p.m.—Call to Order and Welcome
7:00 p.m.—Public Comment
7:30 p.m.—Old Business
8:15 p.m.—New Business
9:30 p.m.—Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Ann DuBois, at (505) 665–5048. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

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 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on August 6, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–21265 Filed 8–11–97; 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 (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Thursday, September 4, 1997: 9 a.m.–4:30 p.m.: Friday, September 5, 1997: 8:30 a.m.–4 p.m.

ADDRESSES: Tower Inn, 1515 George Washington Way, Richland, Washington.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, PO 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 2006 (Accelerated Cleanup) Plan, the FY 1998 and 1999 Budget, the Tank Waste Remediation Program including Privatization, Project Hanford Management Contract, and Spent Nuclear Fuel.

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 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, PO Box 550,

Richland, WA 99352, or by calling him at (509) 376–9628.

Issued at Washington, DC on August 7, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–21267 Filed 8–11–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas.

DATE AND TIME: Tuesday, August 26, 1997: 1 p.m.–5 p.m.

ADDRESSES: Carson County Square House Museum, Panhandle, Texas.

FOR FURTHER INFORMATION CONTACT: Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:00 p.m.—Welcome—Agenda Review—Approval of Minutes
1:10 p.m.—Co-Chair Comments
1:20 p.m.—Task Force Reports
1:50 p.m.—Subcommittee Reports
2:00 p.m.—Ex-Officio Reports
3:00 p.m.—Radiation Survey Background
4:00 p.m.—Updates—Occurrence Reports—DOE
5:00 p.m.—Closing Remarks/Adjourn

Public Participation: The meeting is open to the public, and public comment will be invited throughout the meeting. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' 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 Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX, phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5 pm on Friday; 8:30 am to 12 noon on Saturday; and 2 pm to 6 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX, phone (806) 537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9 am to 5 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on August 7, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–21266 Filed 8–11–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Agency information collection activities: Proposed collection; comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed revision of the Form EIA–886, ''Alternative Fuel Vehicle Annual Report''.

DATES: Written comments must be submitted on or before October 14, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Jorge Luna-Camara, Energy Information Administration, EI–525, Renewable Energy Branch, Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0650, Telephone (202) 426–1170; e-mail jcluna@eia.doe.gov; FAX (202) 426–1308.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Jorge Luna-Camara at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275) and the Department of Energy Organization Act (Pub. L. 95–91), the Energy Information Administration (EIA) is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The EIA, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to prepare data requests in the desired format, minimize reporting burden, develop clearly understandable reporting forms, and assess the impact of collection requirements on respondents. Also, EIA will later seek approval by the Office of Management and Budget (OMB) for the collections under Section 3507(h) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, Title 44, U.S.C. Chapter 35).

II. Current Actions

The EIA requests a three-year extension through January 31, 2001, and

modifications to the form. The name of the form will be changed from ''Alternative Fuel Vehicles Supplier's Annual Report'' to ''Alternative Fuel Vehicle Annual Report.''

This form currently is used to gather information on the supply of ''alternative fueled vehicles'' (AFV's). Specifically, the Form EIA–886 collects data annually on the number of AFV's which suppliers ''made available'' in the previous calendar year, and the number of AFV's which suppliers plan to ''make available'' in the following calendar year. The EIA proposes to continue collecting this information. Additionally, the EIA intends to begin collecting data on the number of AFV's in use and their ''alternate transportation fuel'' (ATF) consumption. In addition, the EIA intends to ask respondents three voluntary questions regarding refueling facilities. These data will be published annually in the Alternative to Traditional Transportation Fuel publication. The data will also be available through the EIA home page at WWW.EIA.DOE.GOV.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of responses.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can EIA make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can data be submitted by the due date?

C. Public reporting burden for this collection is estimated to average approximately four hours for the AFV providers part of the form or the AFV users part of the form. However, there may be some respondents which would be both (AFV providers as well as AFV users). For these respondents the EIA estimates an average of approximately six hours per response. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information.

Please comment on (1) the accuracy of our estimate and (2) how the agency could minimize the burden of the collection of information, including the use of information technology.

D. EIA estimates that respondents will incur no additional costs for reporting other than the hours required to complete the collection. What is the estimated: (1) total dollar amount annualized for capital and start-up costs, and (2) recurring annual costs of operation and maintenance, and purchase of services associated with this data collection?

E. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. Are there alternate sources of data and do you use them? If so, what are their deficiencies and/or strengths?

D. For the most part, information is published by EIA in U.S. customary units, e.g., cubic feet of natural gas, short tons of coal, and barrels of oil. Would you prefer to see EIA publish more information in metric units, e.g., cubic meters, metric tons, and kilograms? If yes, please specify what information (e.g., coal production, natural gas consumption, and crude oil imports), the metric unit(s) of measurement preferred, and in which EIA publication(s) you would like to see such information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C. July 29, 1997.

Lynda T. Carlson,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–21263 Filed 8–11–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–403–004]

ANR Pipeline Company; Notice of Refund Report

August 6, 1997.

Take notice that on August 1, 1997, ANR Pipeline Company (ANR) tendered for filing with the Federal Energy Regulatory Commission (Commission) a report summarizing refunds disbursed on July 1, 1997. These refunds represent an over collection on its Viking Costs of $7,740,793, plus $742,463 in interest, pursuant to a Commission order at *ANR Pipeline Company,* 79 FERC ¶ 61,335 (1997).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before August 15, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21219 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3202–000]

Appalachian Power Company; Notice of Filing

August 6, 1997.

Take notice that Appalachian Power Company (APCo), on July 28, 1997, tendered for filing with the Commission proposed modifications to its Rate Schedule FPC No. 23. The modifications are designed to provide off-peak excess demand, surplus power and back-up service to Kingsport Power Company (KgPCo).

APCo proposes an effective date of August 1, 1997, and states that copies of its filing were served on KgPCo and the Tennessee Regulatory Authority.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the

Federal Energy Regulatory Commission, 888 First Street, N.W., 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 285.214). All such motions or protests should be filed on or before August 18, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21196 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA96–10–001]

Boston Edison Company; Notice of Filing

August 6, 1997.

Take notice that on May 10, 1997, Boston Edison Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21201 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA95–9–002]

Central and South West Services, Inc.; Notice of Filing

August 6, 1997.

Take notice that on June 5, 1997, Central and South West Services, Inc., tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motions to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and procedure (18 CFR 385.211 and 18 CFR 385.214). All such motion or protests should be filed on or before August 18, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21199 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–690–000]

Consumers Energy Company; The Detroit Edison Company; Notice of Filing

August 6, 1997.

Take notice that on July 14, 1997, Consumers Energy Company and the Detroit Edison Company filed a Joint Open Access Transmission Tariff in compliance with Order No. 888–A of the Federal Energy Regulatory Commission. Consumers Energy Company and The Detroit Edison Company request that their filing be accepted effective as of July 14, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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 proceedings. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21215 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1238–000]

CSW Power Marketing, Inc.; Notice of Filing

August 6, 1997.

Take notice that on July 25, 1997, CSW Power Marketing, Inc. (CSW Power), submitted a quarterly report under CSW Power's market-based sales tariff. The report is for the period of April 1, 1997 through June 30, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 19, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21194 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–683–000]

Duquesne Light Company; Notice of Filing

August 6, 1997.

Take notice that on July 15, 1997, Duquesne Light Company (Duquesne), filed an amendment to its filing in the above-captioned docket. In accordance with Order No. 888–A, Duquesne proposes an effective date of May 13, 1997 for this amendment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before August 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21210 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–686–000]

El Paso Electric Company; Notice of Filing

August 6, 1997.

Take notice that on July 14, 1997, El Paso Electric Company (El Paso) tendered for filing a revised open access transmission tariff in accordance with FERC Order No. 888–A. El Paso states that the revised tariff reflects changes to the non-rate terms and conditions of the generic form of open access transmission tariff prescribed in Order No. 888–A and rate-related changes that were previously included in an Offer of Settlement that was filed in this proceeding on March 18, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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 application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21211 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–699–000]

Florida Power & Light Company; Notice of Filing

August 6, 1997.

Take notice that on July 15, 1997, Florida Power & Light Company (FPL) tendered for filing its revised Open Access Transmission Tariff (Tariff) in compliance with the Commission's directive in Order No. 888–A, issued on March 4, 1997 in Docket Nos. RM95–8–001 and RM94–7–002. The Tariff supersedes FPL's currently effective open access transmission tariff filed on July 9, 1996, Docket No. OA96–39–000, in compliance with Order No. 888. FPL requests that the Tariff be made effective July 14, 1997.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21217 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA94–20–002]

Georgia Power Company; Notice of Filing

August 6, 1997.

Take notice that on June 10, 1997, Georgia Power Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21198 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA96–19–002]

Kansas City Power & Light Company; Notice of Filing

August 6, 1997.

Take notice that on March 18, 1997, Kansas City Power & Light Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and

214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21205 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–614–000]

Lockhart Power Company; Notice of Filing

August 6, 1997.

Take notice that on July 8, 1997, Lockhart Power Company filed original and revised tariff sheets to its Order No. 888 open access tariff to comply with FERC Order No. 888–A. Lockhart states that it has served copies on this filing on the South Carolina Public Service Commission and all parties listed on the official service list in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21208 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–697–000]

Long Island Lighting Company; Notice of Filing

August 6, 1997.

Take notice that Long Island Lighting Company (LILCO) on July 14, 1997, tendered for filing pursuant to Section 206 of the Federal Power Act (FPA), Section 35.13 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR § 35.13, and in compliance with the Commission's Order No. 888–A, issued March 4, 1997 in Docket Nos. RM95–8–001 and RM94–7–002, a revised Open Access Transmission Tariff (Tariff).

LILCO served copies of the filing upon the persons listed on a service list submitted with its filing, including each of its existing wholesale customers and the state regulatory authority for each state in which its existing wholesale customers are served.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21216 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA94–1–001]

Minnesota Power & Light Company; Notice of Filing

August 6, 1997.

Take notice that on April 7, 1997, Minnesota Power & Light Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21197 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3200–000]

Montaup Electric Company; Notice of Filing

August 6, 1997.

Take notice that on July 14, 1997, Montaup Electric Company tendered for an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 18, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21195 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA96–17–001]

Montaup Electric Company; Notice of Filing

August 6, 1997.

Take notice that on April 10, 1997, Montaup Electric Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21204 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–687–000]

Northeast Utilities Service Company; Notice of Filing

August 6, 1997.

Take notice that on July 14, 1997, Northeast Utilities Service Company (NUSCO) on behalf of the Northeast Utilities (NU) System Companies, tendered for filing a revised pro forma open access transmission service tariff to satisfy the requirements of the Commission's Order No. 888–A. NUSCO also tendered for filing revisions to Supplement No. 1 to the NU System Companies' Open Access Transmission Service Tariff that correspond to the changes to the pro forma tariff.

NUSCO states that the effective date of the revised transmission tariff and Supplement No. 1 will be July 14, 1997 in accordance with Order No. 888–A.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21212 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–689–000]

Ohio Edison Company Pennsylvania Power Company; Notice of Filing

August 6, 1997.

Take notice that on July 14, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, its modified Open Access Transmission Tariff pursuant to Sections 205 and 206 of the Federal Power Act, and in compliance with the Commission's March 4, 1997, Order No. 888–A. This Open Access Compliance Tariff permits Eligible Customers to obtain Point-To-Point and Network Integration Transmission Service, as well as ancillary services and other related services, in accordance with the terms and conditions in the compliance Tariff and the Schedules and Service Agreement thereto.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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 application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21214 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–192–002]

Otter Tail Power Company; Notice of Filing

August 6, 1997.

Take notice that on July 17, 1997, Otter Tail Power Company tendered for filing a revised compliance refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 18, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21206 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA96–11–002]

Pennsylvania Power & Light Company; Notice of Filing

August 6, 1997.

Take notice that on July 29, 1997, Pennsylvania Power & Light Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21202 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–688–000]

Pennsylvania Power & Light Company; Notice of Filing

August 6, 1997.

Take notice that on July 14, 1997, Pennsylvania Power & Light Company (PP&L) tendered for filing, under Federal Power Act Sections 205 and 206 and Commission Order No. 888–A, PP&L's transmission tariff in compliance with Order No. 888–A and a request for rate change. The non-rate terms and conditions of PP&L's tariff conform to the Commission's pro forma tariff mandated in Order No. 888–A.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before August 19, 1997. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parities to the proceedings. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21213 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–137–008, RP97–182–006, RP97–224–008, and RP97–343–001]

Southern Natural Gas Company, et al.; Notice of Request For Limited Waiver, And Proposed Delay in Service Implementation

August 6, 1997.

Take notice on July 31, 1997, Southern Natural Gas Company, South Georgia Natural Gas Company, and Sea Robin Pipeline Company filed separate requests for limited-term waiver of GISB Standards 1.3.24 and 1.3.25 until such time as the new SoNet computer system is in service.

In addition, Sea Robin Pipeline Company, in Docket No. RP97–343–001, proposes to delay implementation of its proposed pooling service from November 1, 1997, until the new SoNet system is placed in service.

The companies state that they are serving copies of the instant filing to parties to the proceeding and its customers.

Any person desiring to protest said filings 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 should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21220 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–677–000]

Texas Eastern Transmission Corporation; Notice of Application

August 6, 1997.

Take notice that on July 31, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP97–677–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to CCNG Gas Gathering, L.P. (CCNG), approximately 23.72 miles of 3,4,6, and 8-inch pipelines, two measuring stations, and appurtenances (collectively referred to as ''Facilities'' located in San Patricio and Arkansas counties, Texas, for an estimated sale price of $215,000, as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Eastern states that the natural gas reserves attached to the Facilities are depleting, throughput on the Facilities is minimal, and that it does not anticipate making any extensions to connect additional natural gas supplies to the Facilities in the foreseeable future as its reason for selling the Facilities to CCNG. Texas Eastern has been advised by CCNG that CCNG intends to integrate the Facilities into its gathering system to improve operational efficiency.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 27, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 required 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 Eastern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21192 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–680–000]

Texas Eastern Transmission Corporation; Notice of Application To Abandon

August 6, 1997.

Take notice that on August 1, 1997, Texas Eastern Transmission Corporation (Applicant), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas, 77251–1642, filed under Section 7(b) of the Natural Gas Act, to abandon by removal, pipeline interconnect facilities between Applicant and Arkla, all as more fully described in the application on file with the Commission and open to public inspection.

The interconnection facilities consist of 1013 feet of 12-inch pipeline, 807 feet of 24-inch pipeline, 72 feet of 10-inch pipeline, and miscellaneous valves, fittings and appurtenant facilities. The facilities are located in Pulaski County, Arkansas on the north bank of the Arkansas River.

Any person desiring to be heard or make any protest with reference to said application should on or before August 27, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protesters 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 required, or if the Commission on its own review of the matter finds that permission and approval of 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 Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21193 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA95–51–002]

UtiliCorp United, Inc.; Notice of Filing

August 6, 1997.

Take notice that on July 29, 1997, UtiliCorp United, Inc., tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21200 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3570–000]

Washington Water Power Company; Notice of Filing

August 6, 1997.

Take notice that on July 15, 1997, Washington Water Power Company tendered for an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21191 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA98–1–35–000]

West Texas Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

August 6, 1997.

Take notice that on August 1, 1997, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to be effective October 1, 1997:

Twenty-Fourth Revised Sheet No. 4

WTG states that the tariff sheet and the accompanying explanatory schedules constitute its annual PGA filing submitted pursuant to the purchased gas adjustment provisions of Section 19.5 of the General Terms and Conditions of its tariff.

WTG states that copies of the filing were served upon its customers and affected state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21221 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–629–000]

Wisconsin Public Service Corporation; Notice of Filing

August 6, 1997.

Take notice that on July 9, 1997, Wisconsin Public Service Corporation (WPSC) of Green Bay, Wisconsin, submitted for filing its compliance open-access transmission tariff in compliance with the Commission's Order No. 888–A. WPSC requests a July 14, 1996, effective date.

WPSC states that this filing has been posted in accordance with the Commission's Regulations and that copies of the filing have been served upon WPSC's wholesale customers, the Wisconsin Public Service Commission, the Michigan Public Service Commission, and all persons listed on the official service lists in Docket Nos. ER95–1528–000, ER96–1088–000, and OA96–79–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 18, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21209 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–611–000]

Yadkin, Inc.; Notice of Filing

August 6, 1997.

Take notice that on July 3, 1997, Yadkin, Inc., filed original and revised tariff sheets to its Order No. 888 open access tariff to comply with FERC Order No. 888–A. Yadkin states that it has served copies on this filing on the North Carolina Public Utilities Commission and all parties listed on the official service list in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21207 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA96–12–001]

Yankee Atomic Electric Company; Notice of Filing

August 6, 1997.

Take notice that on April 8, 1997, Yankee Atomic Electric Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21203 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3766–000, et al.]

The Dayton Power and Light Company, et al.; Electric Rate and Corporate Regulation Filings

August 6, 1997.

Take notice that the following filings have been made with the Commission:

1. The Dayton Power and Light Company

[Docket No. ER97–3766–000]

Take notice that on July 18, 1997, The Dayton Power and Light Company (Dayton) submitted service agreements establishing NIPSCO as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon NIPSCO and the Public Utilities Commission of Ohio.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Power & Light Company, National Gas & Electric L.P., InterCoast Power Marketing, Enron Power Marketing, Inc., Valero Power Service Company, JEB Corporation, and Calpine Power Services Company

[Docket Nos. ER89–401–032, ER90–168–033, ER94–6–008, ER94–24–020, ER94–1394–012, ER94–1432–012, ER94–1545–011, (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On July 30, 1997, Citizens Power & Light Company filed certain information as required by the Commission's August 8, 1989, order in Docket No. ER89–401–000.

On July 22, 1997, National Gas & Electric L.P., filed certain information as required by the Commission's March 20, 1990, order in Docket No. ER90–168–000.

On July 28, 1997, InterCoast Power Marketing filed certain information as required by the Commission's August 19, 1994, order in Docket No. ER94–6–000.

On July 30, 1997, Enron Power Marketing, Inc., filed certain information as required by the Commission's December 2, 1993, order in Docket No. ER94–24–000.

On July 30, 1997, Valero Power Service Company filed certain information as required by the Commission's August 24, 1994, order in Docket No. ER94–1394–000.

On July 30, 1997, JEB Corporation filed certain information as required by the Commission's September 8, 1994, order in Docket No. ER94–1432–000.

On July 29, 1997, Calpine Power Services Company filed certain information as required by the Commission's March 9, 1995, order in Docket No. ER94–1545–000.

3. Destec Power Services, Inc., Koch Energy Trading Inc., EPEM Marketing Company and Phibro Inc.

[Docket Nos. ER94–1612–014, ER95–218–010, ER95–428–011, and ER95–430–011 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On July 30, 1997, Destec Power Services, Inc., filed certain information as required by the Commission's January 20, 1995, order in Docket No. ER94–1612–000.

On July 29, 1997, Koch Energy Trading, Inc., filed certain information as required by the Commission's January 4, 1995, order in Docket No. ER95–218–000.

On July 24, 1997, EPEM Marketing Company filed certain information as required by the Commission's March 30, 1995, order in Docket No. ER95–428–000.

On July 29, 1997, Phibro Inc., filed certain information as required by the Commission's March 14, 1995, order in Docket No. ER95–430–000.

4. Portland General Electric Company

[Docket No. ER97–3767–000]

Take notice that on July 18, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with Transalta Energy Marketing, Corp.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective July 15, 1997.

A copy of this filing was caused to be served upon Transalta Energy Marketing, Corp., as noted in the filing letter.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. The Dayton Power and Light Co.

[Docket No. ER97–3768–000]

Take notice that on July 18, 1997, The Dayton Power and Light Company (Dayton) submitted service agreements establishing Market Responsive Energy, Inc., as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon Market Responsive Energy, Inc., and the Public Utilities Commission of Ohio.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER97–3769–000]

Take notice that on July 18, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with PECO Energy Company.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective July 15, 1997.

A copy of this filing was caused to be served upon PECO Energy Company as noted in the filing letter.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER97–3770–000]

Take notice that on July 18, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 29 to add one (1) new Customer to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available to Virginia Electric and Power Company as of a date authorized by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER97–3771–000]

Take notice that on July 18, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed

Supplement No. 22 to add Constellation Power Source, Edison Source, Energy Transfer Group, L.L.C., Equitable Power Services Company, and Market Responsive Energy, Inc., to Allegheny Power Open Access Transmission Service Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000. The proposed effective date under the Service Agreements is July 17, 1997.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER97–3772–000]

Take notice that on July 18, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 30 to add four (4) new Customers to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available as of July 17, 1997, to Edison Source, Energy Transfer Group, L.L.C., Market Responsive Energy, Inc.; and as of June 25, 1997 for PJM Interconnection, L.L.C.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission and all parties of record.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. IES Utilities Inc. And Union Electric Company

[Docket No. ER97–3773–000]

Take notice that on July 18, 1997, Union Electric Company (UE) and IES Utilities Inc. (IES), tendered for filing proposed changes to Fourth Amendment to the 25 Hertz Wholesale Electric Service Agreement and Fourth Amendment to the Interchange Agreement.

The amendment to the 25 Hertz Wholesale Electric Service Agreement alters the terms and conditions that UE provides 25 Hertz service to IES. The Fourth Amendment to the Interchange Agreement includes an additional 69 kV circuit known as the Keokuk-Carbide 69 kV connection. It also allows IES to modify the existing Viele-Carbide Tap-Palmyra and Carbide Tap-Carbide 161 kV lines to allow an additional 161 kV line to be built into Keokuk and moves existing metering points from Viele 161 kV and Carbide 69 kV to a single 161 kV meter point at Carbide.

Copies of the filing were served upon the Iowa State Utilities Board.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Houston Lighting & Power Company

[Docket No. ER97–3774–000]

Take notice that on July 18, 1997, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Equitable Power Services Company (Equitable) for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Second Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of July 18, 1997.

Copies of the filing were served on Equitable and the Public Utility Commission of Texas.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Union Electric Company

[Docket No. ER97–3775–000]

Take notice that on July 18, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between UE and Koch Energy Trading, Inc. and Illinois Power Company. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota Company)

[Docket No. ER97–3776–000]

Take notice that on July 18, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and PacifiCorp.

NSP requests that the Commission accept the agreement effective June 18, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota Company)

[Docket No. ER97–3777–000]

Take notice that on July 18, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing a Firm Point-to-Point Transmission Service Agreement between NSP and Wisconsin Public Service Corporation.

NSP requests that the Commission accept the agreement effective November 1, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Northern States Power Company (Minnesota Company)

[Docket No. ER97–3778–000]

Take notice that on July 18, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing a three Firm Point-to-Point Transmission Service Agreements between NSP and Morgan Stanley Capital Group Inc.

NSP requests that the Commission accept the agreements effective July 1, 1997, August 1, 1997, and September 1, 1997, respectively, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Duke Power Company

[Docket No. ER97–3781–000]

Take notice that on July 17, 1997, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and

Light Company, and American Electric Power Service Corporation (Transmission Customer), dated as of June 24, 1997 (TSA). Duke states that the TSA sets out the transmission arrangements under which Duke will provide the Transmission Customer firm point-to-point transmission service under Duke's Pro Forma Open Access Transmission Tariff. Duke requests that the Agreement be made effective as of June 24, 1997.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–3785–000]

Take notice that on July 21, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Market Responsive Energy, Inc.

Con Edison states that a copy of this filing has been served by mail upon Market Responsive Energy, Inc.

Comment date: August 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21251 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2016–029]

City of Tacoma, Washington; Notice Establishing Comment Period for Complaint

August 6, 1997.

On May 22, 1997, the Friends of the Cowlitz and CPR-Fish filed a document entitled ''Complaint for Noncompliance with Hydroelectric License.'' The complainants request, pursuant to 18 CFR 385.206 of the Commission's regulations, that the Commission find the City of Tacoma to be in violation of its license for the Cowlitz River Project No. 2016, because of its alleged failure to maintain the number of adult fish returns as required by license Articles 37 and 57. Complainants also request that the Commission conduct a formal investigation of this matter in accordance with 18 CFR Part 1B; order a prompt hearing conducted on the record by a presiding officer under 18 CFR Part 385, Subpart E; enter a decision declaring Tacoma in violation of its license and require Tacoma to take certain specific actions to remedy its past and continuing license violations; and assess a civil penalty under 18 CFR Part 385, Subpart O, for each day Tacoma's alleged violations of the license continue.

Pursuant to Rule 213(d) of the Commission's regulations, answers to complaints are due within 30 days after filing or, if noticed, after publication of the notice in the **Federal Register**, unless otherwise ordered.[1] In general, the Commission's policy is to publish notice in the **Federal Register** of complaints against hydroelectric licensees.[2]

Any person may file an answer, comments, protests, or a motion to intervene with respect to the complaint 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, 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 30 days after publication of this notice in the **Federal Register**.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21218 Filed 8–11–97; 8:45 am]

BILLING CODE 6717–01–M

[1] 18 CFR 385.213(d). See also 18 CFR 385.202.

[2] 18 CFR 2.1(a)(1)(iii)(J).

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5873–5]

Agency Information Collection Activities Under OMB Review; New Source Performance Standards for Secondary Brass and Bronze Production Plants

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) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for Secondary Brass and Bronze Production Plants (NSPS subpart M), OMB Control Number 2060–0110, expiration date: September 30, 1997. 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 September 11, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1604.05.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Secondary Brass and Bronze Production Plants (OMB Control No. 2060–0110; EPA ICR No. 1604.05, expiring September 30, 1997. This is a request for an extension of a currently approved ICR.

Abstract: Secondary brass and bronze production plants emit metallic particulate matter in quantities that the Administrator believes cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Consequently, New Source Performance Standards for secondary brass and bronze production plants were promulgated. Affected facilities are required to meet total particulate emission limits as well as opacity limits. Owners or operators must conduct initial performance tests to verify compliance with the standards, and maintain records of all startup, shutdown, and malfunction events. In

the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

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 Ch. 15. The **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on March 5, 1997 (62 FR 10039). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Secondary Brass and Bronze Production Plants.

Estimated Number of Respondents: 5.

Frequency of Response: 1/yr.

Estimated Total Annual Hour Burden: 8 hours.

Estimated Total Annualized Cost Burden: 0.

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. 1604.05 and OMB Control No. 2060–0110 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: August 6, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–21273 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5873–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Public Water Systems Supervision Program

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) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Public Water Systems Supervision Program, OMB Control Number 2040–0090, which expires on September 30, 1997. 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 September 11, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0270.38.

SUPPLEMENTARY INFORMATION:

Title: Public Water Systems Supervision Program (OMB Control No. 2040–0090; EPA ICR No. 0270.38) expiring 9/30 /97. This is a request for extension of a currently approved collection.

Abstract: This ICR contains record keeping and reporting requirements that are mandatory for compliance with 40 CFR parts 141 and 142. Sections 1401 and 1412 of the Safe Drinking Water Act (SDWA), as amended, require EPA to establish National Primary Drinking Water Regulations (NPDWRs) that ensure the safety of drinking water. These regulations guarantee that exposure to contaminants—microbial, organic and inorganic chemicals, and radionuclides in finished drinking water is below the level established by human health risk assessments. The Act further requires EPA to ensure compliance with and enforce these regulations. Section 1445 of SDWA stipulates that every supplier of water shall conduct monitoring, maintain records, and provide such information as is needed for the Agency to carry out its compliance and enforcement responsibilities with respect to SDWA. Implementation of these requirements is principally a responsibility of the States, particularly the 49 States that have assumed primary enforcement responsibility (primacy) for public water systems under SDWA section 1413. As part of the Public Water Systems Supervision Program, the Agency's Safe Drinking Water Information System (SDWIS) collect data from the States on public water systems regulated by EPA. Data include the public water system inventory, violations, and Federal and State enforcement actions. Without comprehensive, up-to-date information on drinking water contamination, the Agency would not be able to ensure ''a supply of drinking water which dependably complies with such maximum contaminant levels' (SDWA, section 1401(1)(d)).

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 March 31, 1997; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.7 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: Owners/operators of Public Water Systems, Primacy agents who report to EPA Headquarters.

Estimated Number of Respondents: 173,317.

Frequency of Response: varies from weekly to biannually.

Estimated Total Annual Hour Burden: 11.3 million hours.

Estimated Total Annualized Cost Burden: $204.7 million.

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. 00270.38 and OMB Control No. 2040–0090 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: August 6, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–21274 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter 1

[FRL–5873–7]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub L. 92–463), the U.S. Environmental Protection Agency gives notice of a meeting of the Good Neighbor Environmental Board.

The Good Neighbor Environmental Board was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for advising the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico. The statute calls for the Board to have governmental and nongovernmental representatives from the States of Arizona, California, New Mexico and Texas, and from U.S. Government agencies. The Board meets at least twice annually.

The meeting is open to the public, with seating on a first-come, first-served basis. Members of the public are invited to provide oral and/or written comments to the Board. Time will be provided during the meeting to obtain input from the public.

Most of this meeting of the Good Neighbor Environmental Board will be conducted jointly with the Board's Mexican counterpart, Region 1 of the Mexican National Advisory Council for Sustainable Development.

DATES: The Board will meet on September 10 and 11, 1997. The Board will meet on September 10, 1997 from 8:30 a.m. to 5:30 p.m., and on September 11, 1997 from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The Town and Country Hotel, 500 Hotel Circle North, San Diego, CA 92108.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hardaker, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2477.

Dated: July 30, 1997.

Robert Hardaker,

Designated Federal Officer, Good Neighbor Environmental Board.

[FR Doc. 97–21272 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 14, 1997, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
B. *New Business*

Regulation

Capital Phase III [12 CFR Part 615] (Proposed)

Other

October 1997 Unified Agenda

**Closed Session*

A. *New Business*
1. Enforcement Action
2. Supervisory Matters

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c) (8) and (9).

Dated: August 8, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–21431 Filed 8–8–97; 3:34 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–158; FCC 97–258]

Petitions for LATA Association Changes by Independent Telephone Companies

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this Memorandum Opinion and Order adopted July 23, 1997 and released August 6, 1997, the Commission grants two requests for changes in local access and transport area (LATA) association and modifies the LATA boundaries to permit these changes. In addition, the order sets forth guidelines for future LATA association change requests. This order will allow independent telephone companies to change the LATA association of their exchanges when necessary to upgrade their networks.

FOR FURTHER INFORMATION CONTACT: Pamela Gerr, (202) 418–2357, or Robin Smolen, (202) 418–2353, both of the Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, (FCC 97–258) adopted on July 23, 1997 and released on August 6, 1997. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street N.W., Washington, D.C. 20554. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service,

Inc., (202) 857–3800, 1231 20th Street N.W., Washington, D.C. 20036.

Paperwork Reduction Act

OMB Control No.: 3060–0786.
Expiration Date: 1/31/98.
Title: Petitions for LATA Association Changes by Independent Telephone Companies.
Form No.: N/A.
Respondents: Business or other for profit.
Estimated Annual Burden: 20 respondents; 6 hours per response; 120 total annual burden hours.
Estimated Annual Reporting and Recordkeeping Cost Burden: $0.
Frequency of Response: On occasion.
Needs and Uses: The Commission has provided voluntary guidelines for filing LATA association change requests. These guidelines will allow the Commission to conduct smooth and continuous processing of these requests. The collection of information will enable the Commission to determine if there is a public need for changes in LATA association in each area subject to the request. Your response is voluntary.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Synopsis of Memorandum Opinion and Order

I. Introduction

1. Two independent telephone companies (ITCs or Petitioners) have filed petitions with the Commission requesting a change in the local access and transport area (LATA)[1] association of certain of their exchanges.[2] When the LATAs were created, most independent exchanges were classified as ''associated'' with a particular LATA and BOCs were only allowed to provide service within a LATA and the associated exchanges.[3] The ITCs state that their exchanges are currently associated with the Amarillo LATA, but that as part of an effort to upgrade service, they plan to route traffic for these exchanges through a BOC switch in the Lubbock LATA. They state that in order for the BOC to carry this traffic, a change in LATA association is required.[4] Southwestern Bell Telephone Company (SWBT) filed a statement supporting the ITC petitions and requesting a modification of the Lubbock LATA, pursuant to Section 3(25) of the Act, to permit this change in association.[5]

2. For the reasons discussed below, we grant Petitioners' requests for a change in LATA association. In addition, we modify the Lubbock LATA to permit this change. Finally, we provide guidelines for future LATA association requests.[6]

II. Background

A. LATA Associations Under the Consent Decree

3. On August 24, 1982, the United States District Court for the District of Columbia (Court) entered an order (Consent Decree) that required AT&T to divest its ownership of the Bell Operating Companies (BOCs).[7] The Court divided all Bell territory in the continental United States into geographic areas called LATAs.[8] Under the Consent Decree, the BOCs were permitted to provide telephone service within a LATA (intraLATA service), but were not permitted to carry traffic across LATA boundaries (interLATA service).[9] InterLATA traffic was to be carried by interexchange carriers.[10]

4. The LATAs did not cover territory served by independent telephone companies (ITCs).[11] The Court, however, noted that there were often joint operating arrangements between independent exchanges and neighboring BOC facilities.[12] For example, BOCs often switched traffic between their end offices and the end offices of the independents, which then carried the traffic to its final destination. If all of this traffic were considered interLATA, BOCs could not participate in these arrangements and significant and costly network rearrangements would have been necessary. To prevent the need for such rearrangements, the Court classified most independent exchanges as ''associated'' with a particular BOC LATA.[13] Traffic between a BOC LATA and an associated exchange was treated as intraLATA, and thus could be carried by the BOC, while traffic between a BOC LATA and an unassociated exchange was treated as interLATA, and thus could not be carried by the BOC.[14] The ITCs, themselves, were not subject to the restrictions imposed by the Consent Decree, and could carry traffic regardless of whether that traffic crossed LATA boundaries.[15]

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[1] LATAs define the geographic areas within which a Bell Operating Company (BOC) may provide service. A LATA is defined as ''a contiguous geographic area (A) established before the date of enactment of the Telecommunications Act of 1996 by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (B) established or modified by a Bell operating company after such date of enactment and approved by the Commission.'' Section 3(25) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 153(25).

[2] On May 16, 1996, Mid-Plains Rural Telephone Cooperative, Inc. (Mid-Plains) filed a petition requesting a change in the LATA association of the Silverton, Texas exchange from the Amarillo, Texas LATA (Amarillo LATA) to the Lubbock, Texas LATA (Lubbock LATA). This request has been assigned File No. NSD–LM(A)–97–27. On May 17, 1996, the Cap Rock Telephone Cooperative, Inc. (Cap Rock) filed a petition requesting a change in the LATA association of the Turkey and the Quitaque, Texas exchanges from the Amarillo LATA to the Lubbock LATA. This request has been assigned File No. NSD–LM(A)–97–28.

[3] *See United States* v. *Western Electric Co, Inc.*, 569 F. Supp. 1057, 1110–13 (D.D.C. 1983) (hereinafter *Western Electric I*).

[4] The petitions were placed on public notice. *See* Public Notice, ''Commission Seeks Comment on Petitions for Association Changes by Independent Telephone Companies,'' DA 96–1189 (released July 26, 1996). Comments supporting the petitions were filed by Cap Rock, Mid-Plains and the National Telephone Cooperative Association (NTCA). No oppositions were filed.

[5] 47 U.S.C. § 153(25).

[6] The Commission has also received 24 requests for LATA relief in order to provide expanded local calling service (ELCS). These requests are addressed in a separate order. *See Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations, Memorandum Opinion and Order*, CC Docket No. 96–159, FCC 97–244 (released July 15, 1997) (*ELCS Order*), 62 FR 40350 (July 28, 1997). ELCS (also known as extended area service or EAS) allows local telephone service rates to apply to nearby telephone exchanges, thus providing an expanded local calling area. *See United States* versus *Western Electric*, 569 F. Supp. 990, 1002 n.54 (D.D.C. 1983) (hereinafter *Western Electric II*).

[7] *United States* versus *American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* versus *United States*, 460 U.S. 1001 (1983).

[8] *See Western Electric II*, 569 F. Supp. at 993, 994.

[9] *Id.* at 994.

[10] *Id.*

[11] *See, e.g., id.* at 993 & n.8, 1008 n.85, 1010–11. Although, when the LATAs were created, the BOCs served 80 percent of all telephone subscribers in the continental United States, the ITCs served a much larger geographic area. *Id.* at 993 n.8. Of the approximately 18,000 local exchanges at that time, approximately 7,000 were served by the BOCs and 11,000 by the ITCs. *Id.*; *Western Electric I*, 569 F. Supp. at 1110 n.232. There were approximately 1425 ITCs providing such service. *Id.*

[12] *Id.* at 1110.

[13] *Id.* at 1110–13 & n.234. The vast majority of independent exchanges were associated with a LATA. Of the 11,000 independent exchanges, only 940 were classified as ''not associated'' with any BOC LATA. *Id.* at 1113 n.240.

[14] *Id.* at 1110–13 & n.234; *Western Electric II*, 569 F. Supp. at 1008–09.

[15] *Western Electric II*, 569 F. Supp. at 1008, 1010; *Western Electric I*, 569 F. Supp. at 1113. *See also United States* versus *Western Electric*, 578 F. Supp. 662, 667 (Court has always sought to minimize effects of divestiture on the ITCs).

5. The Court subsequently received more than a hundred additional requests involving LATA associations, including requests for new associations, disassociations, and changes in association from one LATA to another.[16] The Court developed a streamlined process for answering such requests both because of the large number of requests involved and because most of the requests were non-controversial.[17] Under this process, the ITC would submit its request to the Department of Justice (DOJ). DOJ would review the request and then submit the request to the Court along with DOJ's recommendation.[18] The requests were typically filed because an ITC planned to upgrade its network in a manner that would require routing traffic through a BOC switch in a different LATA. The Court generally granted these requests if the changes in associations would avoid the need for expensive network reconfiguration and would not endanger competition.[19] In granting requests for a change in LATA association, the Court also allowed the continuation of existing ELCS routes between the independent exchange and the original LATA.[20]

B. LATA Associations Under the Telecommunications Act of 1996

6. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act) became law, amending the Communications Act of 1934 (Act).[21] Pursuant to the 1996 Act, matters previously subject to the Consent Decree are now governed by the Act.[22] Section 271(b)(1) of the Act prohibits a BOC from providing ''interLATA services originating in any of its 'in-region' States'' [23] until the BOC takes certain steps to open its own market to competition and the Commission approves the BOC's application to provide such service.[24] ''InterLATA service'' is defined as ''telecommunications between a point located in a local access and transport area and a point located outside such area,'' and thus would include traffic between an independent exchange and a BOC LATA.[25] The Act does not specifically address LATA associations. Section 271(f), however, states that BOCs are not prohibited from engaging in an activity to the extent that such activity was previously authorized by the Court.[26] Thus, BOCs may continue to provide service to independent exchanges that were classified as ''associated'' with a LATA by the Court. Finally, Section 3(25)(B) of the Act provides that BOCs may modify LATA boundaries, if such modifications are approved by the Commission.[27]

III. Pleadings

7. The petitions request a change in the association of Mid-Plains' Silverton exchange, and Cap Rock's Turkey and Quitaque exchanges, from the Amarillo LATA to the Lubbock LATA. Petitioners state that they recently purchased these exchanges from GTE Southwest, Inc. (GTE) and that these exchanges are currently served by a GTE access tandem. They further state that as part of an effort to upgrade service, Petitioners plan to re-route this traffic through their own switching facilities. Mid-Plains states that Silverton traffic is currently carried over copper facilities using a Lenkurt Analog Carrier System and that it plans to re-route this traffic, via a fiber optic cable, to its SS7-equipped switch at Kess, Texas.[28] This change will allow the provision of Touch Tone and CLASS™ features, including Caller ID, to Silverton subscribers.[29] Cap Rock states that the Turkey and Quitaque exchanges are currently served by ''antiquated'' analog switch facilities and that it plans to re-route this traffic, via fiber optic cable, to its CLASS™ 4/5 digital tandem switch at Spur, Texas.[30] This change will allow the provision of digital remotes, toll ticketing, and equal access to subscribers in the Turkey and Quitaque exchanges.[31] Petitioners emphasize that both the Kess and Spur switches will be routing traffic through a SWBT tandem switch that is located in the Lubbock LATA.[32] Petitioners also state that there are approximately 430 subscribers in the Silverton exchange and 591 subscribers in Turkey and Quitaque.[33]

8. SWBT filed supplements to both the Mid-Plains and Cap Rock petitions. These supplements support the requests for a change in LATA association. SWBT also requests a modification of the Lubbock LATA boundary, pursuant to Section 3(25) of the Act, to permit this change in association.[34]

IV. Discussion

A. General Considerations

9. Section 3(25) of the Act defines LATAs as those areas established prior to enactment of the 1996 Act or established or modified by a BOC after such date of enactment and approved by the Commission. Section 271 of the Act prohibits a BOC from providing interLATA services until such time as certain enumerated conditions are satisfied. Because the Court allowed BOCs to carry traffic between a LATA and an ''associated'' independent exchange, BOCs may continue to carry such traffic pursuant to the grandfathering provisions of Section 271(f). In order for an ITC to route traffic through BOC facilities in an unassociated LATA, however, the statute appears to require a BOC either to modify the LATA so that the route no longer crosses a LATA boundary or to satisfy the requirements of Section 271.

[16] *See, e.g., United States* v. *Western Electric,* No. 82–0192, slip op. (D.D.C. February 6, 1984) (hereinafter *February 1984 Order*).

[17] *Id.* at 27; *United States* v. *Western Electric,* No. 82–0192, slip op. (D.D.C. March 15, 1984) (hereinafter *March 1984 Order*).

[18] *See March 1984 Order* at 2.

[19] *See, e.g., February 1984 Order* at 2.

[20] *See, e.g., id.* at 7 nn.11–12. *See also supra* note 6.

[21] Public Law. 104–104, 110 Stat. 56 (1996).

[22] Section 601(a)(1) of the 1996 Act states that ''[a]ny conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and obligations imposed by such Consent Decree.'' On April 11, 1996, the Court issued an order terminating the AT&T Consent Decree and dismissing all pending motions under the Consent Decree as moot, effective February 8, 1996. *See United States* v. *Western Electric Company, Inc.,* No. 82–0192, 1996 WL 255904 (D.D.C. Apr. 11, 1996).

[23] Section 271(i)(1) defines ''in-region State'' as a [s]tate in which a Bell operating company or any of its affiliates was authorized to provide wireline telephone exchange service pursuant to the reorganization plan approved under the Consent Decree, as in effect on the day before the date of enactment of the Telecommunications Act of 1996. 47 U.S.C. § 271(i)(1).

[24] 47 U.S.C. § 271(b)(1). In addition, while the Commission may forbear from applying certain provisions of the Act under certain circumstances, the Commission may not forbear from applying Section 271. *See* 47 U.S.C. § 160 (a), (d).

[25] 47 U.S.C. § 153(21).

[26] 47 U.S.C. § 271(f).

[27] 47 U.S.C. § 153(25)(B).

[28] Mid-Plains Petition at 2.

[29] *Id.*

[30] Cap Rock Petition at 2.

[31] *Id.*

[32] *See* Letter from Margaret Nyland, Attorney for Mid-Plains, to William F. Caton, Acting Secretary, Federal Communications Commission (May 13, 1997); Letter from Margaret Nyland, Attorney for Cap Rock, to William F. Caton, Acting Secretary, Federal Communications Commission (May 14, 1997). Petitioners also state that other circumstances support the change in LATA association for these exchanges. Mid-Plains states that the Silverton exchange is completely surrounded by its Bean exchange, which is associated with the Lubbock LATA. Cap Rock states that it already operates 14 other exchanges that are served by the Spur switch and that are associated with the Lubbock LATA. Finally, Petitioners state that there is a community of interest between these exchanges and the Lubbock LATA.

[33] Mid-Plains Petition at 2; Cap Rock Petition at 2.

[34] SWBT's Supplement to Mid-Plains Petition, filed April 1, 1997; SWBT's Supplement to Cap Rock Petition, filed April 1, 1997.

10. Petitioners have an immediate need to reconfigure their networks in a manner that will involve routing traffic through a BOC LATA other than the one with which they are currently associated.[35] None of the BOCs, however, have yet met the Section 271 requirements and there is no time limit by which they must do so. Thus, requiring the BOC to meet the Section 271 requirements would not be the most expeditious way to ensure that the ITCs will be able to reconfigure their networks in a timely manner. Furthermore, the Section 271 requirements were intended to ensure that BOCs do not prematurely enter into the interexchange market. Given the small number of access lines in the independent exchanges here, and the fact that Petitioners will merely be switching their routing of traffic from one SWBT LATA to another, it is highly unlikely that allowing this modification would reduce the BOC's motivation to open its own market to competition. Thus, requiring the BOC to meet the Section 271 requirements before permitting such re-routing of traffic by the ITCs would not be necessary to further Congress's intent to guard against competitive abuses.

11. We conclude that LATA modifications to permit a change in LATA association would best achieve the desired goal of allowing ITCs to reconfigure their networks in the situation described above. We find that we have the authority to grant such changes pursuant to Sections 3(25) and 4(i) of the Act.[36] In addition, we note that the vast majority of independent exchanges are currently classified as ''associated'' with a LATA. LATA associations and provisions for changing these associations have been in place since the LATAs were first created. We find that, at least while the BOCs are still subject to restrictions on the provision of interLATA service, allowing the continuation of LATA ''associations'' and a procedure for changing these associations will help avoid confusion in the industry and simplify the network change process for ITCs. Finally, LATAs were only intended to restrict the activities of the BOCs, not the ITCs, and granting relief in this case will avoid any unnecessary limitations on the Petitioners' ability to upgrade their interconnected networks.[37]

12. LATA modification to permit a change in association is both consistent with the statute and serves the public interest. Nothing in the statute or legislative history indicates that a LATA cannot be modified for this purpose. Furthermore, as explained above, changes in LATA ''association'' to permit precisely the type of ITC reconfigurations at issue here were regularly and routinely granted by the Court under the terms of the AT&T Consent Decree.[38] Although Congress did not explicitly include corresponding authority when it amended the Communications Act, Congress did acknowledge the possible need for changes to the LATA boundaries in enacting Section 3(25). In addition, nothing in either the statute or the legislative history suggests a decision by Congress intentionally to eliminate the ability of an ITC to change the LATA association of an independent exchange when such a change is necessary to permit the latter to upgrade or reconfigure its network. Thus we conclude that a broad reading of the term ''modify'' in Section 3(25), to include modifications to permit a change in association, is consistent with the statutory scheme and congressional intent. Moreover, we will consider each future request for changes in association carefully, weighing the need for the modification against the potential harm from anticompetitive BOC activity.

B. Association Change Requests

13. We find that the public interest will be served by granting Petitioners' requests for a change in LATA association, along with a modification of the Lubbock LATA in order to permit this change. Mid-Plains and Cap Rock are small ITCs seeking to upgrade their networks in order to improve service to subscribers. Allowing Petitioners to route traffic through their own facilities at Kess and Spur, and then through the SWBT tandem in Lubbock, will allow them to improve service to their subscribers in an efficient manner. Furthermore, the LATA boundaries were only intended to restrict the activities of SWBT, not the ITCs, and granting relief here will avoid any unnecessary limitations on Petitioners' ability to upgrade their own networks.[39] In addition, permitting SWBT to carry this traffic will not have any significant adverse effect on competition. This is true both because of the small number of subscribers in the independent exchanges involved, and because Petitioners are merely seeking to switch the LATA association of these exchanges from one SWBT LATA to another.[40]

14. Accordingly, pursuant to Sections 3(25) and 4(i) of the Act, we change the association of the Silverton, Turkey, and Quitaque exchanges from the Amarillo LATA to the Lubbock LATA, and modify the Lubbock LATA to permit this change in association. Because the Silverton, Turkey, and Quitaque exchanges are now associated with the Lubbock LATA, SWBT may provide the same services to these exchanges through the Lubbock LATA as it was previously authorized to provide through the Amarillo LATA, and the provisions of the Act governing intraLATA service will apply to such services.[41] The association between the Silverton, Turkey, and Quitaque exchanges and the Amarillo LATA is terminated, service between these exchanges and the Amarillo LATA will now be considered interLATA, and the provisions of the Act governing interLATA service will apply to such services.[42]

V. Future LATA Association Requests

15. The Common Carrier Bureau has authority to act on petitions for changes in LATA association and connected modification of LATA boundaries, consistent with the principles established in this order, pursuant to the delegation of authority contained in §§ 0.91 and 0.291 of the Commission's rules.[43] We conclude that the following set of guidelines will assist the ITCs and BOCs in filing such petitions, and the Bureau in acting on these petitions.[44] First, we request that each petition be filed by the ITC pursuant to the application filing requirements set forth in §§ 1.742 and 1.743 of the Commission's rules.[45] Second, we ask

[35] *See supra* para. 7 (describing the Mid-Plains and Cap Rock requests). In addition, we note that another LATA association change request is currently pending with the Commission and that additional LATA association requests may be filed. *See supra* para. 5 (more than a hundred LATA association requests filed with the Court).

[36] Although the Act does not specifically address LATA associations, Section 4(i) states that the Commission may ''perform any and all acts . . . and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.'' 47 U.S.C. § 154(i).

[37] *See supra* para. 4 & note 15.

[38] The Court granted more than a hundred LATA association requests. *See supra* para. 5.

[39] *See id.*

[40] *See ELCS Order* (modifying LATA boundaries for the limited purpose of permitting BOCs to provide ELCS in specific areas).

[41] SWBT can provide this service without meeting the requirements of Section 271 and a separate affiliate is not required. *See* 47 U.S.C. §§ 271(a), 272(a)(2)(B).

[42] *See* 47 U.S.C. § 271. We note that there are no existing ELCS routes between the Silverton, Turkey, or Quitaque exchanges that need to be grandfathered. *See supra* para. 5.

[43] 47 CFR §§ 0.91, 0.291.

[44] These guidelines have been approved by the Office of Management and Budget (OMB) under OMB control number 3060–0786. *See* Paperwork Reduction Act of 1995, Public Law 104–13.

[45] 47 CFR §§ 1.742–43.

that each individual LATA association request be the subject of a separate petition. Third, we request that each petition be labeled ''ITC Request for LATA Relief Between the [ITC exchange name(s)] and the [LATA name].'' Finally, we request that each petition include the following information, under separately numbered and labeled categories, as indicated below:

(1) *Type of request* (*e.g.*, new association, disassociation, change of existing association);

(2) *Exchange information* (provide name of the independent exchanges, LATAs and carriers involved; indicate the LATA, if any, with which the independent exchange is currently associated);

(3) *Number of access lines or customers* (for each independent exchange);

(4) *Public interest statement* (provide a detailed statement explaining why granting the association request would serve the public interest. Include a description of any planned network changes that will require routing ITC traffic through BOC facilities in a different LATA);

(5) *Map* (showing the exchanges and LATA boundaries involved and including a scale showing distance);

(6) *ELCS Routes* (if the request is for a disassociation or change in LATA association, indicate whether there are any local calling routes between the independent exchange and the LATA with which it is currently associated; if there are such routes, list each of them and indicate whether they should be grandfathered);

(7) *BOC supplement* (attach a supplement to the petition from the BOC(s) serving the affected LATA(s) requesting a modification of the LATA boundary, pursuant to Section 3(25) of the Act, to permit the association change).

A carrier will be deemed to have made a *prima facie* case supporting grant of a proposed association change if the petition: (1) States that the association change is necessary because of planned upgrades to the ITC's network or service that will require routing traffic through a different BOC LATA; (2) involves a limited number of access lines; [46] and (3) includes a statement from the affected BOC(s) requesting a LATA modification, pursuant to Section 3(25) of the Act, to permit this change in association.

16. We request that any LATA association requests filed with the Commission, but not addressed in this order, be re-filed so that they comply with these guidelines. Each petition will be assigned a LATA modification (association) (LM(A)) file number and placed on public notice.

VI. Conclusion

17. For the reasons set forth above, we grant Petitioners' requests for a change in the LATA association of certain independent exchanges and modify the Lubbock LATA to permit this change. We also provide guidelines for future LATA association requests. These actions serve the public interest because they will allow ITCs to provide upgraded services to consumers in an efficient manner.

VII. Ordering Clauses

18. Accordingly, it is ordered, pursuant to Sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), that the requests of Mid-Plains Rural Telephone Cooperative, Inc. (Mid-Plains), File No. NSD–LM(A)–97–27, and Cap Rock Telephone Cooperative, Inc. (Cap Rock), File No. NSD–LM(A)–97–28, for LATA association changes are granted.

19. It is further ordered, pursuant to Sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), that the requests of Southwestern Bell Telephone Company (SWBT) for LATA modifications for the purpose of permitting these changes in association are approved.

20. It is further ordered, pursuant to Sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), that the association of the Silverton, Turkey, and Quitaque exchanges is changed from the Amarillo, Texas LATA to the Lubbock, Texas LATA. The Lubbock LATA is modified to permit these changes in association. The Silverton, Turkey, and Quitaque exchanges are now associated with the Lubbock LATA and SWBT may provide the same services to these exchanges through the Lubbock LATA as it was previously authorized to provide through the Amarillo LATA. The association between the Silverton, Turkey, and Quitaque exchanges and the Amarillo LATA is terminated and service between these exchanges and the Amarillo LATA will now be considered interLATA.

21. It is further ordered that pursuant to section 416(a) of the Act, 47 U.S.C. § 416(a), the Secretary shall serve a copy of this order upon the parties to this proceeding.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–21243 Filed 8–11–97; 8:45 am]

BILLING CODE 6712–01–P

[46] *See supra* para. 7.

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

August 5, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0785.

Expiration Date: 01/31/98.

Title: Changes to the Board of Directors of the National Exchange Carrier Association and the Federal-State Joint Board on Universal Service, CC Docket Nos. 97–21 and 96–45.

Form No.: FCC Form 457, Universal Service Worksheet.

Respondents: Business or other for profit.

Estimated Annual Burden: 20,000 respondents; 4.31 hours per response (avg.); 86,250 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $7,580,500.

Frequency of Response: On occasion; semi-annual; quarterly; monthly.

Description: The Telecommunications Act of 1996 (1996 Act) directed the Commission to initiate a rulemaking to reform our system of universal service so that universal service is preserved and advanced as markets move toward competition. To fulfill that mandate, based on the recommendations of the Federal-State Joint Board on Universal Service, the Commission adopted a Report and Order in CC Docket No. 96–45 on May 8, 1997 to implement the Congressional directives set out in section 254 of the Communications Act of 1934, as amended by the 1996 Act. In Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service, *Report and*

Order and Second Order on Reconsideration, CC Docket Nos. 97–21 and 96–45, the Commission further clarifies reporting requirements necessary to calculate contributions to universal service. Section 254(d) requires all telecommunications carriers that provide interstate telecommunications services to make equitable and nondiscriminatory contributions towards the preservation and advancement of universal service. Section 254(d) also permits the Commission to require providers of interstate telecommunications to contribute to universal service if it would serve the public interest. Pursuant to section 54.703 of the Commission's rules, all contributors must contribute to the support mechanisms based on their end-user telecommunications revenues. End-user telecommunications revenues are those revenues derived from end users for telecommunications or telecommunications services. End-user telecommunications revenues also include revenues from subscriber line charges. Support for programs for schools, libraries, and rural health care providers will be based on interstate, intrastate and international end-user telecommunications revenues. Support for programs for high cost areas and low-income consumers will be based on interstate and international end-user telecommunications revenues.

In order to compute contributions, contributors must submit semi-annually information regarding their end-user telecommunications revenues. Section 54.711 of the Commission's rules requires contributing entities to submit a semi-annual Universal Service Worksheet, FCC Form 457 (the Worksheet) and quarterly contributions to universal service. See 47 CFR Section 54.711. The Worksheet requires entities to submit information regarding their end-user telecommunications revenues. It will require entities to list their revenues by several categories and to specify what portion of their revenues are attributable to interstate services. The Worksheet will be used by the Administrator or Temporary Administrator to calculate total end-user telecommunications revenues. This information shall be used to calculate the quarterly contribution factors which shall be applied to individual end-user telecommunications revenues to calculate individual contributions. Universal service contribution factors shall be based on the ratio of projected costs of the support mechanisms for the funding year, including administrative expenses, to the revenue base, calculated from information contained in the Worksheets. The 1998 universal service funding year will begin January 1, 1998 and end December 31, 1998. The Administrator or Temporary Administrator will adjust the contribution factor every quarter based on projected demand for services, administrative costs, etc. The Report and Order set forth a partial listing of the types of interstate services for which contributions must be made. Carriers that provide interstate services, including, but not limited to: cellular telephone and paging services; mobile radio services; operator services; PCS; access to interexchange service; special access; WATS; toll-free services; 900 services; MTS; private line; telex; telegraph; video services; satellite services; and resale services must contribute to the universal service support mechanisms. See 47 CFR Section 54.703. The Administrator or Temporary Administrator will bill contributors and the contributor will then submit its quarterly payment to the Administrator or Temporary Administrator. Contributors that provide services to schools, libraries, and health care providers may be eligible to receive a credit against their contributions. A contributor seeking a credit must submit information to the Administrator or Temporary Administrator regarding the services provided at less than cost. See 47 CFR Section 54.515. The Administrator or Temporary Administrator will send contributors a quarterly bill that will set out the quarterly contribution due. In addition, contributors will be allowed to submit their quarterly contribution with the information necessary to calculate any credits. The Commission exempts certain carriers from the contribution requirement. If based on the funding year's first quarter contribution percentage, a contributor's yearly contribution would be less than $100, it will not be required to submit a Worksheet and a contribution. Failure to file the Worksheet or to submit required contributions may subject the contributors to the enforcement provisions of the Act and any other applicable law. See 47 CFR Section 54.713. Statutory authority for this collection of information is contained in 47 USC §§ 154(i), 254(d), as amended. The information will be used by the Commission and the Administrator or Temporary Administrator to calculate contributions to the universal service support mechanisms. The Universal Service Worksheet can be obtained from the Commission's website (www.fcc.gov). The Worksheet is also available through the FCC Fax-on-Demand system. Copies may be ordered via fax 24 hours a day by calling 202–418–0177 from the handset of any fax machine. The document retrieval number is 000457. The files contain both the instructions and the form. Follow the system voice prompts and enter the document retrieval number when requested. Due to the limited number of phone lines into the forms Fax-on Demand system, callers may wish to call during non-business hours. If you have difficulty with the transmission of your fax contact Ginny Simms at 202–418–0213. All entities that are required to contribute to universal service support mechanisms must complete the Worksheet by September 1, 1997. Compliance is mandatory.

OMB Control No.: 3060–0786.

Expiration Date: 01/31/98.

Title: Petitions for LATA Association Changes by Independent Telephone Companies.

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 20 respondents; 6 hours per response (avg.); 120 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: In Petitions for LATA Association Changes by Independent Telephone Companies, *Memorandum Opinion and Order (Order),* CC Docket No. 96–158, the Commission pursuant to the provisions of the Communications Act of 1934, as amended requests that independent telephone companies (ITCs) and Bell Operating Companies provide certain information to the Commission regarding ITC requests for changes in local access and transport area (LATA) association and modification of LATA boundaries to permit the change in association. The Commission has provided voluntary guidelines to assist ITCs in filing petitions for changes in LATA association and connected modification of LATA boundaries. The guidelines ask that each LATA association change request include the following information: (1) Type of request; (2) exchange information; (3) number of access lines or customers; (4) public interest statement; (5) a map showing exchanges and LATA boundaries involved; (6) a list of extended local calling service (ELCS) routes between the independent exchange and the LATA with which it is currently associated; and (7) a BOC supplement requesting a modification of the LATA boundary. A carrier will be

deemed to have made a *prima facie* case supporting grant of the proposed change in association if the petition: (1) States that the association change is necessary because of planned upgrades to the ITC's network or service that will require routing traffic through a different BOC LATA; (2) involves a limited number of access lines; and (3) includes a statement from the affected BOC(s) requesting a LATA modification. The guidelines will assist the ITCs in filing LATA association petitions and the Commission in determining whether a change in LATA association should be granted. The requested information will be used by the Commission to determine whether the need for the proposed changes in LATA association outweighs the risk of potential anticompetitive effects, and thus whether requests for changes in LATA association and connected modifications of LATA boundaries should be granted.

OMB Control No.: 3060–0784.

Expiration Date: 01/31/98.

Title: USAC Board of Directors Nomination Process, CC Docket Nos. 97–21 and 96–45.

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 17 respondents; 20 hours per response (avg.); 340 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; biennially.

Description: In Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service, *Report and Order and Second Order on Reconsideration,* CC Docket Nos. 97–21 and 96–45, the Commission appoints the National Exchange Carrier Association (NECA) the temporary administrator of the universal service support mechanisms, subject to its creating a separate subsidiary, the Universal Service Administrative Company (USAC), to administer the support programs. The Commission also directs NECA to create two unaffiliated corporations to administer portions of the schools and libraries and rural health care programs. USAC's Board of Directors shall consist of 17 individuals who represent a cross section of industry providers and support program beneficiaries: (1) Three directors shall represent incumbent local exchange carriers, with one director representing the Bell Operating Companies and GTE, one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues in excess of $40 million, and one director representing ILECs (other than the Bell Operating Companies) with annual operating revenues of $40 million or less; (2) Two directors shall represent interexchange carriers, with one director representing interexchange carriers with more than $3 billion in annual operating revenues and one director representing interexchange carriers with annual operating revenues of $3 billion or less; (3) One director shall represent commercial mobile radio service (CMRS) providers; (4) One director shall represent competitive local exchange carriers; (5) One director shall represent cable operators; (6) One director shall represent information service providers; (7) Three directors shall represent schools that are eligible to receive universal service discounts; (8) One director shall represent libraries that are eligible to receive universal service discounts; (9) One director shall represent rural health care providers that are eligible to receive supported services; (10) One director shall represent low-income consumers; (11) One director shall represent state telecommunications regulators; and (12) One director shall represent state consumer advocates. The Commission instructs industry and non-industry groups to nominate a consensus candidate for each seat on the Board. Each of these industry and non-industry groups shall submit the name of its nominee for a seat on USAC's Board of Directors, along with relevant professional and biographical information about the nominee, to the Chairman of the Federal Communications Commission within 14 calendar days of the publication of the Report and Order's rules in the **Federal Register**. Only members of the industry or non-industry group that a Board member will represent may submit a nomination for that position. See 47 CFR Sections 69.614, 69.617. Members of the USAC Board will be appointed for two-year terms. Board members may be re-appointed for subsequent terms pursuant to the initial nomination and appointment process described above. The information will be used by the Commission to select USAC's Board of Directors. The information requested is not otherwise available. Without such information the Commission could not appoint a representative body to USAC's Board of Directors and, therefore, could not fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. You are required to respond.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–21179 Filed 8–11–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

JFY Cargo, 12923 Cerise Avenue, Hawthorne, CA 90250, Debrah Ann Thorpe-Hebert, Sole Proprietor

International Financial Resources, Inc., 510 Plaza Drive, Suite 2280, Atlanta, GA 30349, Officer: Allen R. Bornscheuer, CEO

Dated: August 6, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–21178 Filed 8–11–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices

of the Board of Governors. Comments must be received not later than August 26, 1997.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Thomas M. Woodruff, Humble, Texas; to acquire an additional 12.15 percent, for a total of 26.62 percent, of the voting shares of Grimes County Capital Corporation, Iola, Texas, and thereby indirectly acquire Community State Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, August 6, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21184 Filed 8-11-97; 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. The application also will 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 September 5, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Bloomer Bancshares, Inc., Bloomer, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank, Bloomer, Wisconsin.

Board of Governors of the Federal Reserve System, August 6, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21181 Filed 8–11–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-20371) published on page 41388 of the issue for Tuesday, August 1, 1997.

Under the Federal Reserve Bank of Boston heading, the entry for FSB Bancorp, MHC, and FSB Bancorp, both of Farmington, Maine, is revised to read as follows:

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. FSB Bancorp, MHC, and FSB Bancorp, both of Farmington, Maine; to become bank holding companies by acquiring 100 percent of the voting shares of Franklin Savings Bank, Farmington, Maine.

Comments on this application must be received by August 28, 1997.

Board of Governors of the Federal Reserve System, August 6, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21183 Filed 8-11-97; 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. The application also will 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 September 5, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Valley National Corporation, Lanett, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Valley National Bank of Lanett, Lanett, Alabama.

Board of Governors of the Federal Reserve System, August 7, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21276 Filed 8–11–97; 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. The notice also will 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 August 26, 1997.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Community Holding Company, Inez, Kentucky; to engage in permissible savings and loan association activities, pursuant to § 225.28(b)(4) of the Board's Regulation Y, through the conversion of its wholly-owned banking subsidiary, The First National Bank of Louisa, Louisa, Kentucky, into a federal-charted stock savings bank, Inez Deposit Bank, F.S.B., Inez, Kentucky.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1413:

1. Firstbank of Illinois Co., Springfield, Illinois; to acquire Geneva Capital Corporation, Springfield, Illinois, and thereby engage in serving as a broker in Illinois, Indiana and St. Louis, Missouri, for mortgage loans to companies engaged in operating income-producing commercial real estate, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102–2034:

1. Hardin County Bancshares, Inc., Savannah, Tennessee; to acquire Majors Insurance Agency, Inc., Adamsville, Tennessee, and thereby engage in general insurance agency activities in a place where its subsidiary bank has a lending office and that has a population not exceeding 5,000, pursuant to § 225.28(b)(11) of the Board's Regulation Y.

D. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. 1867 Western Financial Corporation, Stockton, California; to acquire Capital Corp of the West, Merced, California, and thereby indirectly acquire Town and Country Finance and Thrift Company, Turlock, California, and Capital West Group, Inc., Stockton, California, and thereby engage in operating an industrial loan company, pursuant to § 225.28(b)(4); in operating an industrial loan company; in providing credit life insurance, pursuant to § 225.28(b)(11) of the Board's Regulation Y; in management consulting, pursuant to § 225.28(b)(9) of the Board's Regulation Y; and in furnishing investment and financial advice, pursuant to § 225.28(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 6, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21182 Filed 8–11–97; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of Comment Period for Exposure Draft on Deferral of Required Implementation Date for Cost Accounting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, the Federal Accounting Standards Advisory Board (FASAB) announces that it is publishing for review and comment an Exposure Draft entitled *Deferral of Required Implementation Date for Statement of Federal Financial Accounting Standards Number 4.* This Exposure Draft proposes for the Cost Accounting Standard (SFFAS 4) and the Revenue Standard (SFFAS 7) that the effective dates be delayed until fiscal years beginning after September 30, 1998. Comments are due by September 12.

Hard copies of the Exposure Draft are available from FASAB, 441 G St., N.W., Washington, D.C., Room 3B18. (202–512–7350). The Exposure Draft is also available on the Internet, through FASAB's home page:

http://www.financenet.gov/fasab.htm

Dated: August 6, 1997.

Wendy M. Comes,

Executive Director.

[FR Doc. 97–21222 Filed 8–11–97; 8:45 am]

BILLING CODE 1610–01–P

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of August meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Friday, August 29, 1997, from 9:00 A.M. to 4:00 P.M. in the Elmer Staats Briefing Room, room 7C13 of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to discuss the following items: (1) Technical corrections to Statement 6 (*Property, Plant, and Equipment*) and to Statement 8 (*Supplementary Stewardship Reporting*) and (2) *Management's Discussion and Analysis* (MD&A) Exposure Draft.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: August 6, 1997.

Wendy M. Comes,

Executive Director.

[FR Doc. 97–21223 Filed 8–11–97; 8:45 am]

BILLING CODE 1610–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0040]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by September 11, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office

Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Safety Survey

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), FDA is authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. FDA is planning to conduct a consumer survey about food safety under this authority. The food safety survey will provide information about consumers' food safety awareness, knowledge, concerns, and practices. A nationally representative sample of 2,000 adults in households with telephones and cooking facilities will be selected at random and interviewed by telephone. Participation will be voluntary. Detailed information will be obtained about risk perception, perceived sources of food contamination, knowledge of particular micro-organisms, safe care label use, food handling practices, consumption of raw foods from animals, information sources, and perceived foodborne illness experience. Most of the questions asked are identical to ones asked in a 1992–1993 survey so that changes over this time period can be assessed.

FDA estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
2,000	1	2,000	.5	1,000

There are no operating and maintenance costs or capital costs associated with this information collection.

This will be a one-time survey. The burden estimate is based on FDA's experience with the 1992–1993 survey mentioned previously.

Dated: August 6, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–21293 Filed 8–11–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA–225–97–4000]

Memorandum of Understanding Between the Food and Drug Administration and the Department of Defense

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the FDA and the Department of Defense (DoD). The purpose of the MOU is for FDA to provide the quality assurance support for DoD centrally managed contracts for drugs, biologics, and medical devices. This MOU supersedes the agreement concerning drugs and biologics, dated December 17, 1975, and the agreement concerning devices, dated December 23, 1981.

DATES: The agreement became effective January 14, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Donnelly, Medical Products Quality Assurance Staff, Office of Regulatory Affairs (HFC–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0383.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of an MOU.

Dated: August 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

Memorandum of Understanding Quality Assurance Support for Medical Products Between the Department of Defense and the Food and Drug Administration

I. Purpose

To formalize a memorandum of understanding (MOU) between the Department of Defense (DoD) and the Food and Drug Administration (FDA) whereby FDA provides the quality assurance support for DoD centrally managed contracts for drugs, biologics, and medical devices (hereinafter referred to as medical products), as defined by the Federal Food, Drug and Cosmetic Act (FDC Act), as amended, 21 U.S.C. 301 *et seq.* (1972 & Supp. 1979). This agreement supersedes the two currently effective agreements, the drug agreement dated 12/17/75 and the device agreement dated 12/23/81.

II. Background

The Office of Management and Budget (OMB) and the General Accounting Office (GAO) completed separate studies in late 1973 of nonperishable subsistence supplies. Both OMB and GAO recommended that the FDA be the agency responsible for quality assurance of all medical products procured by Federal agencies. In June 1974, the Director of OMB requested that the Department of Health, Education and Welfare (HEW) take the lead in developing an Executive Branch Plan for the government-wide quality assurance program for medical products. FDA was made responsible for developing and implementing the plan. In December 1975, FDA and DoD signed a quality assurance agreement covering drugs and biologics, and in December 1981, a corresponding agreement covering medical devices was signed. Both agreements were implemented and have been operational. However, some portions of the original agreements have become obsolete and there is a need to encompass new DoD initiatives and business practices. This updated memorandum of understanding encompasses all medical products under FDA regulatory control, and supersedes the two currently effective interagency agreements.

III. Responsibilities

A. Under the authority of DoD Directive 4140.26, the Defense Personnel Support Center (DPSC) is assigned and designated as the integrated manager for medical products. The DPSC agrees to:

(1) Furnish FDA copies of medical product quality complaints, incident reports under the Safe Medical Device Act of 1990, and other information which may impact adversely on the quality of a medical product.

(2) Provide a written request for evaluations, testing, and other work to be performed by FDA under this program.

(3) Furnish FDA copies of specifications for review, solicitations and copies of contracts requiring FDA source inspection.

(4) Notify the FDA liaison officer in writing of changes in acquisition regulations and practices which would affect the program covered by this MOU.

B. The Food and Drug Administration (FDA) agrees to:

(1) Furnish DPSC reports of complaint investigations.

(2) Upon request, provide pre-award quality evaluations for firms.

(3) Promptly advise DPSC when firms supplying medical products to DoD become unacceptable from a quality assurance standpoint.

(4) Determine the amount and nature of work it will perform to fulfill its responsibilities under this MOU.

(5) Make available FDA inspectional and analytical personnel as witnesses and supply information and data to DoD for GAO protests, Boards of Contract Appeals, SBA and similar cases.

(6) Review proposed specifications and provide comments on the quality assurance aspects.

(7) Notify the DPSC liaison officer in writing of changes arising from statutes or regulations which would affect this program.

(8) Promptly notify DPSC of product recalls and other pertinent information that affects government contracts or stocks.

(9) Advise DPSC of instances where fraud or other criminal conduct involving government contractors is found.

(10) Be responsible for determining that medical products offered for delivery were produced in accordance with the contract requirements, and for signing the acceptance document when source inspection is required.

(11) Conduct laboratory testing as necessary and, as expeditiously as possible, furnish DPSC analytical results. If testing cannot be accomplished, FDA will notify DPSC.

(12) Advise DPSC when FDA determines that it is necessary to convert a contract from destination to source inspection.

IV. Administration

A. Resources required to support this MOU will be provided by the performing party.

B. Nothing in this MOU will preclude DoD representatives from making visits to suppliers with FDA or separately.

C. The DPSC contracts for medical products will include a provision requiring compliance with the FDC and implementing regulations promulgated thereunder. The Good Manufacturing Practice Regulations will be the quality standard applied to industry for the manufacturing, processing, packaging or holding of medical products acquired on government contracts. The FDA will be the agency responsible for the administrative interpretation and enforcement of these statutes and regulations.

D. The DPSC may authorize the FDA to act as its agent for purposes of inspecting and accepting centrally acquired medical products, performance of preaward surveys, and related quality assurance actions.

E. As a general rule, the quality standards prescribed by the United States Pharmacopeia (USP), the National Formulary (NF), and FDA will satisfy the DoD quality requirements for products covered by the MOU; however, this does not preclude the development and utilization by DoD of additional standards when deemed essential to satisfy a unique or special requirement of DoD or any of the Military Services.

F. The FDA and DPSC, as necessary, will jointly prepare procedures covering operations that interface.

V. Participating Activity Liaison Officers

A. For the Department of Defense: Director, Medical Material, DPSC–M, Defense Personnel Support Center, Defense Logistics Agency, 2800 South 20th Street, Philadelphia, Pennsylvania 19101–8419, 215–737–2100.

B. For the Food and Drug Administration: Director, Medical Products Quality Assurance Staff, HFC–240, Office of Regulatory Affairs, Food and Drug Administration, 12720 Twinbrook Parkway, Bldg. #4, Room 408, Rockville, Maryland 20852, 301–827–0390.

VI. Period of Memorandum of Understanding

a. This MOU will become effective upon final signature and will remain in effect indefinitely.

b. The MOU will be reviewed every two (2) years to ensure adequacy and currency; however, it may be amended by mutual consent at any time.

c. The MOU may be unilaterally terminated by providing the other party with 180 days written notice of intent.

Approved and Accepted for the Department of Defense
By: Edward D. Martin, M.D.
Title: Principal Deputy Assistant Secretary of Defense, Health Affairs
Date: January 14, 1997

Approved and Accepted for the Food and Drug Administration
By: M. A. Friedman
Title: Deputy Commissioner for Operations
Date: November 27, 1996

[FR Doc. 97–21242 Filed 8-11-97; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0302]

Draft Guidance for Industry; Consumer-Directed Broadcast Advertisements; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Consumer-Directed Broadcast Advertisements.'' The draft guidance is intended to provide information to enable product sponsors to fulfill the requirements for consumer-directed broadcast advertisements, while providing consumers with required risk information about the advertised products. This draft guidance represents the agency's current thinking on consumer-directed broadcast advertisements for prescription drugs for humans and animals, and human biological products. The agency requests comments on this draft guidance.

DATES: Written comments may be submitted on the draft guidance document by October 14, 1997. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFD–305), Food and Drug Administration, 12420 Parklawn Dr., rm 1–23, Rockville, MD 20857. Submit written requests for single copies of the draft guidance entitled ''Consumer-Directed Broadcast Advertisements'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT:

Regarding prescription human drugs: Nancy M. Ostrove, Division of Drug Marketing, Advertising and Communications (HFD–40), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, rm. 17B04, Rockville, MD 20857, 301–827–2828, or via e-mail at ostrove@cder.fda.gov.

Regarding prescription human biological products: Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–200), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3028, or via e-mail at stifano@cber.fda.gov.

Regarding prescription animal drugs: Edward Spenser, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD, 20855, 301–594–1722, or via e-mail at espenser@bangate.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Requirements

Section 502(n) (21 U.S.C. 352(n)) of the Federal Food, Drug, and Cosmetic

Act (the act) requires that advertisements for prescription drugs for humans and animals and human biological products include information in brief summary relating to side effects, contraindications, and effectiveness. This is known as the ''brief summary'' requirement. The prescription drug advertising regulations in § 202.1(e)(1) and (e)(3)(iii) (21 CFR 202.1(e)(1) and (e)(3)(iii)) further require that the brief summary disclose all the risk-related information in a product's approved package labeling (package insert or product package insert).

The regulations for advertising prescription drugs through broadcast media, such as radio, television, or telephone communications systems, however, modify the disclosure requirements somewhat. All prescription drug broadcast advertisements must include information about the major risks of the advertised drug (the ''major statement'') in either the audio or audio and visual parts of the presentation. Instead of presenting a ''brief summary'' in connection with the broadcast advertisement, a sponsor may make adequate provision for the dissemination of the approved package labeling in connection with the broadcast presentation (§ 202.1(e)(1)). This alternative requirement is referred to as the ''adequate provision'' requirement.

The ''adequate provision'' requirement recognizes the inability of broadcast advertisements of reasonable length to present and communicate effectively the extensive information that would be included in a brief summary; it instead specifies that presentation of the advertised product's most important risk information as part of the ''major statement,'' together with ''adequate provision'' for the dissemination of the approved labeling, can fulfill the risk information disclosure mandated by the act.

B. History

Although direct-to-consumer (DTC) advertising has been practiced by the prescription drug industry since the early 1980's, it has become increasingly popular in the 1990's. As a result, FDA has consulted recently with industry, consumers, health care professionals, and other interested parties regarding DTC prescription drug advertising.

In the **Federal Register** of August 16, 1995 (60 FR 42581), FDA published a document explaining the background of DTC promotion, asking for feedback on a number of DTC-related issues and questions, and announcing a public hearing regarding DTC promotion. The hearing was held on October 18 and 19, 1995, in Silver Spring, MD. In the **Federal Register** of May 14, 1996 (61 FR 24314), FDA published a followup document to address the erroneous belief expressed by some during the public hearing that FDA required preclearance of DTC promotion and to request feedback on several issues concerning DTC promotion. The notice clarified that FDA has never required DTC promotional materials to be precleared before use.

II. FDA's Plans Concerning Consumer-Directed Advertisements

As mentioned in section I.A of this document, the regulations addressing prescription drug and biological product advertisements are highly specific with regard to the kind and amount of information required to be disclosed or disseminated in connection with advertisements. Either a highly inclusive brief summary must be presented or, in the case of broadcast advertisements, substitution may be made by ensuring dissemination of approved package labeling. In response to recent agency requests for input, many comments have expressed concerns about the value for consumers of the complex, detailed information in the brief summary for print advertisements and approved package labeling for broadcast advertisements. FDA will initiate any rulemaking necessary to address these concerns. In the interim, FDA encourages product sponsors to provide consumers with nonpromotional, consumer-friendly information that is consistent with approved product labeling, in addition to the information currently required by the regulations (package insert for broadcast advertisements or brief summary for print advertisements). FDA suggests that this information follow the guidelines outlined in the ''Action Plan for the Provision of Useful Prescription Medicine Information'' coordinated by The Keystone Center, as accepted by the Secretary of the Department of Health and Human Services in January 1996. In cases where an advertised product has FDA-approved patient labeling, FDA encourages its inclusion as part of full prescribing information. In cases where the regulations require a brief summary, FDA encourages sponsors to write the brief summary in consumer-friendly language. This applies to consumer-directed print advertisements and broadcast advertisements that present a brief summary.

III. Consumer-Directed Broadcast Advertisements

Previously, FDA had not described how prescription drug and biological product sponsors could fulfill the ''adequate provision'' requirement for consumer-directed broadcast advertising. However, over the past several years, FDA has vastly expanded its experience in regulating DTC advertising that communicates important information and is not false or misleading. In light of the agency's increased experience and recent public input, FDA has reconsidered the issue of adequate provision as it relates to consumer-directed broadcast advertising. Therefore, FDA is publishing a draft guidance entitled, ''Consumer-Directed Broadcast Advertisements.'' It is directed to all new drug application, abbreviated new drug application, and abbreviated antibiotic drug application holders; biological product license holders; and new animal drug application and abbreviated new animal drug application holders. This draft guidance is intended to provide consumers with adequate communication of required risk information, while facilitating the process used by sponsors to advertise their products to consumers. This draft guidance describes an approach that sponsors can use to fulfill the requirement for adequate provision for dissemination of the approved package labeling in connection with consumer-directed broadcast advertisements for drug and biological products, as long as the advertisement itself includes a thorough major statement describing the product's most important risk information.

Within 2 years of publication of the final guidance, FDA intends to evaluate the effects of the guidance, including effects on the public health, of DTC promotion, and specifically of consumer-directed broadcast advertising. At the end of this evaluation period, FDA will determine whether this guidance should be withdrawn, continued, or modified to reflect the agency's current thinking. During this period, FDA will continue to collect information. The agency will keep the docket open to encourage the collection and submission of additional information from the public. FDA requests that sponsors and other interested parties collect relevant data on the impact of DTC promotional messages and make their findings known to the agency. FDA specifically solicits feedback on questions such as: (1) How has DTC promotion generally affected the public health; (2) to what

extent are consumers taking advantage of the mechanisms for obtaining approved package labeling in connection with broadcast advertisements; and (3) how risk messages can best be integrated into broadcast advertisements.

This draft guidance represents the agency's current thinking on procedures to fulfill the requirements for the disclosure of product information in connection with consumer-directed broadcast advertisements for prescription human and animal drugs, and human biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

IV. Request for Comments

Interested persons may, on or before October 14, 1997 submit written comments on the draft guidance to the Dockets Management Branch (address above). 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. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this draft guidance is also available on the Internet at http://www.fda.gov/cder/guidance.htm.

Dated: August 5, 1997.

Michael A. Friedman,

Lead Deputy Commissioner for the Food and Drug Administration.

[FR Doc. 97–21291 Filed 8–8–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995; as last amended at 62 FR 27613–16 dated May 20, 1997). This notice reflects the establishment of the HIV/AIDS Bureau and the Office of Special Programs.

The changes are as follows:

I. Delete the Bureau of Health Resources Development, and the AIDS Program Office (RAA), Office of the Administrator, in its entirety and replace with the following:

Section RV–00 Mission

The mission of the HIV/AIDS Bureau is to administer national policies and programs pertaining to HIV infection and acquired immune deficiency syndrome (AIDS) activities.

Section RV–10 Organization. The HIV/AIDS Bureau (HAB) is headed by an Associate Administrator who reports directly to the Administrator, HRSA. The (HAB) includes the following components:

(A) Associate Administrator for HIV/AIDS (RV)
(B) Office of Communications (RV1)
(C) Office of Program Support (RV2)
(D) Office of Policy and Program Development (RV3)
(E) Office of Science & Epidemiology (RV4)
(F) Division of Service Systems (RV5)
(G) Division of Community Based Programs (RV6)
(H) Division of Training and Technical Assistance (RV7)

Section RV–20 Function

A. Associate Administrator, HIV/AIDS Bureau (RV)

Provides leadership and direction for the Agency's HIV/AIDS programs and activities and oversees their relationship with other national health programs. Specifically: (1) Coordinates the formulation of an overall strategy and policy for HRSA AIDS programs; (2) coordinates the internal functions of the Bureau and its relationships with other national health programs; (3) establishes HIV/AIDS program objectives, alternatives, and policy positions consistent with legislation and broad Administration guidelines; (4) administers the Agency's HIV/AIDS grants and contracts programs; (5) reviews HIV/AIDS-related program activities to assure consistency with established policies; (6) represents the Agency and the Department at HIV/AIDS related meetings, conferences and task forces; (7) serves as principal contact and advisor to the Agency, Department, and other parties concerned with matters relating to planning and development of health delivery systems relating to HIV/AIDS; (8) develops and administers operating policies and procedures for the Bureau; (9) directs and coordinates the Bureau activities in support of the Department/Agency/Bureau's Affirmative Action and Equal Employment Opportunity programs by ensuring that all internal employment practices provide an equal opportunity to all qualified persons and its employment practices do not discriminate on the basis of race, color, sex, age, handicapping conditions, national origin, religious or political affiliation, marital status, and that all external benefits and service oriented activities relative to the recipients of Federal funds are likewise addressed in accordance with applicable laws, Executive Orders, DHHS regulations and policies; and (10) provides direction to the Bureau's Civil Rights compliance activities.

B. Office of Communications (RV1)

The Office of Communications serves as the Bureau's clearinghouse on all HIV/AIDS grant and program data and information, directing, coordinating and managing the preparation and dissemination of newsletters, program profiles, and reports on the uses of grant funds and services provided. Specifically: (1) Collects, compiles, and distributes various data and information on HIV/AIDS health care issues and programs related to the activities of the Bureau; (2) develops and provides information materials to HIV/AIDS health program planners, providers, and consumers to assist in decisionmaking and in effective, efficient operations; (3) develops and produces in-house communications to help ensure the understanding of current AIDS issues and Bureau program activities; (4) maintains information about primary sources of data and information on the health industry, disease trends, and public and private programs; (5) fosters and maintains relationships with and provides a referral service to Federal agencies, State and local governmental units, and private health and medical organizations with which the Bureau has mutual interests; (6) provides technical assistance to Bureau program managers and project officers in identifying data and information needs and developing information products; (7) provides technical assistance to Bureau program managers in information and communications product packaging, desktop publishing, and media relations; (8) provides Bureau liaison with HRSA's Office of Communications with respect to information and communications policy and management, product development, and media relations; (9) produces reports, articles, briefings, speeches, and exhibits on Bureau services and on programs directed at the Bureau service and provider populations; and, (10) utilizes automated methods and electronic media in carrying out its

responsibilities including managing and maintaining content of the Bureau's electronic web site, and liaison with the HRSA webmaster for technical support and design; and participation, coordination, and content development in use of technologies such as satellite transmission and distance learning.

C. Office of Program Support (RV2)

Plans, directs, coordinates, and evaluates Bureau-wide administrative and management support activities. Specifically: (1) Serves as the Associate Administrator's principal source for management and administrative advice and assistance; (2) assists in the development and administration of policies and procedures which govern the review and final recommendation for funding to the Associate Administrator; (3) in cooperation with the Division of Financial Management, Office of Management and Program Support (OMPS), provides guidance to the Bureau on financial management activities; (4) in cooperation with the Office of Human Resources and Development, HRSA, coordinates personnel activities for the Bureau and advises the Associate Administrator on the allocation of the Bureau's personnel resources; (5) in cooperation with the Division of Grants and Procurement Management, OMPS, conducts all business management aspects of the review, negotiation, award, and administration of Bureau grants and cooperative agreements, and coordinates the Bureau's contracts operations; (6) develops and maintains a system that tracks grant funds by program, State and grantee and by purpose of grant award; (7) provides support to field staff as appropriate by program; (8) provides organization and management analysis for the Bureau, develops policies and procedures for internal Bureau requirements, and interprets and implements the Administration's management policies and procedures; (9) coordinates the Bureau's delegations of authority activities; (10) manages the Bureau's performance appraisal and employee performance management systems; (11) provides or arranges for the provision of support services such as supply management, space management, manual issuances, forms, records, reports, and supports civil rights compliance activities; (12) provides direction regarding technological developments in office management activities; and (13) manages the Bureau's executive secretariat functions.

D. Office of Policy and Program Development (RV3)

Serves as the Bureau's focal point for planning, legislation, and related coordination activities including the development and dissemination of program objectives, alternatives, policy statements and the formulation and interpretation of program related policies. Specifically: (1) Advises the Associate Administrator and Division Directors in the development of plans and legislative proposals to support Administration goals, and serves as the primary staff unit on special projects for the Associate Administrator; (2) coordinates with the Office of Planning, Evaluation, and Legislation (OPEL), HRSA, and other appropriate offices in the preparation of HIV/AIDS-related program and legislative proposals, including the preparation of testimony and related information to be presented to the Congress; (3) monitors and analyzes HIV/AIDS-related policy and legislative developments, both within and outside the Department, for their potential impact on HIV/AIDS activities, and advises the Associate Administrator on alternative courses of action for responding to such developments; (4) organizes, guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's strategic planning agenda; (5) provides staff services and coordinates activities pertaining to legislative policy and position papers, including the development of legislative proposals and the analysis of existing and pending Federal and State legislation to assure the fullest possible consideration of programmatic requirements in meeting established departmental, and HRSA goals; (6) maintains liaison with the Agency, Department, and other agencies, and distributes legislative materials; (7) participates in the development and coordination of program policies and implementation plans, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; (8) serves as the point of contact for the Agency, developing and coordinating working relationships and conducts specific joint activities among programs to assure optimum interaction on related HIV/AIDS activities and to minimize duplication and overlap; (9) conducts special inquiries and studies with emphasis on coordinating, managing and/or undertaking special projects which cut across Office or Division lines and responsibilities; (10) coordinates Bureau and HRSA comments on HIV/AIDS-related reports, position papers, legislative proposals, and related issues; (11) coordinates responses to requests for information received from other OPDIVs of the Department and from outside the Department; (12) provides program policy interpretation and technical assistance to other governmental and private organizations and institutions; and (13) develops and coordinates performance measures.

E. Office of Science and Epidemiology (RV4)

Serves as the Associate Administrator's principal source on HIV epidemiologic surveillance, program data collection and evaluation, medical and biometric research, and the development of new models of HIV care. The Office coordinates with all HRSA HIV/AIDS programs on the development and implementation of science and epidemiology activities, specifically: (1) Develops and directs long and short range scientific studies; (2) plans, directs, coordinates with OPEL, and administers the Bureau's annual program evaluation strategy; (3) designs and implements special scientific studies of the impact and outcomes of Bureau health care programs; (4) carries out data collection and analysis activities that document the clients and services of Bureau programs; (5) collects and maintains information on the costs and quality associated with the Bureau's health care programs; (6) directs and manages the implementation and evaluation of priority models of care through the Special Programs of National Significance (Title XXVI, Part F of the PHS Act), including developing Program Application and Guidance documents and site visit and evaluation program review protocols; (7) formulates and interprets program-related policies; (8) coordinates the documentation of all science, evaluation, and new models of care products with HRSA HIV/AIDS programs; (9) coordinates technical assistance plans and activities with the Division of Training and Technical Assistance and manages program specific technical assistance; (10) plans and develops collaborative efforts in the scientific aspects of Bureau programs with other HHS components, Federal departments, universities, and other scientific organizations; (11) organizes, guides and coordinates the Bureau's scientific planning and development activities in epidemiology, research, and demonstrations; (12) plans and coordinates Bureau participation in scientific organizations, including scientific clearance of presentations and articles for publication; (13) studies and

analyzes trends in health care, including availability, access distribution, organization, and financing to determine if the Bureau activities address current and emerging issues and problems in an effective, efficient manner; and (14) coordinates and consults with State and local health departments, other components of the Department, other Federal agencies and/or outside groups on the implementation of Office programs.

F. Division of Service Systems (RV5)

Administers Bureau programs and activities and manages funds and other resources related to the provision of coordinated comprehensive HIV health care and support services, including reimbursement for treatment with life-prolonging drugs, for persons with HIV/AIDS. Specifically: (1) Directs and manages the implementation of Parts A and B of Title XXVI of the PHS Act including Emergency Relief Grants (Title I), HIV CARE Grants (Title II), and State AIDS Drug Assistance programs; (2) provides program implementation proposals and plans, and the interpretation of legislation and regulations; (3) monitors HIV services planning and delivery programs in States and Cities and provides administrative, strategic, and programmatic direction to grantees to encourage efficient, coordinated treatment of persons with HIV infection; (4) prepares site visit program review protocols; (5) develops Program Application and Guidance documents; (6) develops requirements, guidance and monitors State and territorial programs for medical therapies established to ensure that these treatments are integrated into the system of health care services; (7) promotes the development of State treatment program formularies that include classes of drugs necessary for the proper treatment of people with HIV infection; (8) formulates and interprets program-related policies; (9) coordinates technical assistance plans and activities with the Division of Training and Technical Assistance and manages program specific technical assistance; (10) develops and implements a monitoring plan, including periodic on-site program reviews and assessments of grantee compliance with the legislation, including their plans and activities to assure subcontractor compliance; and (11) coordinates and consults with State and local health departments, other components of the Department, other Federal agencies and/or outside groups on the implementation of Division programs.

G. Division of Community Based Programs (RV6)

Administers Bureau programs and activities related to: the provision of comprehensive health services to persons infected with HIV in medically underserved areas; demonstrating strategies and innovative models for organizing and coordinating community based services linked to research for children, youth and women; coordinating services for children, youth and women of child-bearing age with HIV infection, HIV/AIDS; and, assisting dental schools and other eligible institutions with respect to oral health care to patients with HIV. Specifically: (1) directs and manages the implementation of Parts C and D of Title XXVI of the PHS Act including HIV Early Intervention Services Program (Title III), Grants for Coordinated Services and Access to Research for Women, Infants, Children, and Youth Program (Title IV), and Part F Dental Reimbursement; (2) provides program implementation proposals and plans, and the interpretation of legislation and regulations; (3) prepares site visit program review protocols; (4) formulates and interprets program-related policies; (5) develops Program Application and Implementation Guidance including application kits; (6) coordinates and consults with State and local health departments, other components of the Department, other Federal agencies and/or outside groups on the implementation of Division programs; (7) coordinates technical assistance plans and activities with the Division of Training and Technical Assistance and manages program specific technical assistance; and (8) develops and implements a monitoring plan, including periodic on-site program reviews and assessments of grantee compliance with the legislation, including their plans and activities.

H. Division of Training and Technical Assistance (RV7)

Coordinates, designs, directs and administers HIV/AIDS-related planning, training, technical assistance and extramural authorities and activities within the Agency. Advises the Associate Administrator on training and educational activities, pertaining to the administration of HRSA's HIV/AIDS program. Specifically: (1) Directs and manages the implementation of the AIDS Education and Training Centers (AETC) program of the CARE Act, Title XXVI, Part F of the PHS Act; (2) identifies technical assistance needs and develops technical assistance packages, conducts programs, meetings and activities to meet such needs; (3) convenes consultation meetings with grantees, providers, representatives of professional and political organizations, and advocacy groups; (4) develops Program Application and Guidance documents for the AETC program; (5) develops and manages mechanisms and resources to address technical assistance needs and support Division/Bureau technical assistance plans and programs; (6) provides logistical support to the objective review process; (7) prepares site visit program review protocols; (8) formulates and interprets program-related policies; (9) coordinates and manages the Bureau's HIV-related managed care activities; (10) serves as the Bureau's focal point for advising and coordinating with advisory committees and other external organizations on policies regarding health care delivery and HIV/AIDS prevention, treatment, education and technical assistance; (11) develops outreach activities to assure that target populations are aware of the benefits and availability of HRSA HIV/AIDS programs; (12) provides program implementation proposals and plans, and the interpretation of legislation and regulations; (13) coordinates and consults with State and local health departments, other components of the Department, other Federal agencies and/or outside groups on the implementation of Division programs; and (14) develops and implements a monitoring plan, including periodic on-site program reviews and assessments of grantee compliance with the legislation, including their plans and activities.

II. Establish the Office of Special Programs (RR) as follows:

Section RR–00 Mission
Section RR–10 Organization
Section RR–20 Function

Section RR–00 Mission

The Office of Special Programs (OSP) serves as the Agency's principal focal point for administering Federal policy and programs pertaining to health care facilities, and activities associated with organ donations, procurements, and transplantation.

Section RR–10 Organization

The OSP is headed by the Director, who reports directly to the Administrator, HRSA, and includes the following components:

(A) Director, Office of Special Programs (RR)
(B) Division of Transplantation (RR1)
(C) Division of Facilities Compliance and Recovery (RR2)
(D) Division of Facilities and Loans (RR3)

Section RR–20 Function

A. Director, Office of Special Programs (RR)

Provides the overall leadership and direction for programs related to the procurement and transplantation of organs, facilities' compliance with the reasonable volume of uncompensated care assurance and the administration of loan, loan guarantee and interest subsidy programs for health care facilities.

B. Division of Transplantation (RR1)

Plans, directs, coordinates, and monitors a broad range of activities relating to the field of organ procurement and transplantation. Specifically: (1) Develops, implements, and maintains a program of grants to organ procurement organizations (OPO's); (2) provides technical assistance to OPO's receiving Federal funds; (3) establishes and maintains an Organ Procurement and Transplantation Network; (4) establishes and maintains a scientific registry for organ transplantation recipients; (5) administers and monitors the contracts governing the National Marrow Donor Program; (6) conducts a program of public information to inform the public of the need for organ donations; (7) monitors trends and analyzes data on the efficiency and effectiveness of organ procurement, bone marrow donation, the allocation of organs among transplant centers and transplant patients, and on other aspects of organ transplantation, and prepare reports as needed; (8) coordinates collection of information with other units of the Federal Government concerned with organ and bone marrow recovery and transplantation (e.g., the National Center for Health Services Research and Health Care Technology Assessment, the Health Care Financing Administration, the National Institutes of Health, the Department of the Navy, the Food and Drug Administration, and the Centers for Disease Control and Prevention); (9) maintains working relationships with State activities and professional organizations in the field of organ transplantation; (10) maintains and fosters new relationships with public and private organizations (e.g., the North American Transplant Coordination Organization, the American Hospital Association, the American Society of Transplant Surgeons, and the American Society of Transplant Physicians) to promote the concepts of organ and bone marrow donation, to follow trends in organ procurement, and to maintain working knowledge of clinical status of organ and bone marrow transplantation; (11) develops and provides information on organ and bone marrow recovery and transplantation for professional associations, health providers, consumers, health insurers, medical societies, State health departments, and the general public; and, (12) provides program policy interpretation and technical assistance to other governmental and private organizations and institutions.

C. Division of Facilities Compliance and Recovery (RR2)

The Division substantiates health facilities' compliance with the reasonable volume of uncompensated care assurance. Specifically: (1) Establishes, develops, and monitors the implementation of regulations, policies, procedures, and guidelines for use by regional staff and health care facilities in ascertaining that assurances are met; (2) plans and directs the development of regulations and program guidelines for administering grant support for health care, health professions education, and nurse training facilities; (3) provides technical assistance and training, and conducts evaluations to ensure nationwide consistency in program administration; (4) maintains a system for receipt, analysis and disposition of audit appeals by obligated facilities; (5) maintains a system for receiving and responding to patient complaints and for their analysis, evaluation and disposition; (6) develops and initiates monitoring activities necessary to ensure enforcement of provisions regarding the reasonable volume assurance; (7) coordinates its activities with other components of the Bureau, HRSA, and other departmental components; and (8) provides program policy interpretation and technical assistance to other governmental and private organizations and institutions.

D. Division of Facilities and Loans (RR3)

The Division plans and directs the development of regulations and program guidelines for administering loan, loan guarantee and interest subsidy program for health care facilities. Specifically: (1) Develops regulations, policy and procedures for administering loan and loan guarantee with interest subsidy programs; (2) administers the HHS responsibility for facility construction, renovation, and modification as described in interagency memoranda of agreement; (3) provides overall consultation and guidance on factors affecting future national requirements in specific types of facilities, geographic distribution and facilities utilization; (4) maintains an automated data system for the issuance of periodic and special reports and for the manipulation of institution specific data in performing tests for financial feasibility; (5) assists in the evaluation and analysis of applications for construction under assigned grant programs; (6) reviews and recommends action on: (a) proposals for new health facilities or additions to or modernization of existing facilities under loan programs assigned to the Division, (b) requests for mortgage relief, such as forbearance of principal and/or interest payment, suspension of sinking fund deposits, modifications of loan terms, etc., and (c) requests for recovery and/or waiver of repayment of Federal loan funds; (7) provides advice and guidance to regional staff on statutory and regulatory provisions and policy and procedures for administering programs assigned to the Division; (8) maintains liaison with and coordinates its activities and jointly develops pertinent programmatic materials with other components of the Bureau, HRSA, HHS, other concerned Federal agencies, and with private lending institutions and associations; and (9) provides program policy interpretation and technical assistance to other governmental and private organizations and institutions.

III. Delete the following functions: A. In the Maternal and Child Health Bureau, in item #7 of the mission statement, delete the words ''Pediatric AIDS''; this function has been placed in the HIV/AIDS Bureau. In the functional statement for the Office of the Director, in item #7, delete the statement ''a demonstration program in Pediatric AIDS, and a national service demonstration program for the treatment and prevention of AIDS in persons with hemophilia''; these functions have been placed in the HIV/AIDS Bureau. Under the Division of Services for Children with Special Needs, delete item #10, and renumber the remaining items in sequence;

B. In the Bureau of Health Professions, Division of Medicine, delete item #12 and place the word ''and'' before the number 11; this function has been placed in the HIV/AIDS Bureau; and,

C. In the Bureau of Primary Health Care, Division of Programs for Special Populations, in item #1 of the functional statement, delete the word ''AIDS''; this function has been placed in the HIV/AIDS Bureau.

Section RV–30 Delegation of Authority

All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in

them or their successors pending further redelegations.

This reorganization is effective upon date of signature.

Dated: August 7, 1997.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 97–21290 Filed 8–11–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: July 1997

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of July 1997, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
Program-Related Convictions	
A & M CARE, INC., OSSINING, NY	07/28/97
ALDRICH, TERRY L., LACONIA, NH	07/31/97
ANGSORI, HADI, TEMPLE CITY, CA	08/06/97
ARIF, MOHAMMED, WHITESTONE, NY	08/11/97
ASKEW, CONNIE, SYRACUSE, NY	08/11/97
BAPACK, PAULINE D., ALEXANDRIA, VA	08/18/97
BARNEY, SUE A., COLUMBUS, OH	07/30/97
BEIERLE, KATHLEEN J., WILKES-BARRE, PA	07/31/97
BELISLE, BRIAN CHARLES JR., ATLANTA, GA	08/07/97
BROOKS, ERNEST, PETERSBURG, VA	07/31/97
BUSH, KAREN, MARIANNA, FL	08/03/97
BUSH, JESSE, ATLANTA, GA	08/03/97
BYFIELD, MICHAEL, OSSINING, NY	07/28/97
CAPITAL CITY TRANS. SERV. INC., COLUMBUS, OH	07/30/97
CASSVAN, RICARDO, CORAL GABLES, FL	08/03/97
CAUGHMAN, ROSANNE DENISE, O'FALLON, IL	08/07/97
CHILD, BEVERLY, E. PROVIDENCE, RI	07/31/97
DEATON, JOANN, SHADYSIDE, OH	08/07/97
EMERY, DEANE M., WARNER, NH	08/07/97
FARLEY, PATRICK, PRINCETON, WV	08/03/97
FETT, DAVID EDEN, TEXARKANA, AR	08/10/97
FLORES, ROSARIO A., NEW YORK, NY	07/28/97
FONTAINE, MARCUS ARTHUR, TERMINAL ISLAND, CA	08/06/97
GADEGBEKU, POLYCARP K., FLORENCE, SC	08/03/97
GAJENDRAGADKAR, SUBHASH, BECKLEY, WV	07/29/97
GILES, JACQUELINE LEYA, ONTARIO, CA	07/30/97
GILLIARD, FRED EMERSON, ESTILL, SC	07/29/97
HARRIS, ARTHUR, JACKSON, GA	07/29/97
HAYES, JAMES E., UKIAH, CA	08/11/97
HOLLOWAY, NATHANIEL, JR., DETROIT, MI	08/07/97
JACKSON, CAREY, WHITE DEER, PA	07/28/97
JACKSON, DIARIS, VIRGINIA BEACH, VA	08/10/97
JACOBS, ERIC FRANK, METAIRIE, LA	07/29/97
JERKINS, WAYMON DAVID, DETROIT, MI	07/30/97
JOHNSON, MAURICE T., COLUMBUS, OH	07/30/97
JONES, REGINALD, DAYTON, OH	08/06/97
KASTSARIDIS, NICHOLAS, WHITE PLAINS, NY	07/31/97
KATZ, CHESTER S., LOS ANGELES, CA	08/18/97
KAYE, LARRY CARL, MAYFIELD HEIGHTS, OH	08/06/97
KILGORE, MELISSA, PROVIDENCE, RI	08/06/97
KRIEST, DONALD E., MONTGOMERY, AL	08/07/97
LANDRENEAU, PATRICK BRYAN, TALLAHASSEE, FL	07/30/97
LIPSITZ, FAYNE, PHILADELPHIA, PA	08/03/97
MARTIN, HOLLY PATRICIA, MOUNT SOLON, VA	07/29/97
MCDANIEL, MICHAEL SHAUN, ANTHONY, TX	08/10/97
MCDANIEL, DARLENE POWELL, BALLINGER, TX	08/10/97
MCDANIELS, MATTIE, ATLANTA, GA	07/31/97
MURPHY, DEBRA HAYES, DANBURY, CT	07/29/97
NIEWISCH, CAREN, SAN DIMAS, CA	08/06/97
PAK, JIM SU, COLUMBIA, MD	07/31/97
PARK MEDICAL CLINIC, TROY, MI	07/30/97
PAYTON, DE ETTA, ONTARIO, CA	07/30/97
PELINO, CARL JOSEPH, TROY, MI	08/07/97
PELINO, MILDRED PATRICIA, TROY, MI	08/07/97
PUGH, VERNON D., EGLIN AFB, FL	07/31/97
RAY, DON A., IRMO, SC	08/03/97
REINERT, PAMELA A., MAPLE GROVE, MN	08/07/97
REYES, ALEJANDRO CONTRERAS, LOS ANGELES, CA	07/30/97
SONI, CHANDRAKANTA, WISE, VA	08/10/97
SORIANO, TONY ESTRELLA, LOS ANGELES, CA	08/06/97
TYUS, LAMAN J., COLUMBUS, OH	07/30/97
VASSALLO, DEBORAH ALICE, HENDERSON, NV	07/30/97
VIVAR, GRACIELA GRIMACEZAR, PEMBROKE PINES, FL	08/07/97
WOODFOLK, BARBARA JEAN, TACOMA, WA	08/18/97
YORK, WILLIAM DAVID, HIGHLAND PARK, MI	08/07/97
YOUNG, LARHONDA K., NEW ALBANY, MS	08/07/97
ZETLIN, VALENTIN, NEW YORK, NY	07/28/97
Patient Abuse/Neglect Convictions	
ANDERSON, LADORA, EAST CLEVELAND, OH	08/06/97
BERANEK, JOSELYN J., ROTHSCHILD, WI	08/06/97
BERGMAN, SANDER E., SHELTON, WA	08/11/97
BEST, ERIC R., COLUMBUS, OH	08/06/97
BUSEMAN, EDITH, LENNOX, SD	08/10/97
DAVIS, JEANETTE, LORAINE, OH	08/06/97
DESROSIERS, STEVEN, NEW BEDFORD, MA	08/06/97
DIAKHATE, AMY, PAWTUCKET, RI	07/31/97
EDWARDS, PAULINE, SPRINGFIELD, MA	08/06/97
FEATHERSTON, MARCIA ELLEN, MADISON HEIGHTS, MI	08/06/97
FERREIRA, JOSE V., EVERETT, MA	08/07/97

Subject, city, state	Effective date
FOSTER, DOLORES E., E TAUNTON, MA	08/06/97
HELTON, SCOTT A., HAMILTON, OH	08/06/97
HUSTON, JOHN A., AVENEL, NJ	07/28/97
JORDAN, ANITA M., MUSKEGON, MI	07/30/97
LAFORTE, DEBRA, WEBSTER, MA	08/06/97
MACDONALD, ANN M., WHITMAN, MA	08/06/97
MCCLINTON, LLOYD ELLIOT, DAYTONA BEACH, FL	08/07/97
MCINTYRE, MARY ELLEN, MUSKEGON, MI	08/06/97
MCKEE, DAVID L., MILWAUKEE, WI	07/30/97
MILLER, PERRY L., CUSTER CITY, OK	07/31/97
MITCHELL, DARREN DUWAYNE, PONTIAC, MI	07/30/97
MOSLEY, APRIL LASHELLE, OKLAHOMA CITY, OK	07/31/97
OSUNA, ALFREDO LOPEZ, YUMA, AZ	08/06/97
POMBAR, JOSHUA D., WATERBURY, VT	08/10/97
REED, PATRICIA ANN, MARSHALL, TX	07/31/97
SMITH, TOM DALE, PHOENIX, AZ	08/06/97
STOOKEY, WILLIAM, COLUMBUS, OH	08/06/97
SUFFERN, ROSE M., SOUTH ROY, WA	08/03/97
THOMAS, CRAIG, CLEVELAND, OH	08/11/97
THOMAS, LINDA, MIAMI, FL	08/03/97
VREDEVELD, DIANE LOUISE, MUSKEGON, MI	08/07/97
WARDIAN, ROSEMARIE GERALYN, SPOKANE, WA	08/11/97
WASHINGTON, KENYON DENISE, DELHI, LA	08/10/97
WEED, BEVERLY, NEWPORT, RI	08/10/97
WILRIDGE, GWENDOLYN JOYCE, HOUSTON, TX	08/10/97
Conviction for Health Care Fraud	
AGRAWAL, CHANDRAKUMAR B., FLUSHING, NY	08/11/97
FAEDER, LEATRICE PHYLLIS, DALLAS, TX	08/10/97
FREY, EMIL CARL, JR., CHARLOTTE, NC	08/07/97
GHOLSON, BARBARA ANN, PASS CHRISTIAN, MS	07/29/97
GROSSMAN, LISA FAEDER, BRYAN, TX	08/10/97
GULAYA, SUNIL K.S., NEWPORT BEACH, CA	08/03/97
HORNBECK, IVAN DALE SR., EAST ALTON, IL	08/06/97
JOSEPH, LAIS KAPRISS, SANTA ANA, CA	08/06/97
MAISTER, RHODA A., CHERRY HILL, NJ	07/29/97
NGUYEN, LOC BAO, WESTMINSTER, CA	07/30/97
RODRIGUEZ, MICHELLE, MIAMI, FL	08/10/97
Controlled Substance Convictions	
ACREE, RUSSELL A., COLEMAN, FL	08/07/97
DOSHI, PRIYAKANT S., MONTCLAIR, NJ	07/28/97
WALKER, ALBERT RONALD, MOBILE, AL	08/03/97
License Revocation/Suspension/Surrender	
ALBERT, KRISTEN J., FRANKLIN LAKES, NJ	08/11/97
AROONSAKUL, CHAOVANEE, NAPERVILLE, IL	08/18/97
BARRETT, DOROTHY, BRANDON, MS	07/29/97
BLACK, SUSAN, RIDGEFIELD, CT	07/29/97
BURGESS, JONATHAN E., VANCOUVER, WA	08/03/97
BYL, DANNY H., SOUTH LYON, MI	08/18/97
CARRINGTON, TINA, SENOTOBIA, MS	08/11/97
CAVENDER, JOHANNA, MANLIUS, NY	07/28/97
CHRISTIANSEN, REGENA, COLONIAL HEIGHTS, VA	08/07/97
COBBLE, STEPHEN R., KNOXVILLE, TN	07/29/97
COOK, BARBARA E., PHILADELPHIA, PA	07/31/97
CUMBEST, VARNIE L., LUCEDALE, MS	08/11/97
DAVIS, KAREN NELSON, BALDWYN, MS	07/29/97
DEL FIORENTINO, DANIEL MICHAEL, ANGWIN, CA	07/30/97
FARR, DENNIS L., WILMINGTON, DE	07/31/97
FINK, MONTY L., MONTICELLO, IL	08/06/97
FISHER, SCOTT R., DEATSVILLE, AL	08/03/97
FLINN, DONNA B., MEMPHIS, TN	08/03/97
FLOYD, DONNA R., NASHVILLE, TN	08/03/97
FRANKLIN, GILBERT L., MEMPHIS, TN	08/07/97
GRABIAK, CHARLES JR., WENONAH, NJ	08/10/97
HICKENBOTTOM, RONALD DEAN, FELTON, CA	08/03/97
KARLIN, BRIAN, CHERRY HILL, NJ	08/10/97
KEMP, DOROTHY J., CAMERON PARK, CA	08/11/97
KEYACK, FRANCIS A., MARLTON, NJ	07/31/97
KLOS, DEBORAH D., NAPERVILLE, IL	08/06/97
KREMBS, F GREGORY, CHARLOTTE, NC	08/11/97
LABAZE, JEAN J., ELIZABETH, NJ	08/10/97
LAFLAMME, PAMELA A., MANCHESTER, NH	07/29/97
LINDSETH, PAUL A., SACRAMENTO, CA	07/30/97
LUCKTONG, BOONLUA, BECKLEY, WV	08/03/97
MANNING, CLARE F., DETROIT, MI	07/30/97
MILTIER, DENISE JONES, NORFOLK, VA	07/31/97
O'DONOGHUE, ROBERT GRODEN, SACRAMENTO, CA	08/11/97
PASQUA, JOHN, PAWTUCKET, RI	07/31/97
PATTERSON, DENISE CARR, LANCASTER, PA	07/31/97
PHELPS, TRACI L., SPOTSYLVANIA, VA	08/10/97
PLEAS, BARBARA A., MT RANIER, MD	08/11/97
PROFENNO, DONALD C., WATERVILLE, ME	07/31/97
RAESS, DEBORAH ELAINE, OAKLAND, CA	07/30/97
RAMOS, FIDEL R., WESTFIELD, NY	07/28/97
REYNOLDS, WANDA C., PENDEL, PA	07/31/97
SAHADI, JACQUELINE, NEWINGTON, CT	07/29/97
SAWYER, HORACE K., TUCKER, GA	07/29/97
SHANE, JOHN D., FRACKVILLE, PA	07/31/97
SHEIKH, IMTIAZ A., BRIELLE, NJ	08/11/97
SKINNER, KEITH K., DENVER, CO	07/29/97
SMITH, JEFFREY JOSEPH, BUFFALO, NY	07/28/97
SMITH, ANN E., OLD ORCHARD BEACH, ME	07/31/97
SMITH, CHRISTINE A., ISLAND LAKE, IL	08/06/97
STANLEY, BERNADETTE, PITTSBURGH, PA	08/11/97
STOTTERN, ROBERT H., NEW SALEM, IL	08/11/97
SULLIVAN, JANET MAE, REDDING, CA	07/30/97
SUNNEN, GERARD V., NEW YORK, NY	07/31/97
SUNWOO, HYUNG, MERCER ISLAND, WA	08/03/97
TELANG, FRANK WOHLSEIN, CHERRY HILL, NJ	07/28/97
THORPE, AVA ROGERS, VIRGINIA BEACH, VA	08/11/97
WARD, RICHARD A., GRAND RAPIDS, MI	08/18/97
WHEATON, RUDOLPH D., FLINT, MI	08/06/97
WHITE, JULIUS, SAN ANTONIO, TX	08/10/97
WOLF, JEFFREY A., CLIFTON, NJ	08/07/97
WULFF, ZOE ANN, LAS VEGAS, NV	08/10/97
ZEKRI, HABIB, YORK HARBOR, ME	07/31/97

Subject, city, state	Effective date
Federal/State Exclusion/Suspension	
ACANOVSKI, NEGAT, NEW YORK, NY	08/11/97
CONVA-CARE, INC., PORT JEFFERSON, NY	08/11/97
KIM, YOUNG, JACKSON HEIGHTS, NY	08/11/97
MOROSKY, FRANK, PORT JEFFERSON, NY	08/11/97
WELCH, FREDERICK W., AMHERST, NY	08/11/97
Owned/Controlled by Convicted Excluded	
BEHAVORIAL EDUCATIONAL TRNG., PASS CHRISTIAN, MS	07/29/97
DENTAL CARE CENTER, LAWRENCEBURG, TN	08/03/97
DOCTORS CLINIC, ALTON, IL	08/18/97
DOCTORS CLINIC LABORATORY, ALTON, IL	08/18/97
DOCTORS CLINIC, DME COMPANY, ALTON, IL	08/18/97
FREY CHIROPRACTIC CLINIC, CHARLOTTE, NC	08/07/97
HARO G CORPORATION, MIAMI, FL	08/07/97
JACOBS MEDICAL CENTER, INC., METAIRIE, LA	07/29/97
MARTLAND ENTERPRISES, INC., CORAL GABLES, FL	08/03/97
MOORES MEDICAL TRANSPORT CORP., MARIETTA, GA	07/29/97
PROFESSIONAL DIAGNOSTIC, INC., MIAMI, FL	08/03/97
WABASHA PHARMACY INC., WABASHA, MN	08/18/97
Default on Heal Loan	
BARBER, STEVEN C., SILVER SPRING, MD	08/18/97
BOYSON, CHRIS W., APPLETON, WI	08/06/97
COFFEE, JOHN T III, RENO, NV	08/18/97
CORCORAN, JAMIE M., NEW YORK, NY	08/10/97
DAVIDSON, CYNTHIA R., MURPHY, NC	08/07/97
DONMOYER, TERRY R., LEBANON, PA	08/18/97
HARMAN, MARK S., MESA, AZ	08/18/97
HEMMATI-ORTAKAND, GOLJAMAL, TARZANA, CA	08/03/97
JACKSON, MARCUS K., JACKSON, MS	08/07/97
LATALLADI, LUZ HAYDEN, PATILLAS, PR	08/10/97
LEAVEY, BRETT D., SCOTTSDALE, AZ	08/18/97
MAXWELL-DEAN, CHARLIESE ELLEN, GREENSBORO, NC	08/07/97
REGE, SUNDEEP V., MYSTIC, CT	08/10/97
RYAN, JAMES F., ST PAUL, MN	08/06/97
SCHNEIDER, JEFFREY R., FLORENCE, AL	08/07/97
SCHREFFLER, KEITH DANIEL, CLIFTON, VA	08/07/97
SHANNON, JEFFREY, GREENSBURG, PA	08/07/97
STROMLUND, VICKI K., CITRUS HEIGHTS, CA	08/03/97
TOWNSEND, THOMAS E., DOWNERS GROVE, IL	08/06/97
VERGARA, STEVEN D. R., COTTONWOOD, AZ	08/18/97
WHITEHOUSE, LAURA L., CAMBRIDGE, MA	08/10/97
ZULOVITZ, MARK J., VERO BEACH, FL	06/17/96

Dated: July 4, 1997.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Enforcement and Compliance.

[FR Doc. 97–21231 Filed 8–11–97; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–03]

Notice of Proposed Information; Collection for Public Comment

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* October 14, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Shirley L. Machonis, telephone number (202) 708–2556 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Multifamily Housing Projects.

OMB Control Number: 2502–0029.

Description of the need for the information and proposed use: 24 CFR Section 207.1 requires applications for site appraisal and market analysis (SAMA) and conditional and firm commitments will be submitted to the local HUD Field Office on FHA approved forms. This information is used by HUD to determine the project's feasibility and mortgagor/contractor acceptability. Insufficient information during the project underwriting process could result in increased project defaults and claims against the FHA Insurance Fund.

Agency form numbers: HUD–92013, 92013–NHICF, 92013–SUPP, 92013–HOSP.

Members of affected public: Contractor/Mortgagor.

An estimation of the total numbers of hours needed to prepare the information collection is 45,862, the number of respondents is 6,257, frequency of response is on occasion as successive work items are completed at a construction site.

Status of the proposed information collection: Reinstatement without change.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 5, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–21164 Filed 8–11–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–02]

Notice of Proposed Information; Collection for Public Comment

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* October 14, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: John Coonts, Director, Office of Single Family Housing, Telephone number (202) 708–3046 (this is not a toll-free number) for copies of the proposed form and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Application for Homeownership Assistance under Section 235 of the National Housing Act.

OMB Control Number: 2502–0190.

Description of the need for the information and the proposed use: Information is needed to determine a homeowner's eligibility for assistance under the Section 235 program (assumptions and 235(r) refinancing).

Agency form numbers: N/A.

Members of affected public: Individuals or households, Business or other for-profit.

An estimation of the total number of hours needed to prepare the information collection is 5,250, the number of respondents is 21,000, frequency of response is on occasion and the hours of response is .25.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: August 5, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–21165 Filed 8–11–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4181–N–04]

NOFA for the Public and Indian Housing Drug Elimination Program (PHDEP); Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year 1997; Amendment.

SUMMARY: On May 23, 1997, at 62 FR 28538, HUD published a NOFA that announced Fiscal Year (FY) 1997 funding of $250,649,052 under the Public and Indian Housing Drug Elimination Program (PHDEP) for use in eliminating drug-related crime. This notice amends that NOFA to identify housing authorities that have established their own public housing authority police department and/or Housing authority dedicated police division/bureau, but were not included in this NOFA.

DATES: The amendments made by this notice are effective as of the NOFA publication date, May 23, 1997. The original application deadline date and time is not changed. Applications must be received at the local HUD Field Office on or before *Friday, August 8, 1997, at 3:00 PM, local time.* This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by any unanticipated or delivery-related problems. A Facsimile (FAX) is not acceptable.

FOR FURTHER INFORMATION ON THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM CONTACT: The local HUD Field Office, Director, office of Public Housing (Appendix ''A'' of this NOFA), or Malcolm E. Main, Office of Crime Prevention and Security, Office of Community Relations and Involvement, Public and Indian Housing, Department of Housing and Urban-Development, Room 4116, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–1197. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) announcing NUD's Fiscal Year (FY) 1997 funding of $250,649,052 under the Public and Indian Housing Drug Elimination Program) was published on May 23, 1997, 62 FR 28538. This notice amends the FY 1997 PHDEP NOFA to permit certain public housing authorities to be formally recognized as having established their own public housing authority police department and/or housing authority dedicated police division/bureau in order to receive funding for the employment of personnel and purchase of police clothing, equipment, vehicles, and any other supportive equipment.

This notice amends paragraphs I.(c)(1)(iii), and I.(c)(2)(viii) of the NOFA and formally recognizes the District of Columbia Housing Authority, Washington, D.C., as having a public housing authority police department and the Detroit Housing Authority, Detroit, MI, as having a Housing Support Section/Bureau of the Detroit Police Department.

Accordingly, FR Doc. 97–13518, the FY 1997 NOFA for the Public and Indian Housing Drug Elimination Program (PHDEP), published in the **Federal Register** on May 23, 1997, 62 FR 28538, is amended as follows:

1. On page 28542, in column 3, the introductory text and the list of eligible applicants in paragraph I.(c)(1)(iii) are amended to read as follows:

(iii) *Employment of Personnel and Equipment for HUD Authorized Housing Authority Police Departments.* Funding for equipment and employment of housing authority police department personnel is permitted for housing authorities that have their own public housing authority police departments. The below-listed twelve (12) housing authorities have been identified by HUD as having eligible public housing police departments and agencies under the FY 1997 PHDEP:

Baltimore Housing Authorities and Community Development, Baltimore, MD
Boston Housing Authority, Boston, MA
Buffalo Housing Authority, Buffalo, NY
Chicago Housing Authority, Chicago, IL
Cuyahoga Metropolitan Housing Authority, Cleveland, OH
Housing Authority of the City of Los Angeles, Los Angeles, CA
Housing Authority of the City of Oakland, Oakland, CA
Philadelphia Housing Authority, Philadelphia, PA
Housing Authority of the City of Pittsburgh, Pittsburgh, PA
Waterbury Housing Authority, Waterbury, CT
Virgin Islands Housing Authority, Virgin Islands
District of Columbia Housing Authority, Washington, D.C.

2. On page 28544, in column 3, the introductory test of paragraph I.(c)(2)(viii) of the NOFA is amended to read as follows:

(viii) *HA-dedicated police division/bureau.* Funding for equipment and employment of a HA-public housing dedicated division/bureau is permitted for housing authorities that have their own public housing authority housing authority dedicated police division/bureau. The Detroit Housing Authority, Detroit, MI, Housing Support Section/Bureau of the Detroit Police Department was identified by HUD as having eligible a public housing authority dedicated police division/bureau under the FY 1997 PHDEP. The following additional requirements apply to an application proposing to establish an HA-dedicated police division/bureau, which is a police division or bureau of the local law enforcement agency, consisting of full-time officers, dedicated exclusively to providing law enforcement services to a housing authority.

Dated: August 6, 1997.

Kevin Emanuel Marchman,

Acting, Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–21166 Filed 8–11–97; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–07–1220–00; 8322]

Arizona: Availability of the Final La Posa Interdisciplinary Management Plan and Environmental Assessment, Yuma Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the final La Posa interdisciplinary management plan and environmental assessment, Yuma Field Office.

SUMMARY: The Yuma Field Office has prepared an Interdisciplinary Management Plan and Environmental Assessment for an area totalling approximately 800,000 acres (Federal and non-Federal) in southwestern Arizona.

The management actions prescribed are to: (a) Maintain semi-primitive and long-term camping opportunities while reducing adverse impacts; (b) increase recreational opportunities in the management area and respond to public informational needs; (c) promote tourism and private business opportunities in the management area through partnerships; and (d) evaluate desert wildlife habitat conditions in cooperation with Arizona Game and Fish Department.

SUPPLEMENTARY INFORMATION: A limited number of copies of the Plan and Environmental Assessment are available upon request to: Field Manager, Bureau of Land Management, 2555 East Gila Ridge Road, Yuma, Arizona 85365. There are also copies available for review at the above location.

FOR FURTHER INFORMATION CONTACT:

Planning and Environmental Coordinator Kent Biddulph, Bureau of Land Management, 2555 East Gila Ridge Road, Yuma, Arizona 85365, telephone (520) 317–3267.

Dated: July 1, 1997.

Gail Acheson,

Field Manager, Yuma.

[FR Doc 97–18240 Filed 8–11–97; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

National Park Service

Wolf Trap Farm Park for the Performing Arts

ACTION: Record of decision.

Summary

National Park Service (NPS) policy and Public Law 95–42 require the preparation of a general management plan for every unit of the National Park System. A Draft General Management Plan/Development Concept Plans/Environmental Impact Statement (DEIS) for Wolf Trap Farm Park for the Performing Arts was released to the public in January 1997. In order to avoid incurring the unnecessary cost of reproducing the entire DEIS to issue a final environmental impact statement (FEIS), when only minor changes were necessary, an abbreviated FEIS was issued. This FEIS consisted of errata sheets which did not alter the analysis contained in the DEIS and NPS responses to public and agency comments. This abbreviated format is permitted by the Council on Environmental Quality regulation 40 CFR 1503.4(c). The FEIS became available in May 1997.

Pursuant to the National Environmental Policy Act of 1969 and the Council on Environmental Quality regulation (40 CFR 1505.2) the NPS has prepared this Record of Decision to document the outcome of this planning process. Prior to and while formulating a range of management concepts, the planning team in conjunction with park and regional staff conducted several public meetings and published a newsletter which provided updates on the planning process. The DEIS analyzed four alternatives for management and use of the performing arts park. All four concepts shared the objective of promoting the performing arts at Wolf Trap, maintaining and/or improving the high quality of the patron experience, and ensuring that the park is a good neighbor to the surrounding community all in an environmentally sound manner.

Decision

The NPS selected Alternative 4 (provide sufficient parking for all patrons within the park boundaries without substantial additional paving or structures, and improve patron services and facilities) as the proposed action and will endeavor to implement this plan as described below, and in the draft and final environmental impact statement (released on May 22, 1997, and published in the **Federal Register**

on May 30, 1997) for Wolf Trap Farm Park.

Proposed Action

In this action proposed by the National Park Service, sufficient parking would be provided for all visitors within the park boundaries without substantial additional paving or structures. To achieve adequate parking space, approximately 3 acres of forested area (4% of the existing wooded area in the park) would be cleared and a portion of the adjacent grass parking areas regraded. Along the eastern and northeastern edges of the park, meadows are being allowed to revert to forested areas through natural succession (approximately 4 acres). The existing paved parking areas would be repaved and striped to allow for maximum capacity. All grass parking would be enhanced with lighted walkways for safe and orderly pedestrian passage. The pedestrian circulation of the park would be redesigned to allow for a more organized approach to the Filene Center and associated areas. The existing box office building and ancillary buildings at the plaza would be removed and replaced with a single-story structure that would consolidate all patron and visitor focused functions. A development concept plan for the box office plaza building and the circle drive area has been included as part of alternative 4. Although this alternative requires the reduction of some trees and regrading hills, steps would be taken to retain the rural feel and country character of the site.

Summary of Other Alternatives Considered

Alternative 1 (No Action)

The continuation of current management practices, or no action, alternative would continue to provide the best possible performance experience within the existing infrastructure. No major modifications to structures or parking and circulation facilities would be made. Improvements in safety, security, and routine maintenance would be undertaken as funding became available. The park would, however, continue to experience parking and circulation problems, and frustrations would continue because not all cars arriving at many performances could be accommodated.

Alternative 2

Under this alternative, most parking impacts would be absorbed on paved lots within the park boundaries. Many additional level areas with good access to existing roads within the park would be paved and striped for parking. Grass areas currently used for parking would be paved and striped for safe and orderly parking. A remote parking area and shuttle bus system would also be implemented for up to 350 cars. Some areas of the park's country character would be sacrificed to improve patron convenience, services, and safety, and to minimize parking impacts on surrounding neighborhoods.

Alternative 3

Under this alternative, vehicles and pedestrians would be accommodated in safe, separate areas, and support facilities would be upgraded to be more in concert with the Filene Center performing arts complex. A four story parking structure would be built onsite, and existing paved parking lots would be improved to absorb all performance-generated parking impacts. Grass parking would be eliminated, and a more dramatic approach to the Filene Center would be created. The box office plaza area would be redesigned for patron and visitor services, safety, and appreciation and understanding of the performing arts. The intent would be to separate vehicular traffic from pedestrians, to capitalize on the country setting and the ambience, and to reduce the visual interference of support facilities.

Environmentally Preferable Alternative

The environmentally preferable alternative is Alternative 4, the proposed action. Environmentally preferable is defined as, ''the alternative that will promote the national environmental policy as expressed in NEPA's section 101'' (P.L. 91–190, as amended). Generally, this means the alternative that causes the least damage to the biological and physical environment. This term also indicates the alternative which best protects, preserves, and enhances historic, cultural, and natural resources.

The main components of Alternative 4 are accommodating all patron parking needs inside the park while retaining the natural surfaces in the park, and upgrading patron support and interpretation services. These improvements will allow natural percolation of rainfall, protect water quality, maintain the country setting, remove parking impacts to the neighborhood, provide an increased level of safety for patrons, and enrich the patron experience. In selecting the environmentally preferable alternative and the proposed action, decision makers often must balance one environmental value against another and make difficult choices. Finally, the agency has to determine if its decision is in accordance with the Congressional policies of NEPA.

Rationale for Decision

Alternative 3 provides for the construction of a four story parking structure to concentrate vehicular impacts to a smaller portion of the park. It also called for a redesigned plaza and approach. Because the impacts in this alternative are concentrated and easy to mitigate this option may appear to be the alternative which would most thoroughly protect park resources and the patron experience. However, it is improbable that funding for these improvements would be available. Also, the scale and appearance of a parking structure at this location may diminish the country setting of the neighborhood. Thus, Alternative 3 would not be preferable to the proposed action. Alternative 2 would cause detrimental environmental impacts. Alternative 1 would not effectively resolve the parking impacts, patron services, and safety issues raised during the study.

Public comment and input from agencies and the Wolf Trap Foundation assisted in the decision to select Alternative 4. Careful consideration and comparison of the alternatives by the planning team led the team to conclude that Alternative 4 best defines a strategy to meet the park objectives of promoting high quality performing arts experiences, land stewardship, and interpretation to enhance performing arts appreciation, while protecting the environment and causing minimal impact.

Conclusion

The planning and decision making process which resulted in selection of the proposed action, as identified and detailed in the draft and final EIS for this project and described above, was conducted in accordance with the National Environmental Policy Act and Council on Environmental Quality regulations. The proposed action is accepted and approved.

Dated: July 29, 1997.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 97–21132 Filed 8–11–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Wednesday, August 20, 1997; 1:30–4:00 p.m.

ADDRESSES: Commission Offices, 10 E. Church Street, Room P–205, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Pub. L. 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: August 1, 1997.

Gerald R. Bastoni,

Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 97–21241 Filed 8–11–97; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR § 50.7, notice is hereby given that on August 1, 1997, a proposed consent decree in *United States* v. *Puerto Rico Aqueduct and Sewer Authority, et al.*, Civil No. 96–2489, was lodged with the United States District Court for the District of Puerto Rico.

In this action, the United States sought civil penalties and injunctive relief from the Puerto Rico Aqueduct and Sewer Authority (''PRASA'') because its Mayagüez Regional Wastewater Treatment Plant (''Mayagüez WWTP''), in Mayagüez, Puerto Rico, continuously violated the effluent limitations of its National Pollutant Discharge Elimination System (''NPDES'') permit since 1987 and violated monitoring and reporting requirements for nitrogen and sulfide since 1992. The Commonwealth of Puerto Rico is a defendant in this action pursuant to Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e). Mayagüezanos por la Salud y el Ambiente intervened as a plaintiff in this action on April 8, 1997.

The consent decree resolves the United States' claims against PRASA. PRASA will pay $150,000 in civil penalties. In addition, PRASA will perform injunctive relief, including: (1) Constructing secondary treatment facilities and any other treatment facilities necessary to achieve compliance with NPDES Permit No. PR0023795 or its successor permit or, if authorized by Congress and EPA, constructing facilities to extend the discharge point for the Mayagüez WWTP from its present location in Mayagüez Bay to a point farther out to sea; (2) complying with interim effluent limitations; (3) limiting new sewer connections to the Mayagüez WWTP; and (4) paying $400,000 over three years to the Mayagüez Watershed Initiative in order to develop and implement a comprehensive watershed management plan for the Mayagüez Watershed.

The Department of Justice will receive for a period of sixty (60) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Puerto Rico Aqueduct and Sewer Authority, et al.*, D.J. Ref. 90–5–1–1–4233.

The consent decree may be examined at the Office of the United States Attorney, District of Puerto Rico, Federal Office Building, 150 Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918; at the United States Environmental Protection Agency—Region II, 290 Broadway, New York, New York 10007; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21236 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Modification of Consent Judgment

Notice is hereby given that plaintiff the United States of America (''United States'') has filed with the United States District Court for the Southern District of New York a motion to modify the Consent Judgment (Foreign) in *United States* v. *American Society of Composers, Authors, and Publishers* (ASCAP), Civ. Action No. 42–245. ASCAP consents to modification of the Consent Judgment. The United States has reserved the right to withdraw its consent based on public comments.

The Complaint in this case (filed on June 23, 1947) alleged that ASCAP through its membership in the International Confederation of Societies of Composers and Authors (CISAC) and various cross-licensing agreements with foreign performing rights societies: (1) Unreasonably restrained foreign and interstate trade in musical performing rights; (2) attempted to and established monopolies for ASCAP and other foreign societies; (3) denied other musical performing rights societies access to repertories, thereby impairing their ability to compete; (4) retarded the introduction of foreign musical compositions in the United States; and (5) hampered the international exchange of music and culture. The United States alleged ASCAP's conduct violated Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1 and 2.

The Consent Judgment, entered on March 14, 1950, prohibited ASCAP from being a CISAC member and required ASCAP to terminate twenty-four cross-licensing agreements with foreign performing rights societies. The Consent Judgment also established provisions governing the terms under which ASCAP could enter into cross-licensing agreements with foreign performing rights societies. The United States proposes that these provisions be eliminated because they are no longer necessary to protect competition. The

United States also proposes that the Consent Judgment be amended to permit ASCAP to collect home taping royalties collected by foreign performing rights societies on behalf of ASCAP members. The proposed modifications have no effect on other provisions of the Consent Judgment, which will remain in effect: (1) Requiring ASCAP to hold musical performing rights on a non-exclusive basis; and, (2) prohibiting ASCAP from interfering with an ASCAP member's right to license directly.

The United States has filed with the Court a memorandum setting forth the reasons why it believes that modification of the Consent Judgment serves the public interest. Copies of the United States' application to Modify the Consent Judgment, Memorandum in Support, Stipulation and Order, and proposed Order Modifying the Consent Judgment, and all further papers filed with the Court in connection with this motion will be available for inspection at Room 200, Antitrust Division, Department of Justice, 325 Seventh Street, NW., Washington DC 20530, (202.514.2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601–4150. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed modification of the consent judgment to the Department of Justice, Antitrust Division. Such comments must be received by the Division within sixty (60) days and will be filed with the court. Comments should be addressed to Mary Jean Moltenbrey, Antitrust Division, Department of Justice, 325 Seventh Street, NW., Room 300, Washington, DC 20530 (202.616.5935).

Rebecca P. Dick,

Deputy Director of Operations.

[FR Doc. 97–21235 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993: Appliance Industry—Government CFC Replacement Consortium

Notice is hereby given that, on June 27, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The Appliance Industry-Government CFC Replacement Consortium, Inc. (''Corporation'') filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its participants' status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have become additional participants of the Corporation: Marvel Industries, a division of Northland Corporation, Richmond, IN; Goldschmidt Chemical Company, Hopewell, VA; Air Products & Chemicals, Elburn, IL; and Witco Corporation, Greenwich, CT. In addition, Bayer Corporation, Pittsburgh, PA has acquired the styrenics business unit of Monsanto Corporation, Springfield, MA (effective January 3, 1996), with Bayer Corporation being the sole surviving corporation. As a request of the acquisition, the rights and obligations of Monsanto as a participant in the Corporation have been transferred to Bayer as of that date.

No other changes have been made in either the membership or planned activity of the Corporation.

On September 19, 1989, the Corporation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 1, 1989 (54 FR 46136).

The last notification was filed with the Department on July 1, 1993. A notice was published in the **Federal Register** on August 17, 1993 (58 FR 43655).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–21232 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933—ECC Development Program

Notice is hereby given that, on June 27, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), ECC Development Program (the ''Program'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recorder of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: Cygnus Solutions, Sunnyvale, CA; Matsushita Electronics Corporation, Nagaokakyo, Kyoto 617, Japan; Toshiba Corporation, Kanagwa-ken 210, Japan; Cisco Systems, Inc., San Jose, CA.

The ECC Development Program's area of planned activity is to develop and promote open standard technologies for embedded software. The ECC Development Program hopes to contribute to the growth of microncontrollers and industries that depend on microcontrollers. The ECC Development Program participants plan to engage in all necessary activities to accomplish the goal and objectives described above, including without limitation: (1) Developing and refining software specifications; (2) conducting cooperative research on and testing these specifications, (3) publishing and certifying these specifications; (4) disseminating these specifications to interested parties for their use in designing and producing compatible products; (5) developing publications and informational materials relating to the activities of this Program; and (6) engaging in other activities to promote the technology.

Membership in the ECC Development Program will remain open and ECC will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–21234 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Financial Services Technology Consortium, Inc.

Notice is hereby given that, on June 25, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Financial Services Technology Consortium, Inc. (''Consortium''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and area of planned

activity. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the membership changes are as follows: Norwest Corporation, Minneapolis, MN was admitted as a principal member. Compaq Computer Corporation, Houston, TX and @Work Technologies, New York, NY were admitted as Associate Members. American Recovery Association, New Orleans, LA was admitted as an Advisory Member. The following parties are no longer members; Equifax Credit Information Services; Global Concepts, Inc.; Gemini Computers, Inc.; Raptor Systems, Inc.; SSDS, Inc.; Home Financial Network, Inc.; and YCS, Inc. Membership remains open and the Consortium intends to file additional written notifications disclosing all changes in membership.

The consortium also filed notice that it has entered into an Agreement for Strategic Alliance with the Banking Industry Technology Secretariat (''BITS'') as a new activity of the Consortium.

On October 21, 1993, the Financial Services Technology Consortium filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on December 14, 1993 (58 FR 65399). The last notification was filed on February 6, 1997. A notice was published in the **Federal Register** on March 20, 1997 (62 FR 13394).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–21233 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 12, 1997, and published in the **Federal Register** on March 19, 1997, (62 FR 13169), Glaxo Wellcome Inc., Attn: Jeffrey A. Weiss, 1011 North Arendell Avenue, P.O. Box 1217, Zebulon, North Carolina 27597–2309, made application to the Drug Enforcement Administration to be registered as an importer of remifentanil (9739), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Glaxo Wellcome Inc. to import remifentanil is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: July 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–21247 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated April 24, 1997, and published in the **Federal Register** on May 12, 1997, (62 FR 25971), Lipomed, Inc., One Broadway, Cambridge, Massachusetts 02142, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Methyl-2, 5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Dextropropoxphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Lipomed, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–21248 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 31, 1997, and published in the **Federal Register** on May 8, 1997, (62 FR 25210), Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Phenylacetone (8501)	II

DEA has considered the factors in Title 21, United States Code, section 823(a), as well as information provided by other bulk manufacturers, and

determined that the registration of Lonza Riverside to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–21249 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 14, 1997, and published in the **Federal Register** on March 28, 1997 (62 FR 14946), Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Mallinckrodt Chemical, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–21250 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Existing Collection; Comment Request

ACTION: Extension of an Existing Collection; Application for Asylum and Withholding of Removal.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until October 14, 1997.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four 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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Asylum and Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–589. Office of International Affairs, Asylum Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is used by the INS and EOIR to access eligibility of persons applying for asylum and withholding of deportation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 80,000 responses at three and one half (3.16) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 252,800 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

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: August 4, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–21224 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Existing Collection; Comment Request

ACTION: Extension of existing collection; Employment Eligibility Verification.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the

Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted until; October 14, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four 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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Employment Eligibility Verification.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–9. Programs Office, IRAIRA Implementation Team, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form was developed to facilitate compliance with Section 274A of the Immigration and Nationality Act (the Act), as amended by the Immigration Reform and Control Act of 1986 (IRCA), which prohibits the knowing employment of unauthorized aliens. The information collected is used by employers or by recruiters for enforcement of provisions of immigration laws that are designed to control the employment of unauthorized aliens.

(5) *An estimate of the total number of respondents and amount of time estimated for an average respondent to respond:* 78,000,000 responses at 9 minutes (.15) per response and 20,000,000 record keepers at 4 minutes (0.066) per filing for record keeping.

(6) *An estimate of the total public burden (in hours) associated with the* collection annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

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: August 4, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–21225 Filed 8–11–97; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: August 21, 1997, 1:30 p.m., Closed Session. August 21, 1997, 2:15 p.m., Open Session.

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, Virginia 22230.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, August 21, 1997

Closed Session (1:30 p.m.–2:15 p.m.)

—Minutes, May 1997 Meeting
—Personnel
—NSF Budget
—Awards and Agreements

Thursday, August 21, 1997

Open Session (2:15 p.m.–4:15 p.m.)

—Minutes, May 1997 Meeting
—Closed Session Agenda Items for October 1997
—Chairman's Report
—Director's Report
—Reports from Committees
—Concept Paper: Industry Reliance on Publicly-Funded Research
—Working Paper on Federal Support for Scientific Research
—Graduate Education
—Other Business
—Adjourn

Marta Cehelsky,

Executive Officer.

[FR Doc. 97–21353 Filed 8–8–97; 10:25 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME: 9:30 a.m., Tuesday, August 19, 1997.

PLACE: The Grand Ballroom, Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024.

STATUS: Open.

MATTERS TO BE DISCUSSED:

6704B Aircraft Accident Report: In-Flight Fire and Impact with Terrain, ValuJet Airlines Flight 592, DC–9–32, N904VJ, Everglades, Miami, Florida, May 11, 1996.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 314–6065.

Dated: August 8, 1997.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 97–21386 Filed 8–8–97; 12:05 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–71 and DPR–62 issued to the Carolina Power & Light Company (the licensee) for operation of the Brunswick Steam Electric Plant, Units 1 and 2 (BSEP) located in Southport, North Carolina.

NRC Generic Letter (GL) 88–01 outlines the NRC staff's positions on intergranular stress corrosion cracking (IGSCC) in boiling water reactor (BWR) austenitic stainless steel piping. Technical Specification (TS) 4.0.5.f requires that the BSEP Inservice Inspection (ISI) program be performed in accordance with the positions identified in GL 88–01. The proposed amendments would modify TS 4.0.5.f in a manner that would allow exceptions to these positions where specific written relief has been granted by the NRC.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification 4.0.5.f provides inservice inspection requirements (e.g., schedule, methods, personnel, and sampling) for piping covered by the scope of NRC Generic Letter 88–01, ''NRC Staff Position on IGSCC in BWR Austenitic Stainless Steel Piping'' dated January 25, 1988. The proposed revision to Technical Specification 4.0.5.f provides a clarification for this piping regarding the use of alternatives on schedule, methods, personnel, and sampling that have been reviewed and accepted by the NRC staff. The proposed change to Technical Specification 4.0.5.f is an administrative change that clarifies that alternate requirements regarding inspection schedules, methods, personnel, and sample expansion are acceptable provided these alternatives have been reviewed and approved by the NRC staff. The proposed license amendments do not alter the function of existing equipment and will ensure that the consequences of any previously evaluated accident do not increase. As such, the proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision to Technical Specification 4.0.5.f is an administrative change [that] provides a clarification that alternate requirements for inspection schedules, methods, personnel, and sample expansion for piping susceptible to intergranular stress corrosion cracking (IGSCC) are acceptable for use. Inclusion of this clarification in Technical Specification 4.0.5.f is an administrative change which will not introduce new equipment nor require any existing equipment or systems to perform a different type of function than they are presently designed to perform.

3. The proposed amendments do not involve a significant reduction in a margin of safety.

As previously stated, the proposed revision to Technical Specification 4.0.5.f provides a clarification allowing inspection of austenitic stainless steel piping using alternatives on schedule, methods, personnel, and sampling that have been reviewed and accepted by the NRC staff. The proposed license amendments do not introduce any new equipment nor do they require any existing equipment or systems to perform a different type of function than they are presently designed to perform. As such, the proposed change to Technical Specification 4.0.5.f is administrative in nature. Therefore, the proposed license amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 11, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted

with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: 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. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated July 25, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Dated at Rockville, Maryland, this 6th day of August 1997.

For the Nuclear Regulatory Commission.

David C. Trimble,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–21245 Filed 8–11–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR 72, issued to the Florida Power Corporation, (FPC or the licensee), for operation of the Crystal River Nuclear generating Unit 3 (CR3) located in Citrus County, Florida.

The proposed amendment would revise the CR3 technical specifications (TS) to extend the frequency for certain surveillances related to the emergency diesel generators (EDGs). Specifically, TS Surveillance Requirements (SR) 3.3.8.1, and SR 3.8.1.3, would be revised to extend the channel Functional test surveillance frequency and the EDG operation, respectively, from 31 days to 60 days. The proposed TS amendment would be a one time change and applicable until November 23, 1997.

Currently, CR3 is in a voluntary shutdown and is in Mode 5. As part of its EDG load capacity upgrade program, the licensee originally planned to replace the EDG radiator during its cycle 11R outage in 1998. The licensee has now determined that a potential exists for the EDGs to exceed the design basis ambient temperature and as a result, decided to implement the radiator replacement during the current outage. Initially, the planned duration for these radiator modifications was 25 days assuming a pre-fabricated radiator unit could be used as the replacement radiator. As the final design and extent of condition for the EDGs were determined, the licensee has discovered that the pre-fabricated radiator design could not be used and the radiator replacement involved more extensive fabrication than originally anticipated. The licensee estimates that the revised work scope may require 55 days, including the necessary post-modification test for operability. This schedule is based on a continuous work schedule, and contingency for rework, field challenges, or late delivery of parts. Thus, the time required to do the modification work exceeds the present TS surveillance interval.

The licensee believes that while it is possible to perform these surveillances with one EDG inoperable, such an approach, however, would not be

desirable. These surveillances will require approximately 2 to 8 hours during which time potential exists for a condition where both EDGs could become inoperable at the same time. With both EDGs inoperable, a loss of the operating Decay Heat Removal (DHR) capability would occur during a loss of offsite power (LOOP), resulting in a heatup of the reactor coolant system and reliance on the operable steam generator steaming via the Atmospheric Dump Valves. Thus, simultaneously having one EDG inoperable due to radiator replacement and performing the monthly surveillances on the other EDG would reduce the overall defense-in-depth due to the potential consequences of a LOOP. In addition to a LOOP, the plant configuration requires bypassing the undervoltage (UV) relays while performing these surveillance procedures. The licensee states that based on its previous experience, bypassing of the UV relays may potentially result in a lockout of the power source and cause a loss of DHR capability.

To avoid such reductions in the defense-in-depth associated with performing the surveillance tests, and to complete the necessary modifications during this current outage, the licensee requests NRC approval for a one time change to its TS SR.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

An increase in the surveillance interval from 31 days to 60 days does not significantly decrease the reliability of the EDGs nor degrade their ability to perform their intended safety function when required. Based on data obtained over time the EDGs at CR–3 have an excellent record of availability. This extension of the interval will be applied to only one surveillance interval on each EDG and will not be in effect after November 23, 1997.

CR–3 obtains data from surveillance testing and operational experience and maintains records of the unavailability of the EDGs and the relays. CR–3 monitors a parameter referred to as Unavailability Performance Indicator, defined as the sum of known and estimated unavailable hours divided by hours system required.

As a limited scope effort the records for 1994 through June, 1997 were reviewed. This data indicates very low values of the performance indicator, with the average value for the 14 quarters being 0.005. The yearly goal for this performance indicator was met in the years reviewed. In total these records reflect low unavailability; i.e., high availability.

The EDG that is to remain operable during radiator replacement on the other diesel will be surveilled in accordance with SR 3.3.8.1 and SR 3.8.1.3 just prior to initiation of the EDG outage. This test will ensure its operability.

Based on the high availability of the EDGs at CR–3 and the fact that this is a one-time extension of the interval for each EDG, it is concluded that this requested extension of the surveillance interval will not result in a significant increased probability or consequences of previously evaluated accidents.

2. The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This request for technical specification changes addresses the interval for performance of the surveillances on a one-time basis for each diesel generator. This requested change to the license by itself does not involve a modification to the EDG. The modifications of the EDGs to replace the radiator have been evaluated pursuant to 10 CFR 50.59. The conclusion of that evaluation is that the radiator replacement does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the above FPC concludes that changing the surveillance frequency will not create the possibility of a new or different kind of accident.

3. The proposed change will not involve a significant reduction to the margin of safety.

As discussed above in item number one, the EDGs at CR–3 have a record of high availability. The high availability reflected in those records provides reasonable assurance that the operable EDGs will remain operable during the extended interval between surveillances. By not being required to perform the tests FPC will maintain a higher level of safety than would be possible if the tests were performed. Based on the high availability of the EDGs and the fact that this extension of the surveillance frequency is for one interval only FPC concludes that changing the surveillance interval does not result in a significant reduction to the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 11, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request

for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC–A5A, P.O. Box 14042, St. Petersburg, Florida 33733–4042, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 4, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Dated at Rockville, Maryland, this 6th day of August 1997.

For the Nuclear Regulatory Commission.

L. Raghavan, Sr.,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–21246 Filed 8–11–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 11, 18, 25, and September 1, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 11

There are no meetings scheduled for the week of August 11.

Week of August 18—Tentative

Friday, August 22

11:30 a.m.
Affirmation Session (Public Meeting)(if needed)

Week of August 25—Tentative

There are no meetings scheduled for the week of August 25.

Week of September 1—Tentative

Wednesday, September 3

11:30 a.m.
Affirmation Session (Public Meeting)(if needed)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

ADDITIONAL INFORMATION: By a vote of 4–0 on August 4, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of Atlas Corporation: Docket No. 40–3453–MLA; LBP–97–9, Memorandum and Order (Denying Hearing Request)'' be held on August 4, and on less than one week's notice to the public.

By a vote of 4–0 on August 7, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of Ralph L. Tetrick, Atomic Safety and Licensing Board Initial Decision, Memorandum and Order Denying Reconsideration and Stay, and Order on Remand: LBP–97–2, LBP–97–6; LBP–97–11'' and ''Affirmation of 7/30/97 Letter from Native American Petitioners—In the Matter of Energy Fuels Nuclear, Inc.'' be held on August 7, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: August 8, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–21426 Filed 8–8–97; 2:37 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act

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 August 11, 1997.

A closed meeting will be held on Thursday, August 14, 1997 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, 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 Thursday, August 14, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting times. 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: August 7, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–21329 Filed 8–7–97; 4:05 pm]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Greater Washington Investments, Inc. Notice Of Surrender Of License

Notice is hereby given that Greater Washington Investments, Inc. (Greater Washington), 105 Thirteenth Street,Columbus, Georgia 31901, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Greater Washington was licensed by the Small Business Administration on February 9, 1960.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was acted on this date, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–21177 Filed 8–11–97; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Tariff-Rate Quota for Imports of Beef

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that USTR has determined that Argentina, pursuant to its request, is a participating country for purposes of the export certification program for imports of beef under the tariff-rate quota.

DATES: The action is effective August 25, 1997.

FOR FURTHER INFORMATION CONTACT: Suzanne Early, Senior Policy Advisor for Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street NW, Washington, DC 20508; telephone: (202) 395–9615.

SUPPLEMENTARY INFORMATION: The United States maintains a tariff-rate quota on imports of beef as part of its implementation of the *Marrakesh Agreement Establishing the World Trade Organization*. The in-quota quantity of that tariff-rate quota is allocated in part among a number of countries. As part of the administration of that tariff-rate quota, USTR provided, in 15 CFR Part 2012, for the use of export certificates with respect to imports of beef from countries that have an allocation of the in-quota quantity. The export certificates apply only to those countries that USTR determines are participating countries for purposes of 15 CFR Part 2012.

On July 10, 1997, USTR received a request and the necessary supporting information from the government of Argentina to be considered as a participating country for purposes of the export certification program when Argentina becomes eligible to export fresh, chilled or frozen beef to the United States on August 25, 1997. See 61 FR 34385–34393 (June 26, 1997). Accordingly, USTR has determined that, effective August 25, 1997, Argentina is a participating country for purposes of

15 CFR Part 2012. As a result, effective on or after August 25, 1997, imports of beef from Argentina will need to be accompanied by an export certificate in order to qualify for the in-quota tariff rate. In order for the export certificate to be valid, it has to be used in the calendar year for which it is in effect.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 97–21253 Filed 8–11–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of The Secretary

Reports, Forms and Record keeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on these collections were published on April 11, 1997 (62 FR page 18828–18829).

DATES: Comments on this notice must be received on or before September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Delmer Billings, Information Collection Clearance Officer, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102,400 Seventh Street SW., Washington, DC 20590, Telephone: (202) 366–4482.

SUPPLEMENTARY INFORMATION:

Research and Special Programs Administration (RSPA)

Title: Requirements for Rail Tank Cars—Transportation of Hazardous Materials by Rail. (Former title: Rail Carrier and Tank Car Tank Requirements.)

OMB Control Number: 2137–0559.

Affected Public: Manufacturers, owners and rail carriers of tank cars.

Abstract: This information collection consolidates provisions for detection and repair of cracks, pits, corrosion, lining flaws, thermal protection flaws and other defects of tank car tanks under various provisions in parts 173, 179 and 180 of the HMR. The HMR require facilities that build, repair and ensure the structural integrity of tank cars to develop and implement a quality assurance program; allow the use of non-destructive testing techniques, in lieu of currently prescribed periodic hydrostatic pressure tests, for fusion welded tank cars; require thickness measurements of tank cars, with limited reduced shell thicknesses, for certain hazardous materials; increase the frequency for inspection and testing of tank cars; and other provisions to ensure crash worthiness protection for tank cars.

Estimated Annual Burden: 2,659 hours.

Title: Rulemaking, Exemption and Preemption Requirements. (Former title: Rulemaking and Exemption Requirements.)

OMB Control Number: 2137–0051.

Affected Public: Shippers, carriers, packaging manufacturers, and other affected entities.

Abstract: Rulemaking procedures enable RSPA to determine if a rule change is necessary; be consistent with public interest; and maintain a level of safety equal to or superior to that of current regulations. Exemption procedures provide the information required for analytical purposes for approval or denial of requests for exemptions.

Estimated Annual Burden: 4,279 hours.

Title: Cargo Tank Specification Requirements.

OMB Control Number: 2137–0014.

Affected Public: Manufacturers and owners of cargo tanks.

Abstract: This information collection consolidates provisions for manufacture, qualification, maintenance and use of all specification cargo tank motor vehicles. It clarifies certain commodity sections in part 173, reorganizes the cargo tank specifications in part 178 and provides for vacuum-loaded cargo tanks. It includes part 180 requirements governing the maintenance, use, inspection, repair, retest and requalification of cargo tanks used to transport hazardous materials and certain registration requirements in part 107 for persons who are engaged in manufacture, repair or certification of any DOT specification cargo tank or cargo tank manufactured under exemption to transport hazardous materials.

Estimated Annual Burden: 106,262 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention RSPA Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 5, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–21252 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–048]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, the U.S. Coast Guard announces nine Information Collection Requests (ICR) for renewal. These ICRs include: 1. Shipping Articles; 2. Liquid Natural Gas and Liquefied Hazardous Gas Waterfront Facilities; 3. Various Forms and Posting Requirements under 46 CFR concerning Vessel Inspection; 4. 33 CFR Subchapter P—Ports and Waterways Safety; 5. 46 CFR Subchapter S—Subdivision and Stability; 6. Alternative Provisions for Reinspection of Offshore Supply Vessels in Foreign Ports, 46 CFR 91.27–13; 7. Hopper Dredge Working Freeboard; Load Line and Stability; 8. Barge Fleeting Facility Records; and 9. Plan Approval and Records for Tank Passenger, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools, Oceanographic Vessels and Electrical Engineering. Before submitting the ICR packages to the Office of Management and Budget (OMB), the U.S. Coast Guard is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be received on or before October 14, 1997.

ADDRESSES: Comments may be mailed to Commandant (G–SII–2), U.S. Coast

Guard Headquarters, Room 6106 (Attn: Barbara Davis), 2100 Second St, SW, Washington, DC 20593–0001, or may be hand delivered to the same address between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–2326. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

Request for Comments

The U.S. Coast Guard encourages interested persons to submit written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this Notice and the specific ICR to which each comment applies, and give reasons for each comment. The U.S. Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed post card or envelope.

Interested persons can receive copies of the complete ICR by contacting Ms. Davis where indicated under **ADDRESSES**.

Information Collection Requests

1. *Title:* Shipping Articles.

OMB No. 2115–0015.

Summary: The collection of information requires merchant mariners to complete form CG–705A Shipping Articles before entering the service of a shipping company.

Need: 46 U.S.C. 10302, 10303, 13304, 10307 and 10103, requires a master of a vessel to have each crewmember make a shipping article agreement in writing before proceeding on a voyage.

Respondents: Merchant mariners.

Frequency: On occasion.

Burden Estimate: The estimated burden is 18,000 hours annually.

2. Title: Liquefied Natural Gas and Liquefied Hazard Gas Waterfront Facilities.

OMB No. 2115–0552.

Summary: The collection of information requires owners or operators of waterfront facilities that handle liquefied hazardous gas (LHG) or liquefied natural gas (LNG) to: (a) provide the Coast Guard with a letter of intent when a facility transfers the gases in bulk; (b) request permission to use an alternative procedure that provide at least the same degree of safety as the regulations; (c) develop and submit to the Coast Guard two copies of the facilities operations manual and emergency manual; (d) certify in writing that each person in charge of shoreside transfer operations is qualified; (e) complete, with the person in charge of vessel transfer operations, a Declaration of Inspection; (f) test and inspect the transfer system to ensure the system will not fail and release hazardous gases; and, (g) provide for the right to appeal the action in these regulations.

Need: 33 CFR, Part 127, Subparts A and C, gives Coast Guard the authority to publish regulations that provide safety standards for the design, construction, equipment, operations, maintenance, personnel training, and fire protection at waterfront facilities handling liquefied natural and hazardous gases.

Respondents: Operators or Owners of waterfront facilities that transfer LNG and LHG.

Frequency: On occasion.

Burden Estimate: The estimated burden is 3,261 hours annually.

3. Title: Various Forms and Posting Requirements under Title 46 CFR, Concerning Vessel Inspections.

OMB No. 2115–0133.

Summary: This collection of information requires owners, operators, agents or masters of certain inspected vessels to obtain and/or post various forms as part of the Coast Guard's Commercial Vessels Safety Program.

Need: Under 46 U.S.C. 2113, 3301, 3304–3313 and 3714, the U.S. Coast Guard is responsible for ensuring the proper administration of the Coast Guard Commercial Vessel Safety Program.

Respondents: Owners, operators, agents or masters of certain inspected vessels.

Frequency: On occasion and every 5 years.

Burden Estimate: The estimated burden is 3,300 hours annually.

4. Title: 33 CFR Subchapter P—Ports and Waterway Safety.

OMB No. 2115–0540.

Summary: The collection of information allows the master, owner or agent of a vessel affected by these regulations to request to the Coast Guard, deviation from navigation safety equipment requirements to the extent that there is no reduction in safety.

Need: Title 33 CFR, Subchapter P, allows any person directly affected by these regulations to request a deviation from any of the requirements as long as the level of safety is not reduced.

Respondents: Master, owner or agents of a vessel.

Frequency: On occasion.

Burden Estimate: The estimated burden is 600 hours annually.

5. Title: 46 CFR Subchapter S—Subdivision and Stability.

OMB No. 2115–0589.

Summary: The collection of information requires owners or operators of inspected vessels to submit plans and information concerning stability to the U.S. Coast Guard to ensure that applicable stability standards are met.

Need: Title 46 U.S.C. 3306, directs the Coast Guard to make appropriate regulations, including standards for vessel stability. This information is used by the U.S. Coast Guard to ensure that a vessel meets the applicable stability standards.

Respondents: Owners or operators of inspected vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden is 19,000 hours annually.

6. Title: Alternative Provisions for Reinspection of Offshore Supply Vessels in Foreign Ports, 46 CFR 91.27–13.

OMB No. 2115–0571.

Summary: The collection of information provides a mechanism for owners and operators of Offshore Supply Vessels (OSV) based overseas to submit certified examination reports and statements to the U.S. Coast Guard as an alternative to Coast Guard reinspection.

Need: Title 46 U.S.C. 3308 gives Coast Guard the authority to examine each vessel subject to inspection at proper times to ensure continued compliance with applicable laws and regulations. This requirement allows the U.S. Coast Guard to ensure that applicable OSV are in compliance.

Respondents: Owners or operators of offshore supply vessels operating in foreign ports.

Frequency: On occasion.

Burden Estimate: The estimated burden is 780 hours annually.

7. Title: Hopper Dredge Working Freeboard; Load line and Stability.

OMB No.: 2115–0565.

Summary: This collection of information provides a mechanism for owners and operators of self-propelled hopper dredges to request a working freeboard.

Need: Title 46 U.S.C. 3703 requires the U.S. Coast Guard to prescribe regulations necessary for navigation and vessel safety. These requirements ensure that self-propelled hopper dredges meet certain structural and stability standards.

Respondents: Owners or operators of self-propelled hopper dredges.

Frequency: On occasion.

Burden Estimate: The estimated burden is 50 hours annually.

8. Title: Barge Fleeting Facility Records.

OMB No. 2115–0092.

Summary: This collection of information requires the person in charge of a barge fleeting facility to keep records of the twice daily inspections of the barge mooring and movements of barges and hazardous cargo in and out of the facility.

Need: Title 33 CFR 165.803(i), is designed to prevent barges from breaking away from a fleeting facility and drifting downstream out of control in very congested areas.

Respondents: Person in charge of barge fleeting families.

Frequency: Twice daily and on occasion.

Burden Estimate: The estimated burden is 20,000 hours annually.

9. Title: Plan approval and records for Tank, Passenger, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools, Oceanographic Vessels and Electrical Engineering.

OMB No. 2115–0505.

Summary: This collection of information requires the shipyard, designer or manufacturer for the construction of vessels to submit plans, technical information, and operating manuals to the U.S. Coast Guard.

Need: Under 46 U.S.C. 3301 and 3306, the U.S. Coast Guard is responsible for enforcing regulations promoting the safety of life and property in marine transportation. This information is used by the U.S. Coast Guard to ensure that a vessel meets the applicable construction, arrangement and equipment standards.

Respondents: Shipyard, designer or manufacturer of certain vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden is 8,000 hours annually.

Dated: August 6, 1997.

G.S. Steinfort,

Acting Director of Information & Technology.

[FR Doc. 97–21262 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Training and Qualifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss training and qualification issues.

DATES: The meeting will be held on September 11 at 12:00 noon.

ADDRESSES: The meeting will be held at the Regional Airlines Association, Second floor, 1200 19th St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Ms. Regina L. Jones, (202) 267–9822, Office of Rulemaking, (ARM–100) 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee (ARAC) to discuss training and qualification issues. This meeting will be held September 11, 1997, at 12:00 noon, at the Regional Airline Association. The agenda for this meeting will include a status report from the Air Carrier Pilot Pre-employment Screening Standards and Criteria Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on August 6, 1997.

Jean Casciano,

Acting Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–21254 Filed 8–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33428]

Coach USA, Inc., and Leisure Time Tours—Control and Merger Exemption—Van Nortwick Bros., Inc., The Arrow Line, Inc., and Trentway-Wagar, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Filing of Petition for Exemption.

SUMMARY: Coach USA, Inc. (Coach), a noncarrier that controls 27 motor passenger carriers, and Leisure Time Tours, d/b/a Leisure Lines (Leisure Time), a motor passenger carrier wholly owned by Coach (collectively, petitioners), seek an exemption, under 49 U.S.C. 13541, from the prior approval requirements of 49 U.S.C. 14303(a)(5), to acquire control of Van Nortwick Bros., Inc. (Van Nortwick), a motor passenger carrier, and to merge Van Nortwick into Leisure Time, which will be the surviving entity. Coach also seeks an exemption, under 49 U.S.C. 13541, from the prior approval requirements of 49 U.S.C. 14303(a)(5), to acquire control of The Arrow Line, Inc. (Arrow), and Trentway-Wagar, Inc. (Trentway), motor carriers of passengers.

DATES: Comments must be filed by September 11, 1997. Petitioners may file a reply by September 22, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 33428 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. Also, send one copy of comments to petitioners' representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Coach and Leisure Time (MC–142011) seek an exemption for Leisure Time to acquire direct stock control and Coach to acquire indirect stock control of Van Nortwick (MC–149025), a motor passenger carrier that operates in interstate and intrastate commerce.[1] Following the acquisition of control and negotiation of a further agreement between the parties, petitioners also seek an exemption to merge Van

[1] Van Nortwick provides charter and tour operations primarily in New Jersey and nearby states.

Nortwick into Leisure Time, with Leisure Time remaining as the surviving entity. In addition, Coach seeks an exemption to acquire direct stock control over Arrow (MC–1193 and MC–1194), a motor passenger carrier that operates in interstate and intrastate commerce,[2] and Trentway (MC–126430), a motor passenger carrier that operates in interstate and foreign commerce.[3] Coach currently controls 27 passenger carriers.[4] Petitioners state that acquisition of control of the three additional carriers will have no significant impact on competition. Petitioners indicate that the stock of each of the acquired carriers—Van Nortwick, Arrow, and Trentway—has been placed in an independent voting trust to avoid any unlawful control pending disposition of this proceeding. Van Nortwick competes to a limited degree with certain Coach-controlled bus carriers based in New Jersey, including Leisure Time. Neither Arrow nor Trentway competes to any meaningful degree with the other or with any other Coach-controlled carriers. Petitioners state that each of the three carriers conducts business in a highly competitive environment, characterized by low entry barriers and strong intermodal competition, and each accounts for a relatively small market share of the transportation services available to its potential passengers.

According to petitioners, the acquisition of control of Van Nortwick's stock by Leisure Time will not inhibit competition or reduce transportation options available to the public. Similarly, Coach states that its acquisition of stock control of Arrow and Trentway will have no meaningful effect on the continued availability of competitive passenger transportation.

Petitioners claim that the acquisition of control of Van Nortwick, Arrow, and Trentway will allow each carrier to offer improved service at lower costs made possible by the coordination of functions, centralized management, financial support, rationalization of resources, and economies of scale that are anticipated from the common control. Coach anticipates that the annual efficiency savings that will be generated by the proposed acquisitions will total several hundreds of thousands of dollars annually, representing primarily interest, insurance and vehicle equipment cost savings. Coach states that all collective bargaining agreements will be honored, that employee benefits will improve, and that no change in management personnel is planned. Additional information may be obtained from petitioners' representatives.

A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: August 5, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–21261 Filed 8–11–97; 8:45 am]

BILLING CODE 4915–00–P

[2] Arrow's operations consist primarily of charter and tour services throughout Connecticut and nearby New England states and New York. Arrow also conducts certain regular-route services between points in Connecticut.

[3] Trentway operates regular-route service between points in Ontario, Canada, and points in the United States and also operates charter and special services within the United States, particularly with respect to charter trips originating in Ontario.

[4] They include: Airport Bus of Bakersfield (MC–163191), American Sightseeing Tours, Inc., d/b/a ASTI (MC–252353), Antelope Valley Bus, Inc. (MC–125057), Arrow Stage Lines, Inc. (MC–29592), Bayou City Coaches, Inc. (MC–245246), California Charters, Inc. (MC–241211), Cape Transit Corp. (MC–161678), Community Coach, Inc. (MC–76022), Community Transit Lines, Inc. (MC–145548), Desert Stage Lines, Inc. (MC–140919), Grosvenor Bus Lines, Inc. (MC–157317), Gulf Coast Transportation, Inc., d/b/a Gray Line Tours of Houston (MC–201397), H.A.M.L. Corp. (MC–194792), K–T Contract Services, Inc. (MC–218583), Kerrville Bus Company, Inc. (MC–27530), Leisure Time Tours (MC–142011), PCSTC, Inc., d/b/a Pacific Coast Sightseeing/Gray Line of Anaheim-Los Angeles (MC–184852), Powder River Transportation Services, Inc. (MC–161531), Progressive Transportation Services, Inc. (MC–247074), Red & Tan Charter, Inc. (MC–204842), Red & Tan Tours, Inc. (MC–162174), Rockland Coaches, Inc. (MC–29890), Suburban Management Corp. (MC–264527), Suburban Trails, Inc. (MC–149081), Suburban Transit Corp. (MC–115116), Texas Bus Lines, Inc. (MC–37640), and Worthen Van Service, Inc. (MC–142573).

In *Coach USA, Inc.—Control Exemption—American Charters, Ltd.,* STB Finance Docket No. 33393, Coach seeks an exemption to acquire control over American Charters, Ltd. (MC–153814). The Board served and published a notice in the **Federal Register** (62 FR 28531) on May 23, 1997, instituting an exemption proceeding. Comments were due by June 23, 1997; none was filed. A final decision is currently pending with the Board.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Principal Place of Business on Beer Labels.

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Charles Bacon, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 927–8518.

SUPPLEMENTARY INFORMATION:

Title: Principal Place of Business on Beer Labels.

OMB Number: 1512–0474.

Recordkeeping Requirement ID Number: ATF Reporting Requirement 5130/5.

Abstract: ATF regulations require the name and address of the brewer to appear on labels of kegs, bottles, and cans of domestic beer. The regulations permit domestic brewers who operate more than one brewery to show as their address on labels and kegs of beer, their ''principal place of business'' address. This label option may be used in lieu of showing the actual place of production on the label or of listing all of the brewer's locations on the label. There is no period of retention prescribed for this reporting requirement since the requirement is to provide identification of the brewer through labeling.

Current Actions: The only adjustment associated with this collection is an increase in the number of respondents. However, the increase does not affect the burden hours.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 0.

Estimated Total Annual Burden Hours: 1.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 1997.

John W. Magaw,

Director.

[FR Doc. 97–21188 Filed 8–11–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–57–94]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–57–94 (TD 8652), Cash Reporting by Court Clerks (§ 1.6050I–2).

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Cash Reporting by Court Clerks.

OMB Number: 1545–1449.

Regulation Project Number: IA–57–94.

Abstract: This regulation concerns the information reporting requirements of Federal and State court clerks upon receipt of more than $10,000 in cash as bail for any individual charged with a specified criminal offense. The Internal Revenue Service will use the information to identify individuals with large cash incomes. Clerks must also furnish the information to the United States Attorney for the jurisdiction in which the individual charged with the crime resides and to each person posting the bond whose name is required to be included on Form 8300.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal, state, local, or tribal governments.

Estimated Number of Respondents: 250.

Estimated Time Per Respondents: 30 minutes.

Estimated Total Annual Burden Hours: 125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 5, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21284 Filed 8–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–64–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–64–93 (TD 8611), Conduit Arrangements Regulations (§§ 1.881–4 and 1.6038A–3).

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Conduit Arrangements Regulations.

OMB Number: 1545–1440.

Regulation Project Number: INTL–64–93.

Abstract: This regulation provides rules that permit the district director to recharacterize a financing arrangement as a conduit arrangement. The recharacterization will affect the amount of U.S. withholding tax due on financing transactions that are part of the financing arrangement. This

regulation affects withholding agents and foreign investors who engage in multi-party financing arrangements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 5, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21285 Filed 8–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–45

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–5, Highly Compensated Employee Definition.

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Highly Compensated Employee Definition.

OMB Number: 1545–1550.

Notice Number: Notice 97–45.

Abstract: Notice 97–45 provides guidance on the definition of a highly compensated employee (HCE) within the meaning of section 414(q) of the Internal Revenue Code, as simplified by section 1431 of the Small Business Job Protection Act of 1996, including an employer's option to make a top-paid group election under section 414(q)(1)(B)(ii). The notice requires qualified retirement plans that contain a definition of HCE to be amended to reflect the statutory changes to section 414(q).

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 218,683.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 65,605.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 5, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21286 Filed 8–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[T.D. 8418]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, T.D. 8418, Arbitrage Restrictions on Tax-exempt Bonds (§§ 1.148–1, 1.148–2, 1.148–3, 1.148–4, 1.148–5, 1.148–6, 1.148–7, 1.148–8, and 1.148–11).

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Arbitrage Restrictions on Tax-exempt Bonds.

OMB Number: 1545–1098.

Regulation Project Number: T.D. 8418.

Abstract: This regulation requires state and local governmental issuers of tax-exempt bonds to rebate arbitrage profits earned on nonpurpose investments acquired with the bond proceeds. Issuers are required to submit a form with the rebate. The regulations provide for several elections, all of which must be in writing.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local, or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 3,100.

Estimated Time Per Respondent: 2 hours, 46 minutes.

Estimated Total Annual Burden Hours: 8,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 5, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21287 Filed 8–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–93–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–93–90 (TD 8364), Corporations; Consolidated Returns—Special Rules Relating To Dispositions and Deconsolidations of Subsidiary Stock (§§ 1.337(d)–2 and 1.1502–20).

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Corporations; Consolidated Returns—Special Rules Relating To Dispositions and Deconsolidations of Subsidiary Stock.

OMB Number: 1545–1160.

Regulation Project Number: CO–93–90.

Abstract: This regulation prevents elimination of corporate-level tax because of the operation of the consolidated returns investment adjustment rules. Statements are required for dispositions of a subsidiary's stock for which losses are claimed, for basis reductions within 2 years of the stock's deconsolidation, and for elections by the common parent to retain the net operating losses of a disposed subsidiary.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 6,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 5, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21288 Filed 8–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–40

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–40, Late S Corporation Election Relief.

DATES: Written comments should be received on or before October 14, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Late S Corporation Election Relief.

OMB Number: 1545–1548.

Revenue Procedure Number: Revenue Procedure 97–40.

Abstract: The revenue procedure provides that taxpayers whose S corporation election was filed late (but was filed within 6 months of the statutory due date, and before a tax return is due for that taxable year) can obtain late S election relief by filing Form 2553 and attaching a statement explaining the reasonable cause for the failure to file a timely S corporation election.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 31, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21289 Filed 8–11–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 62, No. 155

Tuesday, August 12, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1767

RIN 0572-AB36

Accounting Requirements for RUS Electric Borrowers

Correction

In rule document 97–20240, beginning on page 42284, in the issue of Wednesday, August 6, 1997, make the following correction:

§ 1767.28 [Corrected]

On page 42311, in the second column, in amendatory instruction 6, § 1767.28 text was inadvertently omitted and should read as follows:

§ 1767.28 Customer accounts expenses.

* * * * *

901 Supervision

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the general direction and supervision of customer accounting and collecting activities. Direct supervision of a specific activity shall be charged to Account 902, Meter Reading Expenses, or Account 903, Customer Records and Collection Expenses, as appropriate. (See § 1767.17 (a).)

902 Meter Reading Expenses

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used, and expenses incurred in reading customer meters, and determining consumption when performed by employees engaged in reading meters.

Items

Labor:

1. Addressing forms for obtaining meter readings by mail.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST-90-1, Notice No. 5]

RIN 2130-AA75

Track Safety Standards; Miscellaneous Proposed Revisions

Correction

In proposed rule document 97–16663, beginning on page 36138, in the issue of Thursday, July 3, 1997, make the following corrections:

Subpart C—Track Geometry

§ 213.53 [Corrected]

1. On page 36166, in the first table, in the second column, in the last entry 14’8’’ should read 4’8’’.

Subpart D—Track Structure

§ 213.113 [Corrected]

2. On page 36170, in the ‘‘Remedial Action’’ table, in the first column, in the fifth entry ‘‘Defective weld 25’’ should read ‘‘Defective weld’’.

3. On page 36171, in the third column, in the paragraph numbered (12), in the fourth line, remove the open quotes before ‘‘inch’’ and insert ‘‘3/8’’.

Subpart G—Train Operations at Track Classes 6 and Higher

§ 213.333 [Corrected]

4. On page 36180, in the table entitled ‘‘Vehicle/Track Interaction Performance Limits’’, the second entry in the ‘‘Safety Limit’’ column should read

$\leq \tan\delta$—.5 ÷ 1+.5$\tan\delta$

§ 213.355 [Corrected]

5. On page 36185, the table in the second column should read:

Class of track	Guard check gage—The distance between the gage line of a frog to the guard line[1] of its guard rail or guarding face, measured across the track at right angles to the gage line[2], may not be less than--	Guard face gage—The distance between guard lines[1], measured across the track at right angles to the gage line[2], may not be more than--
Class 6 track	4′ 6½″	4′ 5″
Class 7 track	4′ 6½″	4′ 5″
Class 8 track	4′ 6½″	4′ 5″
Class 9 track	4′ 6½″	4′ 5″

[1] A line along that side of the flangeway which is nearer to the center of the track and at the same elevation as the gage line.

[2] A line 5/8 inch below the top of the center line of the head of the running rail, or corresponding location of the tread portion of the track structure.

Appendix A to Part 213 [Corrected]

6. On page 36187, in the first table:

a. Under the column heading ‘‘Elevation of outer rail (inches)’’, ‘‘1/2’’ should read ‘‘5 1/2’’.

b. In the last column, in the tenth line from the bottom, ‘‘41’’ should read‘‘51’’.

BILLING CODE 1505-01-D

Federal Register

Tuesday
August 12, 1997

Part II

Department of Housing and Urban Development

The HUD 2020 Management Reform Plan; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4266–N–01]

The HUD 2020 Management Reform Plan

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of the HUD 2020 Management Reform Plan.

SUMMARY: On June 26, 1997, Secretary Andrew Cuomo released his plan for significant management reforms at HUD. The plan is titled the ''HUD 2020 Management Reform Plan.'' The reforms contained in this plan are directed to restoring HUD's reputation and credibility by improving the efficiency and effectiveness of the Department's programs, operations and provision of services. This notice presents in the **SUPPLEMENTARY INFORMATION** section of this document the Secretary's HUD 2020 Management Reform Plan.

FOR FURTHER INFORMATION CONTACT: For further information, contact the Office of Departmental Operations and Coordination, the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington DC, 20410, (202) 708-0988. (This is not a toll free number.) Comments or questions can be submitted through the Internet to Candis __B.__Harrison@hud.gov. More information on HUD's Management Reform Plan can be found on HUD's Home Page on the World Wide Web at http://www.hud.gov, and the plan is available at http://www.hud.gov/reform/mrindex.html.

SUPPLEMENTARY INFORMATION:

Introduction

''I believe America needs a government that is both smaller and more responsive. One that works better and costs less. One that shifts authority from the federal level to states and localities as much as possible * * One that has fewer regulations and more incentives. One, in short, that has more common sense and seeks more common ground.''*

President Clinton, *Between Hope and History*

''Everyone in government knows big challenges remain. It is time for faster, bolder action to expand our islands of excellence and reinvent entire agencies—time to entirely reinvent every department of government.''

Vice President Al Gore, *The Blair House Papers*

HUD 2020 Management Reform Plan [1]

HUD is just over 30 years old—it is time to prepare HUD for the next 30 years.

Table of Contents

Executive Summary

''For HUD to fulfill its mission, it must have credibility—with Congress, with local government and with the customer. They must all believe that HUD has the competence and capacity to perform its functions. It's time HUD put its own house in order.''

Secretary Andrew Cuomo

Responding to Change

Since HUD was created in 1965, economic and social conditions in the United States have changed dramatically. Yet, in many ways, the Department has not kept pace with that change. Over the years, Congress, the General Accounting Office, and HUD's own Inspector General have recognized this mismatch and criticized the Department for failing to modernize itself by updating its systems, improving accountability and performance, and reducing red tape.

Given these chronic problems, a priority for HUD in the next few years must be its management. Specifically, is the agency taking significant steps to clean up its act? Are new systems in place to better steward HUD's funding? Are agency operations better coordinated across functions? Is the agency defining a clear mission with clearly delineated organizational roles? Is it managing workforce and workload? Is it using new technology? Are its employees acquiring new skills?

This plan presents a fundamental management overhaul that, when carried out, aims to bring HUD in line with the times, ensuring its relevance and effectiveness into the 21st Century. The reform package focuses on getting HUD's own house in order, on managing its programs and people more efficiently and responsibly. It is a combination of significant organizational changes, as well as proposed legislative reforms, that HUD has submitted to Congress over the past few months, including: The Housing Management Reform Act of 1997; Housing 2020: Multifamily Management Reform Act of 1997; and the Homelessness Assistance and Management Reform Act of 1997.

Compassion without competence has failed America and HUD; it has let too many landlords profit without providing adequate service, left too many public and assisted housing residents living in squalor, and abandoned too many neighborhoods to decay. HUD is just over 30 years old and it is time that we prepare HUD for the next 30 years. This plan says that management must come first, that a new empowerment policy for a new century requires a new HUD, a HUD that works.

Five major forces have combined to create the need and urgency for the Department redesign proposed here. Those forces include: The groundshaking economic shift as the U.S. transitions from an industrial to an information society; passage of the Welfare Reform Bill, the most significant change in American poverty policy in 30 years; the economic and moral imperative to rein in an explosive national debt and balance the budget; the discrediting of top-heavy, Washington-driven government; and the legacy of mismanagement at HUD, which has made it dangerously vulnerable to waste, fraud, and abuse of taxpayer funds.

America's Economic Transition

Despite the fact that America's economy is booming, too many neighborhoods and communities are

[1] Special Note: In January 1997, President William Clinton asked incoming Secretary Andrew Cuomo to transform the Department of Housing and Urban Development through the President's vision for community empowerment. The next six months demonstrated unparalleled creativity and energy by the Department. This product reflects the input and insights of many, including: Vice President Al Gore, David Osborne, James Champy, Ernst & Young LLP, members of Congress, the Office of Management and Budget, and the HUD Office of Inspector General. Most of all, it was made possible by the talented civil service staff at HUD.

being left behind in the current revolutionary economic transition. This transition has supplanted the national market with a global market, and is replacing industry with information and knowledge as the prime economic drivers. Yet because so many of our urban economies were built on industry, their transition into this new era has been particularly tumultuous and is still far from complete—and far from successful. Throughout the 1970s, as our economy moved into the earliest stages of deindustrialization, cities were hit hard—population and incomes fell, poverty and unemployment increased, crime and social problems became more intense and intractable.

To succeed in this economic transition will require new skills, new strategies, and new cooperation, not just between government and business, but between cities and suburbs. HUD must marshal all its resources to help cities thrive in the new economy.

Making Welfare Reform Work

President Clinton made good on his promise to end welfare as we know it, and now the hard work begins: moving millions of our fellow citizens from welfare to work at a time when global competition for low-skill jobs is great. HUD cannot escape the spotlight of welfare reform. We are the Department responsible for housing more than a quarter of the families on welfare today; the agency with potentially the largest economic development portfolio in the federal government; and the branch that deals most directly with the fate of cities, where most people on welfare live. We must recognize that our long-term success as a Department will largely depend on the degree to which America can make welfare reform work for all our citizens.

Balancing the Federal Budget

Both President Clinton and Congress have committed to balance the federal budget by the year 2002, the first time the budget would be in balance since 1969. The need to cut funding to meet that vital goal pressures all federal agencies to get the most bang for every taxpayer buck. In short, we are forced to find ways to do even *more* to meet the demands of a society in transition, ensuring that everyone coming off welfare can find and hold a job, while downsizing staff and saving money in every way possible. That means HUD must be leaner and smarter, meeting its mandate in a creative, competent, common sense way.

A New Model of Government

While most of America's major institutions have changed dramatically over the past few decades, government—particularly government inside the Washington beltway—has often resisted reform. At times, we act as if we are insulated from the powerful forces reshaping the American economy and society.

But that is wrong. Government must change—and change dramatically—if it is to remain relevant. Vice President Gore has led the way for this Administration through his effort to reinvent government. As he wrote in the Blair House papers, a small but powerful handbook for organizational change, ''The need to reinvent was clear. Confidence in government—which is simply confidence in our own ability to solve problems by working together—had been plummeting for three decades. We either had to rebuild that faith or abandon the future to chaos.''

Former HUD Secretary Henry Cisneros recognized this need for change. Under his leadership, HUD began that task a few years ago, proposing sweeping and broad changes to many of its policies and programs. However, Congress failed to enact changes in any authorizing legislation. Indeed, no comprehensive housing authorizing legislation has been enacted over the past six years.

This plan says that we can—we should—retain our core goals, but we must change how we carry out those goals, making HUD run less like a 30-year-old bureaucracy and more like a smart, new business.

The HUD Legacy

Finally, and most importantly, HUD itself has been plagued for years by scandal and mismanagement. It is the only federal agency cited by the General Accounting Office (GAO) as being at ''high risk'' for waste, fraud, and abuse. Congress regularly raises concern over the efficiency and soundness of its programs. And its Inspector General still questions HUD's basic ability to provide ''reasonable stewardship'' over the billions of taxpayer dollars we administer.

These failings have made HUD the poster child for inept government. That view is damaging to the agency's ability to fulfill its vital goals—goals strongly supported by the public, such as ending homelessness, investing in cities, and moving people from welfare to work—at a time when Americans have a deep distrust and disgust with the way government tries to meet those worthy goals. When over five million people cannot afford decent housing, and hundreds of thousands go homeless, we cannot afford to waste even one dollar on inefficiency or corruption.

This plan says that enough is enough, that the era of an inept HUD must end. It proposes to change the *negative* perception of HUD by changing the *reality*—by making HUD work well.

Revitalizing HUD'S Mission

This changing context demands a shift in HUD's mission. While our traditional goals remain the same—fighting for fair housing, increasing the supply of affordable housing and opportunities for homeownership, reducing homelessness, promoting jobs and economic development—our mission must be updated, renewed, and focused.

If HUD is going to be a significant, value-added player, helping America's communities move from an industrial to an information economy, with welfare reform hanging in the balance, we must strive to empower people, giving them the tools they need to succeed. HUD must be an ally to communities, not a bureaucratic adversary; a creator of opportunities, not obstacles.

At the same time, in a balanced budget environment—and with the storm clouds of mismanagement still hovering over the agency—HUD must refocus its energy, ingenuity, and resources on eliminating waste, fraud, and abuse in all our programs.

Therefore, two distinct, yet interrelated missions for HUD are evident as we approach the new century:

Mission #1: Empower people and communities to improve themselves and succeed in today's time of transition.

Mission #2: Restore the public trust by achieving and demonstrating competence.

Mission #1: Empowering People and Communities

The empowerment mission is a dramatic philosophical and paradigm shift for the Department.

—Rather than top-down programs with inflexible mandates, the Department must move to bottom-up, community-driven partnerships that demonstrate a comprehensive community development strategy.

—Rather than long-term dependence, we must nurture self-sufficiency and self-reliance; the helping hand of government must help people and families become productive, taxpaying citizens. Whenever possible, we must strengthen

mainstream values of work, family, responsibility and opportunity.
—Rather than work in isolation, we must collaborate with other federal agencies, each of which provides vital community resources.
—Rather than creating a new bureaucracy for every program, we must seek out community partnerships breaking the habitual link between the need for federal action and the growth of federal bureaucracy.
—Rather than working against the free market, we must harness market forces wherever possible, using them to help people lift themselves up.

Empowerment is the right role for the federal government, a role that says ''Washington can help communities thrive, but the decisions and power must be closest to the people.'' *HUD's plan will do just that, getting a greater portion of our resources out of Washington and into communities, investing more in people and less in overhead.*

As President Clinton said in his Urban Policy Report, ''I believe in a government that promotes opportunity and demands responsibility, that deals with middle-class economics and mainstream values; a government that is different radically from the one we have known here over the last 30 to 40 years, but that still understands it has a role to play in order for us to build strong communities that are the bedrock of this Nation.''

Mission #2: Restoring the Public Trust

The public trust mission will restore public confidence in HUD by instilling an ethic of competence and excellence at the agency.

Our goal must be performance and product rather than process and perpetuation. We must have zero tolerance for waste, fraud, and abuse—and have the institutional courage to demand accountability from both our private- and public-sector customers. For everything we do, we must ask two questions. First, how can we do it better, cheaper, and more effectively? And second, are we taking all reasonable precautions to protect the public trust and ensure that every tax dollar is used properly?

Unfortunately, HUD continues to suffer from management troubles that have long plagued the agency. Recent reports by the GAO highlight essential steps we must take if we are going to permanently improve HUD's management. These include:

—Consolidating programs and reorganizing and retraining staff to align the agency's resources with its long-term mission;
—Developing and implementing stringent internal controls;
—Integrating financial and information management systems Department-wide; and
—Increasing program monitoring and measurement to ensure higher performance.

The agency's problems have been long in the making. We recognize that it will take a tremendous commitment of time, energy, discipline, and focus to reinvent the systems and the values that have undermined HUD's credibility and capability.

We also recognize that we cannot fulfill our empowerment mission if we fail to protect the public trust. The American people and the Congress will only have faith in an empowerment approach to urban policy if they believe we can make that approach work.

Reinventing HUD'S Management

Recognizing both the historic need and the recent forces that demand change, HUD undertook a comprehensive effort to fundamentally redesign our mission, programs, and organization. We asked outside experts—and ourselves—one question: how do we organize ourselves to ensure that we effectively and efficiently fulfill our twin missions of empowerment and public trust?

This sweeping reform was based on some basic, common sense premises:

—Start with no ''givens.'' Everything about the way we do business is on the table for discussion.
—Analyze core purposes and organize by clearly defined responsibilities, in effect creating separate ''businesses.''
—Match workload and workforce, skills and services.
—Measure and reward performance.
—Focus on changes that create the most leverage.
—Question whether the task is better performed by the private sector.
—Live in the 21st Century: master and utilize new technologies.

Driven by these principles, we assembled teams of ''change agents'' from all parts of the agency, challenging them to rethink every aspect of our management. This HUD team was then complemented with advice and assistance from the private sector, including Ernst & Young LLP, David Osborne, and James Champy, among others.

Our process revealed several deep-seated, structural dysfunctions:

—Proliferation of a number of small ''boutique'' programs which are highly labor-intensive.
—HUD is organized strictly by program (i.e., Office of Housing, PIH, CPD) rather than function. A functional realignment would regroup some program lines by mission and responsibility, and eliminate duplication.
—HUD is driven by process rather than performance.
—Workload and workforce are mismatched. While the Department has downsized, the workload has increased and the necessary skills for specific services in some cases do not exist within the agency.
—Management information systems have developed parochially rather than in an integrated fashion—they need a complete overhaul.
—The Department's structure is an outdated pyramid, and the headquarters/field relationship is inefficient.
—HUD's workforce has not been given a clear mission, but rather schizophrenic mandates: On the one hand, to provide assistance to communities and help them meet their needs; while on the other, to police the actions of those same communities.
—The Department's culture lacks the work ethic and ability to make stewardship of public funds a priority.

HUD addresses these breakdowns in several ways:

—The new HUD will be reorganized into discrete functions to serve distinct customer groups, rather than solely along program lines. These common functions will then either be performed within HUD or contracted out if HUD does not have the expertise or if the private sector can perform the work more efficiently.
—The culture will more clearly reward performance rather than perpetuate process.
—The structure will change from a rigid, bureaucratic headquarters/field operation into two distinct parts: (1) ''storefront,'' customer-friendly local offices that aim to provide hands-on service to communities; and (2) ''back office'' processing centers to consolidate and expedite routine processing and paperwork.
—HUD's technological systems will evolve from Jurassic-era to state-of-the-art.
—HUD's workload and workforce will be better matched according to size

and skills. This will entail critical shifts in organizational structure, positions, and personnel to reflect the aims of the new HUD.

—Everything in HUD will be driven by the twin missions: empowering people and communities and protecting the public trust.

In short, we will reduce staff from 10,500 employees to 7,500, restructure our operations, and dramatically consolidate HUD's current 300-plus programs and activities. Meanwhile, our long-term budget for programs rises—which means that the new HUD will truly be doing more with less. We will be investing a greater portion of our funding into strengthening America's communities.

HUD's transformation is clustered around six reforms.

Reform 1: Reorganize by function rather than strictly by program ''cylinders.'' Consolidate and privatize where needed.

Reform 2: Modernize and integrate HUD's outdated financial management systems with an efficient, state-of-the-art system.

Reform 3: Create an Enforcement Authority with one objective—to restore public trust.

Reform 4: Refocus and retrain HUD's workforce to carry out our revitalized mission.

Reform 5: Establish new performance-based systems for HUD programs, operations, and employees.

Reform 6: Replace HUD's top-down bureaucracy with a new customer-friendly structure.

Reform 1—Reorganize by Function Rather Than Program ''Cylinders.'' Where Needed, Consolidate and/or Privatize

Historically, HUD was formed by integrating several existing departments: The Office of Housing, the Public Housing Administration, the Urban Renewal Administration, and the Community Facilities Administration. These historic entities were never shed. Consequently, the Department never achieved operational efficiency, mission clarity, or organizational unity. The ''stovepipes'' of the Office of Housing, Public and Indian Housing, Fair Housing, and Community Planning and Development operate essentially independently. Accordingly, they often duplicate each others' efforts and at times work at cross-purposes, making it exceedingly difficult for communities to make sense of HUD services.

Compounding this situation, the recent workforce reduction has exacerbated the performance problems of these separate areas—and further downsizing from 10,500 employees today to 7,500 by the end of the year 2000 will increase the strain.

To eliminate these duplications, and in anticipation of even more downsizing over the next four years, this plan reorganizes the Department by function—maintaining the distinct business lines of public housing, single and multifamily housing, community planning and development, fair housing and others—but making significant connections across these business lines (i.e. the ''stovepipes'' or ''cylinders'') to maximize efficiency and dramatically improve customer service.

Having identified the common, cross-cutting functions, we then asked: How best do we meet our goals—through consolidation, privatization, or both?

Consolidation

Program Consolidation: HUD currently operates over 300 programs and activities, as cited in a recent Inspector General audit. After reorganization, and if Congress passes HUD's legislative proposals for program and activity consolidation and elimination, HUD will consolidate and eliminate to about 70.

Functional Consolidation: Under this plan, several major functions are consolidated, such as financial systems and enforcement (discussed in reforms #2 and #3). Several administrative functions are also consolidated, including:

—Real Estate Management System

Neither of HUD's twin missions—empowerment and public trust—is well served by how PIH and the Office of Housing currently operate. PIH and the Office of Housing now operate independently under separate real estate management operations, yet portfolio management for the Office of Housing's multifamily stock and for the Public Housing Authorities (PHAs) is a common function of asset management.

Public Housing now assesses its portfolio through the Public Housing Management Assessment Program (PHMAP) system. Despite recent reforms, PHMAP is often criticized for failing to provide an accurate measure of PHA portfolios.

Similarly, the Office of Housing's multifamily portfolio experiences substantial fraud and abuse in its Section 8 program, with an estimated 5,000 troubled properties nationwide.

To address these issues, the assessment of all PIH and Office of Housing properties will be consolidated and radically redesigned. *For the first time in HUD's history, all properties will be physically inspected and financially audited by outside contractors using a comprehensive and uniform protocol.* Portfolios will then receive a risk assessment based on these reports. HUD staff can thus focus on the most troubled and neediest properties.

—Contract Procurement

At the Secretary's direction, a top-to-bottom assessment of the FHA procurement system was conducted by the National Academy of Public Administration (NAPA). The study found that the current system neither responds efficiently to Department needs nor adequately ensures accountability.

As a result, the Department has asked NAPA to help improve HUD's procurement system to ensure accountability, while responding flexibly to changing program needs. The aim of reform is for staff to have the resources they need to serve their customers, while safeguarding taxpayer dollars with a system that ensures quality and value.

—Section 8 Payments

Both PIH and the Office of Housing currently operate Section 8 payment functions, often in disparate field offices; these functions will be consolidated into one Section 8 Financial Processing Center.

—Economic Development and Empowerment Service

A number of economic development and jobs skills programs now exist throughout the Department. These will be consolidated into the new Economic Development and Empowerment Service, which will target these resources to empower people and communities. Programs to be consolidated or coordinated include Economic Development Initiative, Section 108, Empowerment Zones, and job training and skills programs in PIH and the Office of Housing.

Privatization

While many of the common functions will be consolidated, some will also be privatized where efficiency or expertise dictates.

Privatized functions include physical building inspections for the PIH and Office of Housing portfolios; financial audits of Public Housing Authorities, as well as multifamily project owners and mortgagees; HOPE VI construction management supervision; legal and investigative services for the Enforcement Authority, where appropriate; and specific expertise required by the grantees through technical assistance.

Reform 2—Modernize and Integrate HUD's Outdated Financial Management Systems With an Efficient, State-of-the Art System

The single most glaring deficiency of the Department—and the single greatest shortfall of a Department organized by program rather than function—is the financial management systems. Currently, every program cylinder operates its own financial systems: The number of management information systems within the Department totals 89. Compounding redundancy, many of the systems can't talk to each other. This is the chief reason why the Department is on the GAO ''high risk'' list and why HUD's Inspector General says that HUD's future is ''dim.''

The new HUD will have a common, consolidated financial management information system. Fully implemented by mid-year 1999, this system will also facilitate communication between HUD, its grantees, and communities across the country. With these improvements and enhanced financial management, HUD's goal is to be removed from the high risk list.

HUD's award-winning mapping software—which HUD will soon launch in an innovative, joint public-private marketing venture—will ultimately be incorporated into the new financial system for one seamless communication and financial management system.

With the ease of an ATM, this cutting-edge mapping software will provide a graphic display of HUD funding in virtually every community in the country—helping communities better plan their future. In the system of the future, HUD employees will know the workings of the entire Department on a real-time basis. By using the best technology, we will provide faster, higher-quality service to communities, while recognizing and cracking down on problems in HUD programs.

Reform 3—Create an Enforcement Authority With One Objective: To Restore the Public Trust

The greatest breach of the public trust at HUD is the waste, fraud, and abuse in HUD's existing portfolio of millions of housing units. Currently, each of HUD's program offices—PIH, the Office of Housing, FHEO and CPD—operates independent enforcement functions, with different standards and procedures.

PIH, for example, considers enforcement action when a property fails its annual assessment. Solutions for troubled housing authorities have been ad hoc, ranging from judicial receiverships to HUD partnership agreements with the local housing authority. Housing, on the other hand, takes enforcement actions against landlords infrequently, as a last resort. The Department's critics note that the financial interests of the FHA insurance fund can be at odds with the social interests of the tenants.

The new HUD will combine enforcement actions for PIH, CPD, FHEO (non-civil rights compliance), and the Office of Housing into one authority. The Enforcement Authority will be responsible for taking legal action against all PHAs that receive a failing score on their annual assessment. The Enforcement Authority will also move against all Office of Housing properties that fail physical and financial audit inspections, cleaning up the historical backlog of 5,000-plus troubled Office of Housing properties. The Authority will also crack down on all CPD and FHEO grantees who fail audit standards or who engage in waste, fraud, and abuse.

HUD is also seeking new tools to strengthen its enforcement ability, such as a one-year mandatory trigger to move troubled large PHAs into judicial receivership; a performance evaluation board to help develop an improved annual assessment system for PHAs, including an expanded PHMAP; broad waivers of reporting requirements for high-performing and smaller PHAs; increased funding for multifamily enforcement; and reform of the bankruptcy laws to prevent multifamily owners from hiding behind the law to avoid prosecution by HUD and the Department of Justice (DOJ).

The Enforcement Authority will consolidate existing employees and will contract with outside investigators, auditors, engineers, and attorneys where necessary and appropriate. Lastly, this division will serve as liaison with the Inspector General, and coordinate its work with the FBI, DOJ, and the IRS.

Reform 4—Refocus and Retrain HUD's Workforce To Carry Out Our Revitalized Mission

Under the new HUD, no matter what area an employee works in, his or her primary mission is either to empower communities and people or to enforce the public trust.

In the past, employees were too often charged to do both at the same time. After the HUD scandals in the 1980s, all emphasis was on monitoring and enforcing regulations. At other times, the emphasis was to help the grantee do whatever it wanted. Too often, employees were asked to be facilitators as well as monitors. These charges were inconsistent and often contradictory. The new HUD realizes that both roles have a place in the Department but that they truly differ. They are distinct functions and must be performed by different individuals—and in different divisions—within the organization.

—*Community Resource Representatives:* One function is to empower the community by bringing in technical expertise, knowledge of finance programs and economic development. The culture of this position is cooperative, helpful, and accommodating, and this service will be performed by a new group of HUD employees called ''Community Resource Representatives.'' These employees will provide the first point of contact for our customers and will be the Department's ''front door,'' helping customers gain access to the whole range of HUD services.

—*Public Trust Officers:* The public trust function requires many different skills in relation to the community. Public Trust Officers must have absolutely zero tolerance for waste, fraud, and abuse; their mission is to ensure that federal funds are used appropriately and in compliance with laws and regulations. They will work in the field as the front line for monitoring and will refer significant problem cases for enforcement to HUD's new Enforcement Authority. HUD will increase the number of staff devoted to this monitoring work by directing all facilitation to the Community Resource Representatives and placing all routine processing work in processing centers, thus freeing up a number of HUD staff to work on protecting the public trust.

HUD will create training programs for each of these two new categories of employees. Training will include a broad overview of all HUD programs, while emphasizing general community development skills for the Community Resource Representatives and program monitoring for the public trust officers. Both employee categories will receive specialized training at universities, beginning in the fall of 1998.

Reform 5—Establish New Performance-Based Systems for HUD Programs, Operations, and Employees

Today, HUD uses an employee evaluation system that has some, but not significant, connection to program and agency long-term goals. We will explore changes to that system, as well as implement effective and meaningful Government Performance and Results Act (GPRA) performance measures designed to hold HUD staff and grantees accountable for results.

We are also seeking to change—in large part through legislation—programs

to emphasize performance. For example, inflexible, labor-intensive competitive grants will instead shift to performance-based formula grants; high-performing housing authorities will be subject to fewer onerous reporting requirements; a new board will design more effective and comprehensive measures for evaluating PHA performance; and new incentives will be developed in joint venture agreements to share financial risk and rewards for disposing of defaulted FHA mortgages.

The new HUD will emphasize product over process, performance over paperwork. Encouraging achievement, giving staff the tools they need to be accountable, and rewarding results is the new culture HUD embraces.

Reform 6—Replace HUD's Top-Down Bureaucracy With a New Customer-Friendly Structure.

With a new mission driving HUD's purposes and organization, we must redesign our structure. The top-down headquarters/field structure is outdated and outmoded; while many private sector companies reorganized and restructured a decade ago, HUD has not kept pace.

Particularly compelling—and relevant—models of this kind of reorganization can be seen in the financial services field. Over the past decades, many banks, like Citibank and NationsBank, consolidated routine functions into centralized ''back office'' processing centers and established ''store-front'' customer offices closer to their markets. Using this plan, HUD will adopt a similar model over a four-year period.

Organized by function instead of by program, our newly consolidated operations will be located in processing centers, while HUD's public and grantee outreach will be conducted in community-friendly locations. It is paramount that HUD retain its scope and presence in communities across the country; HUD's 81 field offices will remain and be better focused in serving their constituents.

Steps to Implementation

Following the release of this management plan to all HUD employees, Congress, and the public, the agency will launch an aggressive implementation strategy.

That strategy includes:

—Creating new entities detailed in this plan, including a new Enforcement Authority and a national assessment center for all HUD housing stock;

—Designing, with the help of the Office of Personnel Management, a new performance planning and management program that:

- Links performance requirements to specific objectives of the Management Reform Plan;
- Creates incentives for meeting specific performance objectives; and
- Establishes new performance rating levels (e.g., ''pass'' or ''fail'') and separates performance appraisal from performance awards to tie awards to achievement of major goals.

—Continuing to request Congress to pass legislation that makes this plan work, including a public housing bill, a multifamily ''Housing 2020'' bill, and a homeless assistance programs consolidation bill;

—Contracting out such plan elements as Hope VI oversight, PIH and Office of Housing site inspection, and certain enforcement activities;

—Partnering with financial systems experts in the Treasury Department to modernize and integrate HUD's financial systems;

—Shifting organizational structures and personnel to reflect the plan's broad changes, then conducting a national talent search for new senior personnel where needed; and

—Implementing a targeted buyout plan.

Because the Management Reform Plan calls for numerous cross-program consolidations and deep-seated changes in HUD's administrative structure, HUD will assign a project manager to each of several specific reform targets. These project managers will take charge of putting these reforms in place:

- Enforcement Authority
- Real Estate Assessment Center
- Section 8 Financial Management Center
- Financial Systems Integration
- Technology Enhancements
- Community Resource Representatives/Store-fronts

Finally, the Senior Executive Service (SES) anticipated mobility and movement within the organization and in keeping with that expectation, there will be major changes throughout the Department. This plan will initiate a shift in virtually all senior management in the SES positions in PIH and Housing including: Jose Cintron will become the General Deputy of PIH, Eleanor Bacon will become DAS for HOPE VI in PIH, Joe Smith will become the Deputy for Operations in Housing and Karen Miller will become Acting DAS for Multifamily in Housing. Both Mr. Cintron and Mr. Smith will be charged with implementing the management reforms and transformation of their respective business lines.

Conclusion

A few years from now, the new HUD will be judged positively if we have corrected our most basic problems. Lessons from management reform and reengineering show that you can't do it piecemeal—the success of each individual piece of this plan is dependent on the success of the whole. To create a new HUD, we will need the full range of changes set out in this plan. The success of this reform commitment will, in part, rise or fall not just on HUD's efforts but on the efforts of its partners in Congress and communities across the country.

In its overall framework, this plan adopts a business-like structure to achieve a public purpose. It defines a clear mission divided into identifiable functions for each separate business line. It centralizes some operations for economies of scale while decentralizing other operations to improve service and innovation. It uses technology to improve efficiency—both in front-line service delivery and in the creation of back-office processing centers. It puts a new stress on enforcement and economic development, while making information on HUD's resources more widely available through computers. And it implements a broad set of performance measures to best target resources to communities in need.

We know the American people consistently support the goals of the federal government, particularly those of HUD—helping homeless people become self-sufficient, strengthening our cities, helping empower people through work. The American people see our nation's problems—they desperately want a solution and are frustrated because we haven't been able to give them one.

Americans don't want to see human beings lying in the street. They don't want to see one in five American children living in poverty. They don't want to see hungry children. Because they know we can do better. If we demonstrate that we can solve these problems, if we show them solutions that work, we will unleash a power greater than we've ever seen.

We can make that change. If we put our own house in order, showing people that HUD has both the competence and capacity to perform its vital role, we can help America make the transition into the 21st Century. We will give people a reason to believe again.

HUD's new direction *matters* to America. Without HUD, millions of Americans could not become the proud owners of a new home, could not lift themselves from welfare to work, could

not walk safely through their own neighborhood, could not escape a life on the streets to a new beginning.

What is at stake is more than just the survival and success of one agency. When we reinvent HUD, one of the most historically troubled government departments, we will have begun to restore the promise and purpose of government itself.

These coming decades, the first of a new millennium, will be both an exciting and challenging time for all Americans. We hold our fate in our own hands: neither friend nor foe will determine our national destiny—it belongs to us alone.

This plan affirms HUD's role in that new world, in charting that destiny. It affirms a place at the national table and a piece of the economic pie for all our communities. It recognizes the urgency of creating opportunity for all Americans—and the importance of accounting for every single dollar entrusted to us by millions of taxpayers.

It says that a renewed and reinvented HUD will work—if we, and our partners in Congress, are prepared for change.

Road Map to This Plan

Quick Guide

The Six Major Reforms

Describes reforms that cut across the Department.

Business Line Reform Plans

Describes specific issues and reforms for each business line.

Appendix

Provides additional details on implementing the reforms

This plan is divided into three sections. The first, *The Six Major Reforms,* gives readers a compass for understanding our major changes in six reform areas:

- Reorganizing by function.
- Replacing HUD's financial management system.
- Creating an Enforcement Authority.
- Refocusing HUD's mission and retraining our workforce.
- Establishing new performance-based systems.
- Creating a customer-friendly organization.

The first section shines a spotlight on each reform area, explaining why it is relevant, what changes will occur, and who will be affected. In some cases, HUD's organization will change to implement needed reforms; in others, specific programs will change to achieve our reinvention goals. Regardless, they are reforms that will cut across the face and through the depth of what HUD is today, reconstituting the HUD of the future.

The second section, *Business Line Reform Plans,* describes the reforms each of HUD's business lines will undertake. From Public and Indian Housing to Fair Housing to Community Planning and Development, specific problems, reforms, and benefits are laid out. Each business line answers these questions: Why do we need to change? What reforms will we make? What benefits will result? What legislation, if any, do we need to make the change?

Finally, the *Appendix* provides supporting details.

The Six Major Reforms

''Contrary to what much experience and certainly much old wisdom tell us, the essence of reengineering lies in this principle: The larger the scale of change, the greater the opportunity for success.''

James Champy, *Reengineering Management*

HUD cannot affect community change unless it first changes within.

To effectively bolster community revitalization and offer new opportunities for America's citizens, HUD must cast aside our outdated structures that no longer serve customers well. The bureaucracy that has swelled and become rigid over time must make way for a lean, flexible, results-oriented structure.

This transformation is driven by HUD's realization that fundamental change is critical if HUD is going to remain relevant into the next century. These reforms are the product of a bottom-to-top review of everything HUD does.

To kick off this change process, HUD pulled together dynamic thinkers from across the Department to question every aspect of our programs and processes. Complementing these change agents were outside experts from the private sector, including Ernst & Young LLP, David Osborne, and James Champy, among others, who lent additional strength and perspective to our refocusing efforts.

These ''change agents'' started with no ''givens,'' no constraints, no commitments to bygone structures—their only mandate was to question how HUD should organize itself to effectively fulfill its twin missions of empowering people and communities and restoring the public trust. Principles guiding the process emphasized changes that would match workload and workforce; focus on customers; measure and reward performance; and take advantage of new technologies.

In figuring out what to fix, change agents had to find what was broken. They identified several breakdowns within HUD's structure that prevent optimal fulfillment of our missions. They noted, for example, that HUD is driven by process rather than performance; that we are organized by program rather than function, creating wasteful redundancies; that management information systems aren't integrated; and that the current relationship between headquarters and field office responsibilities makes poor use of resources. Finally, change agents concluded that the Department's culture has not made vigilant stewardship of public funds a priority.

Next, the change agents focused on how to fix these fundamental structural flaws. Their recommendations targeted everything from creating a performance-based culture, to overhauling HUD's technological systems, to consolidating or eliminating redundant functions. Perhaps most importantly, they developed a new structure that emphasizes function, customer service, and commitment to our mission.

Change agents distilled these recommendations into six major areas of reform that affect all aspects of HUD's ability to provide the value, effectiveness, and quality demanded by our taxpaying customers. Reforms in these areas will hit home with every HUD employee, from the way we think about our purpose to how we measure progress and the tools we have at hand to deliver services.

We call these changes ''cross-cutting'' reforms. Carpenters know that cross-cutting lumber means to cut across the natural grain of the wood. Sometimes it's a little harder to do. But the results make it worth the extra effort.

Transforming HUD will involve cutting across program lines that have been in place so long they must seem as natural as grains of wood. But what seems natural in bureaucracies may only be illusion. The reforms that will transform HUD cut across outmoded structures that have too often given the illusion of efficiency, while in reality making HUD less efficient.

This section explains each of the Department's six major reforms and the organizational and programmatic changes they entail. It also describes how these reforms will contribute to a new HUD—one that partners with local communities to empower America's citizens and that scrupulously protects the public trust.

Overview of Reforms and Specific Changes

#1 Reorganize by Function Rather Than Program ''Cylinders.'' Where Needed, Consolidate and Privatize

Organizational Changes

- Create the following centers:

1. Real Estate Assessment Center for reviewing and evaluating physical inspections and financial reporting.
2. Section 8 Financial Management Center for Housing and PIH.
3. Housing: Single Family Homeownership Centers, Multifamily Centers.
4. Public and Indian Housing: Troubled Agency Recovery Centers, Special Applications Center, PIH Grants Center.
5. CFO: Accounting Center.
6. Office of Administration: Administrative Service Centers, Employee Service Center.

- Redesign contract procurement process to improve operations and oversight.
- Consolidate routine cross-operational processing into centralized back office processing centers, or hubs, in the field.
- Consolidate program administrative functions into the Office of Administration.
- Establish Economic Development and Empowerment Service, aligning various job skills and other programs from CPD, PIH, and Housing.
- Outsource legal and investigative services when appropriate.
- Outsource technical assistance to grantees when appropriate.
- Privatize physical building inspections, financial audits, technical assistance, and real estate assessments.
- Consolidate ten field accounting divisions into one accounting center within the Office of the CFO.
- Consolidate operations in 51 field offices into 17 Multifamily Centers within Multifamily Housing.
- Consolidate financial management and budget functions in CFO.

Program Changes [L=Legislation Required]

- Privatize HOPE VI construction management and development process as appropriate (L).
- Consolidate 6 homeless assistance programs (L).
- Merge Section 8 certificate and voucher programs to streamline HUD regulations and oversight (L).
- Extend FHA note sale authority permanently (L).
- Reform FHA single family property disposition to reduce staff burden, value lost while in inventory, and exposure to risk (L).

#2 Modernize and Integrate HUD's Outdated Financial Management Systems with an Efficient, State-of-the-Art System

Organizational Changes

- Integrate HUD's fragmented financial management system, repairing or replacing HUD's 89 separate financial management and information systems
- Use advanced mapping software system, Communities 2020, to show communities the impact of HUD funding and activity in their area and enable them to plan, track, and measure performance
- Implement HUD's new Management Integrity Plan

#3 Create an Enforcement Authority

Organizational Changes

- Consolidate existing organizations and employees; contract where appropriate with outside investigators, auditors, and attorneys.
- Monitor low-performing PHAs, properties failing physical and financial audit inspections, and CPD/FHEO grantees failing program compliance.
- Create a business-like entity to clean up the backlog of over 5,000 troubled multifamily properties.

Program Changes [L = Legislation Required]

- Streamline and privatize process for Housing's pursuit of negligent owners (L).
- Reform bankruptcy laws to prevent owners from using them as a refuge from enforcement actions (L).

#4 Refocus and Retrain HUD's Workforce to Carry Out Our Revitalized Mission

Organizational Changes

- Select and train staff as Community Resource Representatives and Public Trust Officers for all field offices.
- Downsize HUD staff from 10,500 to 7,500, using skills and resources where they are needed most.
- Develop a road map for downsizing HUD employees, including a buyout strategy and options for career transitions.
- Streamline and consolidate operations and reassign staff to high priority work.

#5 Establish New Performance-Based Ssystems for HUD Programs, Operations, and Employees

Organizational Changes

- Create meaningful GPRA performance measures that hold HUD staff and grantees accountable for results.

Program Changes [L = Legislation Required]

- Convert inflexible, labor-intensive competitive grant programs to performance-based grant programs, including: Tenant Opportunities, Economic Development/Support Services, Public Housing Drug Elimination, Competitive PHA Capital Funds; and six homeless programs (L).
- Deregulate high-performing PHAs and smaller PHAs by mandating fewer reporting requirements (L).
- Create a Public Housing Authority Performance Evaluation Board (L).
- Mandate judicial receivership for PHAs on the troubled list for more than one year (L).
- Reduce excessive rent subsidies to market levels on assisted housing (L).

#6 Replace HUD's Top-Down Bureaucracy with a New Customer-Friendly Structure

Organizational Changes

- Create neighborhood ''store-front'' service centers in communities.
- Offer single point of service to customers through Community Resource Representatives and centralize back-office centers.
- Establish a new management planning strategy.
- Streamline headquarters and redeploy staff to field.

Discussion of Reforms and Specific Changes

Reform 1: Reorganize by Function Rather Than Program ''Cylinders.'' Where Needed, Consolidate and/or Privatize

Management theorists call them ''stovepipes.'' At HUD we refer to them as ''cylinders.'' They mean the essentially self-contained program areas within HUD, Housing, Public and Indian Housing, Fair Housing, and Community Planning and Development. Insulated from the outside, operating from top to bottom in a relatively narrow way—like a stovepipe—these units duplicate each other's efforts, and sometimes work at cross-purposes. They make it hard for communities to use HUD's programs to shape comprehensive solutions.

Compounding this long-standing situation are the reductions in workforce of the last few years. From 13,500 employees in 1992, HUD has shrunk to 10,500—and plans a further reduction to 7,500 by fiscal year 2000. The reductions that have occurred and those to come will strain HUD's organization to the breaking point.

How do we compensate for the reductions? How do we correct the problems inherent in HUD's structure? The answer: Reorganize the Department by function to cut across ''stovepipes,'' eliminate duplication where possible, and focus on customer service.

Organizational Changes

The most important organizational efforts to consolidate in the new HUD involve creating both Department-wide and program-specific centers. The major consolidations are described below; a complete list of consolidated centers appears in Appendix D.

- Create Consolidated Centers

—Real Estate Assessment Center

Currently, the need to monitor activities far outstrips the abilities of both the Office of Housing and the Office of Public and Indian Housing.

The proliferation of programs itself creates difficulties for a shrinking staff. But the wide variety of smaller, highly specialized programs and the many facets of public housing options often call for skills the field office staff do not have. Consequently, FHA has an estimated backlog of over 5,000 troubled properties. And as PHAs are more accurately assessed, it is more likely that all of those that are ''troubled'' will receive help as needed early on. This will require still more attention from a lean staff already overburdened with conflicting priorities.

Even in the best of organizations such obstacles would make assessments a challenge. These challenges are further aggravated, however, by an inefficient process. Fragmented and beset by red tape, the current assessment process makes an effective and flexible response almost impossible.

Furthermore, FHA and PIH each use different standards for performing separate physical inspections of public housing and multifamily insured housing projects.

To help solve these problems, HUD will create the Department-wide Real Estate Assessment Center. At the Center, HUD staff will rigorously review data from physical inspections, based on guidelines used by PHAs, mortgagees, and lenders. They will also determine whether each project has passed or failed, using standard protocols for financial performance reviews established by the new HUD Consolidated Asset Management System (described under Reform #2).

—Section 8 Financial Processing Center

Handled by both Housing and PIH, financial documentation for the Section 8 rental assistance voucher program has been neither centralized nor easy to obtain. Without the necessary financial data, HUD has had difficulty obligating and disbursing funds. Worse yet, HUD has no electronic validation for processing payments or determining the accuracy of requests from landlords or mortgagees. This fragmented system leaves the door open to fraud—and in fact, HUD's Inspector General estimates overpayments to be in the millions of dollars each year.

To close these loopholes, the Office of Housing and PIH will establish a unified center for Section 8 payments processing. Functions will include budgeting, payment scheduling, contract reservations and revisions, financial statement revisions, rent calculations, and income verification. The electronic, integrated financial management of all Section 8 processing helps HUD by monitoring compliance and ensuring disbursement accuracy.

—Single Family Homeownership Centers

Currently, loan production, asset management, and property disposition for Single Family programs are beset by problems. Insurance endorsements are delayed; information systems are often inappropriate for staff needs; disposition of properties is poorly controlled and monitored; and staff reductions have made it difficult to deliver consistently excellent service.

One solution: consolidate all Single Family operations into Homeownership Centers, or HOCs. It is a move that will encourage economies of scale and better use of sophisticated technology.

The Office of Single Family Housing will open three Homeownership Centers. Located in Philadelphia, Denver, and Atlanta, the centers will become fully operational by fiscal year 1999. The Homeownership Centers will consolidate work formerly performed in field offices, including routine processing, loss mitigation, and quality assurance.

To jumpstart this transition, HUD will either streamline, privatize or outsource Real Estate Owned (REO) activities and will sell nearly all assigned mortgage notes.

Such consolidation and streamlining will result in faster service, better risk assessment and loss mitigation, and better loan targeting, among other benefits.

—Multifamily Development Centers

The Multifamily Centers will carry out both Asset Management and Asset Development. Asset Management will oversee and manage property assets, as well as administer programs to ensure that low and moderate income families have safe and affordable housing. Asset Development will provide a full range of development services, including applications, underwriting approval, construction inspection, and final closing.

These centers will provide leadership for HUD staff who will provide technical expertise in managing multifamily properties. Additionally, several consolidated operations will facilitate the multifamily asset development and management processes, including: the Department-wide Enforcement Authority, Section 8 Financial Processing Center, and Property Disposition.

But these are not HUD's only organizational efforts to consolidate. Others include:

- Redesign Contract Procurement

HUD recognizes that its staff can't create positive change and serve communities unless we remove longstanding roadblocks to action. One of these roadblocks is obsolete and inefficient procurement and contracting processes, long a source of frustration within the Department.

At the Secretary's request, the National Academy of Public Administration (NAPA) scoured FHA's procurement system in an assessment of what is wrong with the system and how we can fix it.

NAPA identified how procedures could be streamlined or eliminated; pointed out how we could better train staff to handle procurements fairly, quickly, and, responsibly; and suggested how ''best practices'' should be supported in the Department's operations. Everything from giving contracting staff greater authority to using Intranet and e-mail to speed up approvals was put on the table.

HUD is committed to creating a model federal government procurement system, and a road map for getting there. This new system will:

—Establish high-level procurement priorities consistent with the Government Performance and Results Act of 1993 (GPRA), focusing on performance;

—Ensure accountability by clarifying lines of responsibility and authority; and
—Respond quickly to changing program needs, becoming flexible and user-friendly.

Where frustration once was ensured and fairness questioned, procurement needs to become a tool HUD's program staff can rely on to more effectively and efficiently serve customers in America's communities.

• Consolidate Administrative Functions

Currently, many routine operations occur at field offices scattered around the country. These will be moved to a handful of centralized processing centers. We have already described four.

One other important example: The Office of the Chief Financial Officer will complete its consolidation of ten field accounting divisions into one accounting center by the end of fiscal year 1998. The CFO reviewed accounting processes to identify streamlining and consolidation opportunities.

HUD will also continue to eliminate redundant administrative functions through consolidation in the Office of Administration. To accomplish this, the Office of Administration has established three Administrative Service Centers in New York City, Atlanta, and Denver. The Centers will support field offices with such services as information technology, human resources, procurement, and space planning. In addition, an Employee Service Center in Chicago handles all payroll, benefits, and counseling services. In conjunction with adoption of new technologies, the administrative centers will ultimately dramatically reduce the need for administrative staff in each field office.

In addition, HUD will review and streamline the separate administrative operations currently being carried out by each business line in headquarters. The review will examine how administrative resources should most effectively be allocated across the Department.

• Consolidate Economic Development and Empowerment Programs

Many economic development and job skills programs are scattered throughout the Department, such as the Economic Development Initiative (EDI), Section 108, Empowerment Zones, and job training programs in PIH and Office of Housing. These will be consolidated into a new Economic Development and Empowerment Service. The result: Improved focus on community empowerment.

• Privatize Specific Functions

Sometimes it is clearly more efficient to contract with private firms. As specialists, outside firms can often do work faster and more economically than HUD, especially given the Department's sharp reductions in workforce. HUD thus plans to privatize a number of activities, as appropriate. These include physical building inspections for the PIH and FHA portfolios, and financial audits of both PIH and FHA grantees. We will also outsource legal and investigative services to the newly created Enforcement Authority (described in Reform #3) as well as real estate assessment and technical assistance to grantees.

Program Changes

In addition to changes in HUD's organizational charts, HUD is seeking legislation to allow program changes. These legislative reforms are necessary to continue and strengthen the transformation of public housing, to ensure that it works for residents and surrounding communities, and to effect management reforms that permit all HUD programs to make the most efficient, cost-effective use of scarce federal resources. Specific program changes we seek include:

• Privatize HOPE VI Construction Management

Overseeing the HOPE VI construction management process takes tremendous staff time and often calls for specialized skills the field staff may not possess. Contracting with private real estate firms, who are familiar with this type of construction management, would both ease staffing burdens and improve oversight of these urban revitalization projects.

• Consolidate Homeless Assistance Programs

A myriad of homeless assistance programs now award grants based on annual competition for funds. These competitions are staff-intensive and are an impediment to long-term planning and coordination across programs and providers. HUD's proposal would consolidate these programs and change the funding award process to a performance-based formula grant program. Permanent consolidation would remedy this time-consuming, unproductive process.

• Merge Rental Assistance Certificate/Voucher Programs

The Section 8 certificate and voucher programs currently operate under two different sets of rules. HUD's proposal would establish standardized guidelines and procedures, consolidating these programs into a uniform whole. This change would facilitate staff oversight of the program, streamline HUD regulations, and reduce the opportunity for waste and abuse.

• Extend FHA Note Sale Authority Permanently

FHA's loan asset sales program was initiated to address the substantial inventory of HUD-held mortgages, a result of the downturn in real estate markets in the late 1980s. This program has been tremendously successful in returning assets to the private sector and in generating savings for the federal government. The asset sales program has benefitted FHA in other important ways: It has increased understanding of portfolio composition and performance; helped managers refine portfolio strategies; allowed staff to focus on managing the insured portfolio to prevent defaults; and institutionalized the capacity to dispose of unsubsidized mortgages. Enactment of HUD's proposed legislation to extend this authority would perpetuate these benefits.

• Reform FHA Single Family Property Disposition

When HUD takes possession of a property after its owners default on an FHA loan, the process consumes tremendous staff time. Meanwhile, the property loses value while in HUD's inventory, and exposes HUD to risk. It is easier for HUD to find buyers for notes (mortgages on these properties) than to sell the properties themselves. FHA is considering possession of Single Family notes instead of properties upon default. HUD's proposal will also allow FHA to consider outsourcing or streamlining disposition, including using joint ventures to dispose of properties and notes—further reducing financial risk and staff time on servicing defaulted properties.

Reform 2: Modernize and Integrate HUD's Outdated Financial Management Systems With an Efficient, State-of-the-Art System

The Book of Genesis describes the Tower of Babel, whose completion was frustrated because its builders all spoke different languages and couldn't talk to one another.

At HUD, this is one story that rings true. The Department's single most glaring deficiency is its financial management systems. Today, every program cylinder operates its own system—a total of 89 separate systems throughout the Department.

Written in many different languages, these systems can't talk to each other. This bureaucratic Tower of Babel is the key reason the Department finds itself on the GAO ''high risk'' list and why HUD's own Inspector General says HUD's future is ''dim.''

The Inspector General (IG) has described HUD's material weaknesses and systemic management and program difficulties to Congress. The IG has argued that HUD would greatly improve its ability to address these problems if it finishes upgrading its financial management system.

Meanwhile, the GAO has sharply criticized HUD's financial management system, calling it poorly integrated, ineffective, and generally unreliable.

HUD does not dispute this assessment; since 1989 it has made many similar points in its reports under the Federal Managers Financial Integrity Act (FMFIA). And in his confirmation hearing, Secretary Cuomo stated that his top priority would be to put HUD's management systems in order and to restore effective management and financial accountability at HUD.

To effect a complete overhaul of HUD's financial management system, HUD will take these steps:

Organizational Changes

• Integrate HUD's Fragmented Financial Management System, Repairing or Replacing HUD's 89 Separate Financial Management and Information Systems

The new HUD will have a common, consolidated financial management information system. This system will ease communication throughout HUD and will allow HUD to better communicate with grantees and communities across the country.

The new system will provide quick, user-friendly access to accurate, current, and complete consolidated financial, program, and portfolio information. It will support program management decision-making and financial management, readily provide information to partners and constituents, and generate program and financial performance measurements.

The new HUD integrated financial system will incorporate the following features: Efficient data entry, support for budget formulation and execution, updates on status of funds, standardized data for quality control, security controls, and the ability to correlate program performance measures with related spending transactions in accordance with GPRA.

HUD has identified the 89 separate information and accounting systems in major use throughout the Department that fail to comply with FMFIA. These systems will be overhauled to either correct deficiencies, consolidate functions into new accounting systems, or be eliminated.

• Use the Advanced Mapping Software System, Communities 2020, To Show Communities the Impact of HUD Funding and Activity in Their Area

It was only a few decades ago that ATMs were unknown. Now we see them on every corner and Americans use them routinely, comfortably moving through a variety of transactions by pushing a few buttons.

In a way, HUD's 2020 mapping software is a kind of housing ATM. Users can move through graphic displays of HUD funding in virtually every community in the country.

The Consolidated Plan advanced mapping system, which has won an award from Harvard University's Kennedy School, will be enhanced to provide current, accurate information on where and how public housing dollars are being spent. This helps communities better understand the options open to them. It also allows every HUD employee to grasp the workings of the entire Department.

HUD will incorporate its award-winning mapping software into the new financial system to provide one seamless communication and financial management system.

HUD's Community Resource Representatives can then bring this software into the communities they serve. By interacting with other HUD program databases, Communities 2020 will allow Community Resource Representatives and non-profits to see where specific programs like Elderly Housing or Homeless Assistance are most needed—and to do so as easily as they use an ATM.

• Implement HUD's New Management Integrity Plan

Recent Inspector General and GAO reports identify a serious disconnect at the program management level between responsibility and accountability. The basic problem is that the current management control process is driven by ''external policemen''—the Inspector General and GAO. To be successful, HUD must change from a negative, externally-driven internal control process to a new business culture—a positive financial management process that is fully integrated with day-to-day operations and owned by program managers. An effective financial management system simply ensures that what should occur does occur.

How do we create a new business culture in which management monitors itself and looks at its own results? How do we make financial integrity everybody's business?

To transform HUD into an agency where fiscal prudence matches management responsibility, HUD will follow a three-part Management Integrity Plan.

First, it will make program managers responsible for their programs' financial management. We will hold them accountable for results—and reward them for excellent results.

Second, HUD will set clear, reasonable expectations and give managers the resources necessary to meet them. In particular, HUD will expand the role of its Chief Financial Officer.

Third, HUD will develop and demonstrate this new business culture by incorporating front-end risk assessments in reorganized and consolidated programs outlined in the Management Reform Plan.

Reform 3: Create an Enforcement Authority With One Objective: To Restore the Public Trust

Restoring public trust is a priority that drives the entire reorganization. And the greatest breach of public trust is the waste, fraud, and abuse in HUD's existing portfolio of ten million housing units.

Currently, each of HUD's housing agencies—PIH, FHA, FHEO, and CPD—operate independent enforcement divisions, with different priorities. PIH, for example, considers enforcement action when an authority fails its annual assessment, and has a variety of ad hoc solutions, from judicial receiverships to partnership agreements with the local housing authority.

FHA, on the other hand, takes enforcement action only as a last resort; the Department's critics note that the financial interest of FHA's insurance fund can be at odds with the social interests of the tenants.

Because the enforcement system clearly needs reform, HUD will make significant changes, both organizational and programmatic.

Organizational Changes

• Consolidate Existing Organization and Employees; and Contract With Outside Investigators, Auditors, and Attorneys Where Appropriate

The new HUD will combine non-civil rights compliance enforcement actions for PIH, CPD, FHEO, and Housing program participants into one new organization. This Enforcement

Authority will consolidate existing employees and contract with outside investigators, auditors, engineers, and attorneys. It will also work with the Inspector General, consult with the FBI on training staff, and share information with the IRS.

• Monitor Low-Performing PHAs, Properties Failing Physical and Financial Audit Inspections, and CPD/FHEO Grantees Who Fail Program Compliance

The new Enforcement Authority will be responsible for all PHAs that receive a failing score on their annual assessment. It will also be responsible for all multifamily properties failing the physical and financial audit inspections performed by the real estate management system. Finally, the authority will handle all CPD and FHEO grantees who fail program compliance.

• Create a Business-Like Entity To Clean Up an Estimated Backlog of Over 5,000 Troubled Assisted Properties

HUD will aggressively pursue owners of troubled HUD-insured and subsidized properties that do not meet established standards. This entity will receive ratings from the Assessment Center on properties that ''fail'' those established standards. Using professional resources under contract, the entity will: (1) Quickly identify and implement appropriate sanctions based on contractor recommendations; (2) initiate appropriate civil or criminal actions in a timely manner; and (3) proceed expeditiously to acquire, foreclose on, and dispose of the property.

When a property fails its assessment, it will be forwarded for immediate action to recover the property or misspent funds. Action may include transfer of physical assets, sanctions, acquisitions, foreclosures, and civil or criminal referrals. In the event of foreclosure, a contractor will prepare the disposition plan and dispose of the property.

General contractors will perform the work through qualified subcontractors in areas of specific expertise in three major areas: asset management, legal, and property disposition. A National Advisory Board of independent stakeholders from the private and non-profit sectors will give ongoing feedback on performance and policy and will advise on particularly sensitive issues prior to final action.

Program Changes

• Streamline and Strengthen the Office of Housing's Process for Pursuing Negligent Owners

HUD's legislative proposals would strengthen FHA's enforcement authority to minimize fraud and abuse in FHA and assisted housing programs. Key provisions expand the Mortgagee Review Board's ability to impose sanctions on lenders and other HUD program participants who violate HUD rules; increase equity skimming penalties and expand equity skimming prohibitions to all National Housing Act programs, Section 202, elderly, and multifamily risk-sharing pilot programs; and broaden HUD's authority to impose civil penalties and double damage remedies. These new or expanded authorities would reduce the staff burden for each enforcement action and put teeth in their ability to resolve troubled properties.

• Reform Bankruptcy Laws To Prevent Owners From Using Them as a Refuge From Enforcement Actions

Currently the bankruptcy code legitimizes non-compliance for owners who have misused HUD funds and who avoid repayment under bankruptcy protection. HUD seeks to reform Sections 105 and 362 of the Code, which make this refuge possible. HUD's proposed amendments would allow the agency to proceed with timely foreclosure of insured or assisted multifamily housing projects, while protecting the residents, the property, and the FHA insurance fund.

Reform 4: Refocus and Retrain HUD'S Workforce To Carry Out Our Revitalized Mission

Partly because HUD was originally an amalgam of several different organizations, its mission has never been sharply defined.

Moreover, HUD has often changed its emphasis to suit the times. After the HUD scandals of the 1980s, for example, all emphasis was on monitoring and enforcing regulations. At other times, the emphasis was to help grantees do whatever they wanted.

Under the new HUD, we will refocus our mission—then retrain HUD's leaner workforce to serve that mission. This reform includes four organizational components.

Organizational Changes

• Select and Train Community Resource Representatives and Public Trust Officers for All Field Offices

HUD's mission involves both empowering communities and winning the public trust. They are distinct functions and will be performed by different individuals—and in different divisions—within the organization.

—*Community Resource Representatives,* a new group of HUD employees, will facilitate community empowerment by bringing in technical expertise, program knowledge, and knowledge of finance and economic development. Their purpose is to be cooperative, helpful problem solvers.

—*Public Trust Officers* require different skills and a different public stance. Public Trust Officers ensure that federal funds are used appropriately and that HUD customers comply with the law. They must have zero tolerance for waste, fraud, and abuse. HUD will sharply increase the number of staff devoted to this monitoring work by shifting all facilitating work to the Community Resource Representatives and placing all routine processing work in ''back office'' processing centers.

• Downsize HUD Staff From 10,500 to 7,500 by the End of Fiscal Year 2000, Using Skills and Resources Where They Are Needed Most

Once refocused, employees must be retrained. The HUD Training Academy is designing a training program for Public Trust Officers in each program area. It will retrain Community Resource Representatives as well, since they must have broad knowledge of HUD's programs and the field.

Throughout downsizing HUD will retrain and redeploy available staff to minimize workload imbalances. HUD will also try to avoid reductions-in-force (RIFs), with their disproportionate effect on mid-level and mid-career employees. Since April, 1994 a total of 1,190 employees have separated with a buyout from the Department—a 9.4 percent reduction, without one involuntary layoff.

In general, HUD will downsize by consolidating and streamlining operations; contracting out program and support functions that the private sector can perform cost-effectively; eliminating functions that are only marginally effective; and reducing part-time and temporary employees.

• Develop a Road Map for Downsizing for HUD Employees, Including a Buyout Strategy and Options for Career Transitions

HUD will reduce staff levels by maintaining an employment freeze throughout the downsizing period, except for limited hiring targeted at urgently needed skills. The Department will implement early retirement and

buyouts to spur staff reduction and will also offer employee outplacement and other transition services.

HUD has received approval for Voluntary Separation Incentive Payments (VSIP)—also known as buyouts—for employees in targeted locations, titles, series, grades, and program operations. Under this authority, the Department will offer 600–1,000 buyouts to employees to most effectively make progress toward reducing the Salaries and Expenses (S&E) Appropriation to 7,500 Full Time Equivalents (FTEs) by fiscal year 2000. The buyout strategy, provided in Appendix A, will target areas where consolidations and streamlining make staff reduction most necessary. Buyouts will be used as an alternative to involuntary separations that might otherwise be required for downsizing and restructuring.

Alone, HUD's traditionally low attrition rate (less than 2 percent per year) would be insufficient to meet the target staffing number of 7,500 FTEs. Buyouts have been an integral part of HUD's efforts to streamline, downsize, and consolidate operations. These buyouts, as well as early-out authority begun in March 1994 and an employment freeze since October 1994, have substantially reduced staffing levels.

Without buyouts, HUD may have to resort to RIFs as the only other tool available to meet downsizing goals. Yet RIFs would strip the agency of key mid-level employees, disrupt agency operations, and defeat staff diversity gains.

Continued use of buyouts, however, will allow us to target management reforms to specific positions, locations, programs and/or functions. In this way, HUD can focus buyouts on those employee populations and functions which present the greatest need to reduce staff levels. Buyouts are much more cost-effective than RIFs and are more positively viewed by employees prepared to seek new challenges.

Reform 5: Establish New Performance-Based Systems for HUD Programs, Operations, and Employees

In this, we are guided by the story about Bobby Knight, who, when he first became the basketball coach at Indiana University, reportedly received a telegram from the Alumni Association: ''Bobby, we're with you all the way,'' it read. ''Win—or tie.'' Alumni Associations are noted for caring about results—sometimes too much.

HUD's management reform plan places a new emphasis on results. It creates new internal and external benchmarks, as well as uniform standards for measuring performance, to increase productivity and accountability across program lines.

These tools increase HUD's ability to mandate compliance from contractors and customers. But by rewarding efforts that go beyond mere compliance—like performance-based grants for contractors or added autonomy for HUD employees—they will make HUD's ability to measure and reward performance and results the true foundation of its reengineering.

To that end we have made one organizational change and seek legislation for many program changes.

Organizational Changes

The Government Performance and Results Act of 1993 (GPRA) essentially requires federal agencies to demonstrate to the public that its tax dollars are being well used. GPRA requires each agency to identify specific measures of its performance, results it will achieve, and timelines for doing so.

In line with these requirements, HUD will create meaningful performance measures that hold its staff and grantees accountable for results—in a quantifiable, measurable way. These measurements will allow HUD staff to compare actual performance against established goals.

By the end of fiscal year 1997, HUD must submit to the Office of Management and Budget a three-year strategic plan and mission statement for complying with GPRA. In that document, HUD will describe its changing direction, including concrete actions. It will then establish performance measures that conform to GPRA goals. In fact, we have already begun creating these measures: at least 20 percent of HUD's major goals and objectives are based on straightforward outcome-oriented performance standards. Outside contractors will be held to the same standards.

Program Changes

• Convert Inflexible and Labor-Intensive Competitive Grant Programs Into Performance-Based Grant Programs

HUD advocates the use of performance-based grant programs wherever feasible as part of its ''reinvention'' to serve its customers more efficiently and effectively. Performance-based grant programs distribute funds by formula, and reward good performance. They also conserve valuable staff time by eliminating time-consuming annual competitions and make funding more predictable so that grantees can plan more strategically. Finally, they give the Department greater flexibility in partnering with local communities to monitor individual projects.

Thus, HUD has proposed legislation that would allow it to convert competitive grants into performance-based formula grants. Affected programs include Tenant Opportunities, Economic Development/Support Services, Public Housing Drug Elimination, and Competitive PHA Capital Funds.

In CPD, HUD has legislation to consolidate homeless assistance services from six disparate programs into one flexible, performance-based formula grant program. Affected homeless programs include Emergency Assistance, Safe Haven Housing, Supportive Housing Program, Shelter Plus Care, Rural Housing, and the Section 8 Mod Rehab Program.

• Deregulate High-Performing PHAs and Smaller PHAs by Mandating Fewer Reporting Requirements

Currently all PHAs must prepare extensive reports, planning documents, and other operational reviews. Monitoring compliance with this stream of paperwork requires inordinate staff time and is burdensome to those PHAs that already perform responsibly and efficiently. HUD will reduce staff oversight burdens and reward effective, high-performing PHAs by reducing the volume of paperwork they are required to submit. Specific changes HUD will make include streamlining planning submissions and performance indicators for small PHAs, and reducing submission requirements for high-performing ones. These steps will substantially reduce the burden on field staff for monitoring and oversight.

• Create a Public Housing Authority Performance Evaluation Board

An independent Performance Evaluation Board will be established to help HUD monitor public housing authority performance. The board will be composed of seven members, all appointed by HUD, with members representing public housing authorities, residents, the real estate industry and local government.

The board will be responsible for making broad recommendations for improving HUD's oversight and monitoring of all facets of public housing authority performance. The board will be evaluating the current Public Housing Management Assessment Program (PHMAP) and suggest future improvements. The board will also study alternative performance evaluation models used in other

industries, including accreditation models that can be applied to public housing. The board will also develop standards for professional competency for PHA employees and review HUD's system to increase on-site physical inspections and independent audits of PHAs.

• Mandate a Judicial Receivership for All Large PHAs on the Troubled List for More Than One Year

Currently, troubled PHAs may remain on HUD's troubled list for years, consuming tremendous staff energy and oversight time in attempts to restructure and salvage these properties. This prevents HUD staff from focusing attention on those properties that may need additional support to prevent their becoming troubled. HUD proposes to place troubled PHAs in judicial receivership if they remain on the troubled list for more than one year. This step gets HUD staff out of the business of managing and restructuring large, troubled PHAs.

• Reduce Excessive Rent Subsidies To Market Levels on Assisted Housing

The Section 8 program, which subsidizes rents, is HUD's largest housing program for low-income people. Established as a means to help low-income people find affordable housing, the program has become fraught with abuse by landlords and developers. FHA insurance of multifamily Section 8 development virtually eliminated risk from the development process. As a result, investors developed ''affordable'' multifamily properties that required rents well above market simply to meet the development cost. Also, significant tax advantages made Section 8 development even more palatable.

Excessive subsidies reduce the incentive for managers to provide the results demanded both by residents and HUD. The FHA insurance on these properties also makes unscrupulous landlords less willing to invest in their properties. The resulting neglect, abandonment, or ''deferred maintenance'' has in many cases led to much lower property values, even as rents remain high.

Roughly 65 percent of HUD's Section 8/FHA loan portfolio is currently subsidizing rents that are substantially above market. In ten years, the annual cost of renewing Section 8 project-based contracts at their current above-market levels will increase to approximately $7 billion, about one-third of HUD's current budget. HUD simply cannot afford to continue this level of spending.

The Department is therefore engaged in an intensive legislative push to lower these rents to market levels (mark-to-market) and restructure the portfolio of FHA-insured loans with Section 8 assistance. Without such actions, HUD risks defaulting on approximately $18 billion of federal guarantees.

HUD has introduced legislation that forces landlords to bring their rents down to supportable levels and restructure their current debt. This will reduce the likelihood of massive foreclosures when landlords' Section 8 contracts expire over the next few years.

Reform 6: Replace HUD's Top-Down Bureaucracy With a New Customer-Friendly Structure

Just like a bank or a mortgage broker, HUD realizes that we too have customers. And like a business, we have to think about what makes customers satisfied. The top-down structure that characterizes HUD, from headquarters to the smallest field office, is no longer appropriate.

That structure is based on corporate models of the 1930s and 1940s; yet while many corporations reorganized and restructured a decade ago, HUD has not kept pace.

Where are the models for HUD? One comes from the financial services field. Banks like Citibank and NationsBank have consolidated routine functions into centralized ''back office'' processing centers. They have established ''store-front'' customer offices closer—and more responsive—to their markets.

HUD has learned from their example. HUD's goal is to provide integrated delivery of services and products and to offer a single point of service to all customers. We have identified a number of organizational changes allowing us to do just that.

Organizational Changes

• Create Neighborhood ''Store-Front'' Service Centers and Back Office Processing Centers

The current field structure has state offices with a full staff of program-specific employees. This structure will be replaced by field offices staffed with Community Resource Representatives and Public Trust Officers. While none of the field offices will close, their operations will change dramatically, becoming processing centers and new store-front service centers. In this way HUD will maintain its presence in the communities while allocating resources the way a customer-friendly Department should.

• Offer Single Point of Service to Customers Through Community Resource Representatives

Community Resource Representatives will play the most critical role in the new HUD. Highly trained generalists with expertise in all HUD programs, they will be trained with coursework in housing development, information technology, real estate and economic development, small group dynamics, and related topics. They will be the new generation of urban and community leaders.

These Community Resource Representatives will be the first point of contact for our customers and will be the Department's ''front door,'' helping customers gain access to the whole range of HUD services. They will also help HUD coordinators assess the agency's performance and the impact of programs in local communities.

• Establish a New Management Planning Strategy Based on Customer Feedback and the Secretary's Priorities, Goals, and Objectives

In a top-down management style, goals decided at the top are passed down through the ranks. But where is the avenue for bottom-up goals and ideas? How can customers guide HUD's direction?

HUD's new planning strategy makes that possible. It creates a loop in which Department goals are constantly refined by feedback from customers. While the Secretary sets priorities for achieving the Department's mission, increased attention will go to:

—Creating an integrated customer service plan;
—Internal consultation; and
—External consultation.

The Secretary's Representatives and Community Resource Representatives will be responsible for establishing an effective partnership and working relationship with customers as we implement management plans.

A more detailed description of the management plan process can be found in Appendix B.

• Streamline Headquarters

The Department will undertake a broad range of downsizing and streamlining initiatives that support our major management reforms. We will look for opportunities to consolidate and improve personnel, procurement, information technology, training, and other administrative functions.

For example, FHEO will eliminate one deputy assistant secretary position, reduce its offices from six to four and its divisions from 14 to six. CPD will

combine affordable housing, block grant assistance, and economic development into a new Office of Community and Economic Development. We will transfer the administration of Section 312 loan functions to Ginnie Mae.

The Housing, OGC, PIH, and headquarters transformations will include major organizational changes and consolidations, as well as significant staffing reductions and redeployment to field activities. We will expand the Office of the CFO to include the Office of Budget to better comply with the CFO Act, as well as to improve the strategic planning, performance, and measurement of HUD's operations.

Reform Plans for Each HUD Business Line

''We must admit that some programs do not work. We must recognize the right roles for government and the private sector. We must crack down on waste, fraud and abuse wherever and whenever we find it. We must understand that quick-fix solutions do not work—that many of these challenges require long-term structural changes.''

Secretary Andrew Cuomo

Overview

HUD's twin missions are to empower people and communities and restore the public trust. The Department relies on the services and products delivered by each of its business lines to accomplish these missions. To identify how each business line will contribute to the new HUD's success, and highlight where greater strength is needed, the Department reviewed program and management performance in detail at every level during a recent staff retreat. Over the following months, senior managers from headquarters and field offices, acting as change agents, teamed with key staff and program managers to find practical and effective answers to HUD's most pressing problems. These teams developed management reform targets consistent with the Secretary's goals. This was the foundation for HUD's reform agenda. Each business line was asked to define its reform plans according to:

—Need for change
—Reforms (administrative, legislative, or management)
—Benefits of reform.

In addition, each area prepared a staffing plan, as well as the tools needed to implement these reforms (technology and training). These comprehensive reform plans will fundamentally change how HUD operates. When implemented, they will allow HUD to more effectively fulfill its mission. HUD will implement many reforms immediately—others require Congressional action.

This section describes specific management reform plans for each business line. Each plan includes: A summary of key issues, background on the need for change, reforms we will make, benefits gained through reform, and any legislative changes required to make progress.

Program and Reforms

Program: Office of Public and Indian Housing Reforms

- Establish a cross-cutting Real Estate Assessment Center for reviewing physical inspections and financial statements of PIH housing authorities and multifamily projects.
- Create a cross-cutting Section 8 Financial Processing Center for Housing and PIH.
- Establish a Department-wide integrated financial system.
- Create an Enforcement Authority to manage PIH and multifamily troubled portfolios.
- Establish two Troubled Agency Recovery Centers (TARCs).
- Create a special (non-funded) applications center for demolition/disposition, designated housing, and 5(h) homeownership.
- Provide block grant funds for high performers.
- Replace PHMAP for better assessment and propose receivers for troubled management.
- Streamline headquarters and enhance field office responsibilities and authority.
- Privatize functions such as physical inspections, legal and investigative services, technical assistance and HOPE VI construction management.
- Consolidate PIH job skills and economic development programs with similar programs in CPD and Office of Housing into a new Economic Development and Empowerment Service.

Program: Office of Housing Reforms

- Establish a cross-cutting Real Estate Assessment Center for reviewing physical inspections and financial statements of PIH housing authorities and multifamily projects.
- Create a cross-cutting Section 8 Financial Processing Center for Housing and PIH, as well as other consolidated processing centers.
- Establish a Department-wide integrated financial system.
- Create an Enforcement Authority to manage PIH and multifamily troubled portfolios.
- Reallocate staff in shift from retail to wholesale service delivery.
- Retrain workforce to meet new challenges.
- Privatize Real Estate Owned functions.
- Develop streamlined contract and procurement process.

Program: Office of Community Planning and Development Reforms

- Convert inflexible, labor-intensive competitive grant programs to performance-based grant programs.
- Outsource technical assistance as necessary.
- Monitor grantees failing program compliance through an Enforcement Authority.
- Use advanced mapping software system (Communities 2020) that shows communities the impact of HUD funding and activities in their area.
- Align resource needs and responsibilities within the newly established Economic Development and Empowerment Service.

Program: Office of Fair Housing and Equal Opportunity Reforms

- Eliminate the split of enforcement and program compliance functions in headquarters and the field.
- Cross-train field staff.
- Consolidate field oversight functions.
- Restructure leadership functions at headquarters.
- Integrate fair housing principles throughout HUD's other program areas.
- Make use of other program areas' software and new technology to fill gaps in information.

Program: Office of the Chief Financial Officer Reforms

- Consolidate program and administrative accounting operations from ten accounting divisions into one accounting center.
- Consolidate HUD budget functions into CFO operations.
- Ensure implementation of Management Integrity Plan.
- Incorporate Resource Estimation and Allocation Process (REAP) into budget process.

Public and Indian Housing

''Our purpose is not to criticize government, as so many have, but to renew it. We are as bullish on the future as we are bearish on the current condition of government. We do not minimize the depth of the problem, nor the difficulty of solving it. But, because we have seen so many public institutions, we believe there are solutions.''

David Osborne and Ted Gaebler, *Reinventing Government*

Summary

The Office of Public and Indian Housing (PIH) faces many challenges as it continues to transform public housing across America. In order to successfully meet these challenges, PIH will align its staff resources to address the greatest needs. It will establish centers that house ''back office'' activities, freeing field staff to target their energies on monitoring and providing services to 3,400 Housing Authorities and the 1.4 million families they house.

PIH will establish its own grants center; establish a Department-wide Section 8 Financial Processing Center; participate in the Department-wide Real Estate Assessment Center; establish Troubled Agency Recovery Centers to work with troubled Housing Authorities; and undertake other privatization and streamlining efforts to encourage greater productivity and accountability with local PIH partners and customers.

The Office of Public and Indian Housing has identified six areas where change is most needed. These are:

—Staffing Imbalances

Two forces have created staffing imbalances in PIH field offices: PIH's field restructuring and the Department's ongoing effort to reduce overall staffing to 7,500 employees by fiscal year 2000. The 1994 field restructuring organized field staff into several disciplines to match the functions of property management. This specialization of duties, combined with significant reductions in the number of field staff, has led to many shortages within disciplines, particularly in smaller offices.

—Myriad Programs To Deliver and Monitor

The proliferation of PIH programs in the last decade has created a gap between the need to monitor activities and the ability to do so. Many of the smaller PIH programs (e.g., the Tenant Opportunities Program, the Family Investment Centers, and the Urban Youth Corps Initiative) are highly specialized and require intensive staff effort, making it difficult to give them the attention they need while monitoring overall business line program operations. Also, the high number of PIH programs has greatly increased the demand for staff to oversee the grant award process in response to Notices of Funding Availability (NOFAs).

—Program Transitions

The tremendous variety of public housing options now available requires field office staff to have new skills. They must be familiar with the unique features of gap financing, specialized grant agreements and contracting, and program monitoring—all qualitatively different from traditional public housing.

Additional program changes involve the shift of the Section 8 Moderate Rehabilitation program and many Section 8 New Construction/Substantial Rehabilitation properties to the Section 8 tenant-based program(s), requiring a new consolidated system for processing all certificates.

—Coordinating Delivery of HUD Programs

PIH, like many of the Department's business lines, has difficulty coordinating a plethora of programs, especially in developing and implementing so-called place-based strategies, those strategies that address the specific places where Americans work and live. Because each program is designed independently, it is difficult to uniformly coordinate complex, disparate requirements and procedures.

—Troubled Agencies

Given new, more effective approaches to assessing PHAs, HUD will be in a position to move quickly to identify ''troubled'' PHAs. Because of the complexity and sensitivity experienced by the Department in past work with troubled agencies, we need to make greater efforts to turn around troubled PHAs and prevent them from reaching that stage. This will require more staff attention, which is difficult to allocate given the competing priorities for administering a multitude of programs with limited staff resources.

—Current Program Delivery Process

The roles and responsibilities of both headquarters and field office staff are often poorly differentiated, overlapping, unclear, and fragmented, making coordinated, effective allocation of staffing and resources difficult. Red tape in navigating multiple levels of authorization and reporting is plentiful, reducing effectiveness and flexibility in the field.

To perform its work, field office staff are now grouped into several disciplines that mimic property management functions. These existing groupings include:

—Finance and Budget Specialists
—Facilities Management Specialists
—Public Housing Revitalization Specialists divided into sub-specialists:

- Organization, Management and Personnel (OMP).
- Marketing, Leasing and Management (MLM).
- Community Relations and Involvement (CRI).

While created to address existing needs, these classifications must change to better reflect HUD's reforms and PIH's efforts to streamline its service and delivery process.

Reforms

Three main restructuring areas have been identified to address these problem areas:

- Department-Wide Collaboration Opportunities

—Establishing a Real Estate Assessment Center

- Collaboration With Housing

—Development of a Section 8 Financial Processing Center

- Processing Center Reforms Specific to PIH

—Troubled Agency Recovery Centers
—Special Applications Center
—PIH Grants Center

- Other Reforms

—Headquarters streamlining
—Enhancing the role of field offices
—Enhanced financial accountability

The proposed reforms and expected benefits from reengineering each of these areas are described below.

Department-Wide Collaboration Opportunities: Establish a Department-Wide Real Estate Assessment Center

HUD will create a Real Estate Assessment Center to centralize and standardize the way the Department conducts annual PHA assessments. The Center's staff will supervise the assessment process and manage contractor performance, generating an overall score and incorporating performance and compliance concerns for every agent/agency receiving HUD funding. This scoring and ranking will give the Department a comprehensive oversight tool. PIH can thus spend less time with high performing agencies, instead focusing attention and assistance on troubled authorities with lower scores.

How will the Center measure program performance and compliance with federal rules? It will gather relevant data, both qualitative and quantitative, pertaining to each program recipient, including: (a) Physical inspections; (b) independent audits (combining standard fiscal audit requirements with compliance factors defined by HUD); (c) management and performance assessment, as defined by the revised

PHMAP; and (d) evaluations of community and residents' satisfaction.

Physical inspections and audits will be performed by contractors. An expanded, more accurate PHMAP will provide inputs for other performance measures. HUD field staff will supply qualitative management assessment (e.g., recent turnover of critical staff and/or number and complexity of programs) and assessments of grants management. We will obtain views of residents and other community clients from surveys and toll-free calls. The Center will then analyze the information and grade the agent/agency according to the following system:

(1) Pass with distinction or ''high performance.'' The highest grade will give a PHA a possible bonus award of operating funds and allow it to prepare fewer performance reports. The PHA will be highlighted as a ''best practices'' site as a model for other PHAs.

(2) Pass. For PHAs of more than 250 units that score adequately but still have problems (higher than average vacancy rates or one to two poorly managed properties, for instance), field offices will perform targeted monitoring of PHA activities in problem areas and will help them improve annual scores. PHAs of less than 250 units that score in this range will receive the benefits of ''high performance,'' except for the bonus award of operating funds.

(3) Fail. We will assign failing PHAs to a Troubled Agency Recovery Center for targeted intervention.

For PHAs that score above the failing level but have a serious breach of contract between annual assessments, the PIH Assistant Secretary may intervene.

Benefits of Reform

The new Assessment Center provides:

—Comprehensive, annual assessments based on the key components of PHA performance—tenants' quality of life, PHA management, condition of physical stock, and compliance with federal rules.
—Stronger HUD management controls.
—A front-end risk assessment approach for public housing that ranks PHAs, helping management focus limited resources on the neediest PHAs.
—Uniform standards for early detection of fraud, waste, and abuse.

The Assessment Center also oversees the contracts for physical inspections of every agent/agency and for expanded independent audits.

Contracting out functions supplements scarce PIH field staff resources and increases the assessments' objectivity.

Proposed legislation would reward high-performing authorities with incentives through allocation of operating funds. This would encourage a ''management by results'' philosophy and provide an incentive for grantees to improve performance. Proposed legislation would also permit high-performing and non-troubled housing authorities to reduce the number of planning and status reports prepared.

Collaboration With Housing: Create a Section 8 Financial Processing Center for Housing and PIH

PIH will establish a unified center for Section 8 payments processing with Housing. It will:

—Review and approve budgets
—Establish payments
—Maintain HUDCAPS
—Process year-end statements
—Calculate renewal needs
—Maintain funding control.

Currently, Housing and PIH have two very distinct methods for processing payments: Housing uses a monthly voucher system based on actual subsidy needs, while PIH uses an annual budget projection, with adjustments made upon receipt of year-end statements. Unifying these processes will benefit both business lines. This will also necessitate improvements to the HUDCAPS system to accommodate processing of all certificates.

Benefits of Reform

The combined Section 8 Financial Management Center will standardize and consolidate Section 8 processing functions—ensuring uniformity, consistency, and accountability in processing Section 8 subsidies and projecting future Section 8 subsidy needs. It will provide a single, effective financial management system, enhancing program accountability. The Center will also centralize and focus staff resources to better identify and respond to training and development needs.

PIH-Specific Reforms: Establish Two Troubled Agency Recovery Centers

To deal with ''failing'' PHAs, PIH will establish two Troubled Agency Recovery Centers (TARCs). Any agent/agency receiving a failing annual assessment score will be referred to a TARC, which will develop and implement an intervention strategy to bring the agent/agency to passing scores. The TARCs will be arms of PIH's existing Office of Troubled Agency Recovery (OTAR), located in headquarters. The 192 staff proposed for this effort will be divided between the two TARCs and program hubs.

PIH will divide staff assigned to the TARCs into several teams. Each team will be assigned one large, troubled PHA. Where appropriate, staff will be temporarily relocated to work directly with residents, PHA staff, and leaders in the community. If PHA problems are not addressed within a one-year time limit, as prescribed by proposed legislation, the TARCs will recommend judicial or administrative takeovers to the Assistant Secretary. To address small, troubled PHAs (failing score with less than 250 units), teams of three staff will be located in program hubs to correct problem areas and prevent further declines in performance. Staff will be assigned several small PHAs in their geographic area and report directly to one of the TARCs.

Individual skills on TARC teams will encompass all aspects of PHA management and operations, including the Section 8 program, financial and management systems, deterioration of physical stock, resident needs, and more. Other field staff may perform some routine functions for troubled authorities under TARC direction.

Benefits of Reform

The TARC model more clearly defines and separates the roles of intervention/recovery and program operation/management. Intervention functions will be performed by specialized personnel, all under the authority of a TARC Director. This staff will be largely assigned to the TARCs, with a contingent distributed to the program hubs. TARCs will enable field staff to focus on community priorities and enhancing performance of passing PHAs, rather than on problem PHAs. The proposal encourages effective, targeted program delivery: specialized staff for large or small PHA recovery efforts and field staff dedicated to preventing decline in good PHA performance.

Consolidating intervention activities will also generate more expertise as teams learn to swiftly identify and correct problem areas and share solutions with staff.

Finally, TARCs will remove intensive, specialized work from field offices, allowing staff to focus on monitoring and improving the bulk of agents/agencies which are neither high performing nor troubled.

PIH-Specific Reforms: Create a Public and Indian Housing Grants Center

PIH will establish a center to perform competitive grants selection, allocation and reservation requirements, as well as Public Housing Operating Fund management, as follows:

—*Competitive Grants.* The Grants Center will be responsible for all aspects of competitive grants management, including preparation and publication of NOFAs, grants application and review process, and notice of grant award.
—*Funds Management.* The Grants Center will also be responsible for the Public Housing Operating Fund and Capital Fund. For the Public Housing Operating Fund, the Center will provide a range of services, including calculation of subsidy allocations, review and approval of PHA budgets, and processing of year-end statements. For the Capital Fund, the Center will review and approve a five-year plan, reserve funds, notify Congress and the PHA, and prepare grant agreements.

PIH-Specific Reforms: Create a Special Applications Center

PIH will consolidate special (non-funded) applications and processes for its unique programs in a single Special Applications Center. Those applications are: demolition/disposition, designated housing, and 5(h) homeownership. PIH will assign up to 15 staff to this center.

Benefits of Reform

Consolidating these discrete functions will maximize staff effectiveness and increase program accountability. Consolidation will also eliminate current duplication of efforts in the field, for example: demolition/disposition processing, now conducted at four locations, and processing designated housing and 5(h) applications, now performed at all existing field offices. The center will standardize application processing and use staff specifically trained in evaluating and processing these applications. Centralizing these functions will relieve regular field staff of specialized processing burdens.

Other PIH-Specific Reforms: Streamline Headquarters/Enhance Field Office Responsibilities/Enhance Financial Accountability

PIH will consolidate the field structure to better use existing staff and to take advantage of cross-program efficiencies. The total number of PIH offices will decrease by ten, as the existing 52 offices evolve into 26 program hubs and 17 program centers. An additional 76 staff will move into the field as a result of headquarters reorganization.

Field offices are the first point of contact for PHAs that pass the annual assessment; they will work toward community goals using HUD and other federal resources. Field staff will assess risk and monitor programs for large PHAs with passing scores, all capital fund programs (except for HOPE VI, in some cases), and various competitive grants. Annual personnel assessments will be tied to the annual performance of PHAs for which they are assigned.

PIH will also abandon the functional discipline specialization resulting from earlier field restructuring. Instead, program hub and program center needs will be better met by consolidating the OMP, MLM, CRI and planning and evaluation functions into a generalist position.

PIH will also take steps to strengthen financial accountability and controls, including integrating PIH financial systems with the rest of the agency, working closely with the new Department-wide consolidated budget function within the CFO's office, and bringing on board new financial personnel such as a chief financial officer.

Benefits of Reform

By creating central processing centers and enhancing field offices—thus separating intervention/recovery functions from routine activities—PIH strengthens field office staff. Field staff can concentrate on helping and monitoring non-troubled PHAs, flagging potential or emerging problems. This structure better meets community needs by focusing staff expertise on troubled agencies (both large and small) where necessary, community service coordination, and program monitoring. This reform also links agency performance to individual personnel assessments.

Proposed Legislation

Internal reforms are under way throughout the agency. But to effect real change within the PIH business line, Congressional action is needed to facilitate lasting reform. Proposed authorizing legislation will support the reorganization plan by:

—Replacing the PHMAP system, making it a component of the annual assessment conducted by the Assessment Center;
—Making poor physical condition of properties automatic grounds for designation of an agent/agency as ''troubled,'' providing a framework for the Assessment Center to contract out physical inspections and giving new input into the revised assessment system;
—Creating a formula for distributing operating funds and providing incentives to housing authorities with good management, rewarding high-performing housing authorities;
—Waiving four of the nine planning requirements for non-troubled small housing authorities and high-performing large authorities, enabling these entities to submit one interim statement during the five-year comprehensive plan;
—Supporting TARCs by giving agents/agencies a one-year deadline to correct their troubled status or be placed in judicial receivership (for larger authorities) or administrative receivership (for smaller authorities); and
—Consolidating programs, such as incorporating the Public Housing Drug Elimination Program into the proposed formula award of operating subsidies.

Proposed Legislation—Public Housing Management Reform Act of 1997

1. Deregulate Small PHAs and High-Performing PHAs

Streamlining planning submissions and performance indicators for small PHAs, HUD will substantially reduce burden on field staff for compliance monitoring and oversight. High-performing PHAs will also have lighter submission requirements.

2. Merge Section 8 Certificate and Voucher Programs

Consolidation allows streamlining of HUD regulations and oversight of a single program.

3. Consolidate Tenant Opportunities Program (TOP) and Economic Development/Supportive Services Program

Combination allows HUD to conduct one competition, rather than two, under a single set of regulations.

4. Streamline PHA Submissions to HUD and Provide for Timely and Limited HUD Review Process

Submission of a single streamlined comprehensive plan with annual modifications requires substantially less HUD staff time for review and approval. Lighter submission requirements for high performers will also reduce staff workload.

5. Create New Performance Evaluation Board to Recommend System Enhancements for Public Housing Authority Oversight

Creation of board to enhance performance measurement system and develop system for site inspections; use of audit reports will create a more efficient, more effective system for oversight of public housing authorities.

6. Allocate Public Housing Drug Elimination Funds by Performance-based Formula

Conversion to formula will eliminate the need to conduct staff-intensive annual competition.

7. Allocate Capital Funds for Small PHAs by Formula Instead of Competition

Formula allocation of capital resources to small PHAs will eliminate the need to conduct annual competition.

8. Automatic Judicial Receivership for Persistently Troubled Large PHAs.

Gets HUD staff out of the business of managing restructuring of large troubled PHAs.

9. Privatize Oversight of HOPE VI Construction Process

Contracting with private real estate firms will ease staffing burdens and improve oversight of HOPE VI projects.

Summary of Public and Indian Housing Problems, Reforms and Benefits

Problems

- Staffing is imbalanced, geographically and by specialization.
- Tracking and assessing of projects is not uniform.
- Delivering and monitoring too many programs amplifies staffing problems.
- ♦ Changes in statutes, regulations, and delivery process are not communicated well throughout the field offices and headquarters.
- Coordination of program delivery and targeting of HUD staffing resources is insufficient.
- Resource-intensive management of troubled PHAs prevents staff from nipping PHA problems in the bud.

Reforms

- Establish a cross-cutting Real Estate Assessment Center for reviewing physical inspections and financial statements of PIH housing authorities and FHA multifamily projects.
- Create a cross-cutting Section 8 Financial Processing Center for Housing and PIH.
- Establish a Department-wide integrated financial system.
- Create an Enforcement Center to management PHA and FHA troubled portfolios.
- Establish two Troubled Agency Recovery Centers (TARCs).
- Create a special applications center for demolition/disposition, designated housing, and 5(h) homeownership.
- Provide block grant funds for high performers.
- Revise PHMAP for better assessment and propose receivers for troubled management.
- Streamline headquarters and enhance field office responsibilities.
- Privatize functions such as physical inspections, legal and investigative services, technical assistance, HOPE VI construction management.
- Consolidate PIH job skills and economic development programs with similar programs in CPD and FHA into a new Economic Development and Empowerment Service.

Benefits

- Annual assessments are standardized, providing better access to critical information and ensuring fairness and objectivity across projects.
- Uniformity, consistency and accountability are ensured for processing Section 8 subsidies and projecting future subsidy needs.
- Roles of intervention/recovery, program operation, and management are more clearly defined through TARCs.
- Through consolidation, field staff are relieved of intensive processing burdens.
- Program staff can concentrate efforts on core functions by realigning staff responsibilities and certain PIH programs.

Housing

''If you change your systems, organizations, and people, but leave the work processes alone, or change your systems, organizations, and processes, but not the way your people work, think, and feel, you will sentence your organization to ongoing conflict. To reach your destination, you must bring all five levels into alignment.

David Osborne and Peter Plastrik, *Banishing Bureaucracy*

Summary

The Office of Housing faces specific problems: poor alignment of staff and resources, lack of integrated computer systems, and high risks in multifamily portfolios.

Addressing these problems will involve establishing additional consolidated processing centers, such as a Section 8 Financial Processing Center; turning over troubled properties to a centralized enforcement authority; privatizing discrete functions, such as Real Estate Owned properties; creating an asset management system; and aggressively managing portfolio risk.

The Need for Change

For more than 60 years, the Federal Housing Administration (FHA) has helped make capital available to support rental housing, single family homeownership, and community health care facilities. To continue this role for America's communities in the 21st Century, the Office of Housing has developed a reform plan that blends the efficiency and flexibility of the private sector with FHA's continuing commitment to serve the public.

The areas to address in order to accomplish our goals:

—Accurately assessing the financial or physical condition of multifamily properties;
—Increasing accountability of internal managers, property owners, and stakeholders;
—Relieving asset managers of non-asset manager work;
—Changing service delivery from retail to wholesale;
—Verifying income in the Section 8 program;
—Linking the reform plan to personnel performance standards;
—Making sure the right skills are available to match needs; and
—Managing staff reductions.

Proposed Legislation—Housing 2020 Multifamily Management Reform Act of 1997

1. FHA Mark-to-Market Reforms

Repositioning/rehabilitating the 500,000 over-subsidized and insured properties will lighten FHA's exposure to default and reduce staff workload because remaining properties will be in better condition and better regulated through market discipline.

2. Strengthen FHA Multifamily Enforcement

Creation of new Department-wide Enforcement Authority. Streamlining and privatizing the process for FHA pursuit of bad owners reduces staff burden for enforcement actions, and thus reduces burden on staff for overseeing/resolving troubled properties.

3. Reform Bankruptcy Laws To Prevent FHA Multifamily Property Owners From Evading Enforcement

Preventing owners from using bankruptcy laws as refuge from enforcement action makes it easier for FHA to pursue bad owners, thus reducing burden on staff and improving the caliber of the housing stock.

4. Extend Permanently FHA Note Sale Authority

Note sales reduce staff drain that results from having to service troubled properties and notes.

5. Consolidate Multiple Multifamily Insurance Authorities into a Single General Authority

Single, flexible insurance authority will replace more than 10 specialized authorities. Will enhance user access to multifamily insurance products and streamline management systems.

Overview to Subdivisions

Each of the Office of Housing's subdivisions contributed reorganization strategies to the HUD-wide reengineering effort. The following sections describe the individual strategies of Multifamily Housing, Single Family Housing, and the Comptroller. In addition, Housing headquarters is also being reorganized.

Multifamily Housing

The Need for Change

During the 1980s, the Office of Housing was significantly affected by the decline in real estate markets. In the early 1990s, it owned almost 2,400 multifamily mortgages, with an outstanding balance of over $7 billion. The substantial inventory of HUD-held mortgages was costing taxpayers hundreds of millions of dollars and compromising HUD's ability to perform its other principal functions, specifically production of new, affordable housing and effective management of the insured portfolio. Strategies are needed to set the future course for multifamily housing. Necessary reforms are identified in the following areas:

Asset Development

Asset development services (intake, processing, underwriting approval, construction inspection, and final closing) are currently delivered in 51 field offices. However, this service delivery structure has several major weaknesses:

—Services are poorly integrated and delivery is fragmented;
—Processing is slow and inconsistent: the industry standard for processing is 30–45 days, far less than HUD's current average, and answers to similar client questions vary from field office to field office;
—Mortgagees are not held accountable for performing due diligence, putting HUD at greater risk;
—Quality control is weak, with 51 different underwriting authorities making decisions—leading to increased risk and inconsistencies;
—Confusion and clouded accountability result from burdensome reporting relationships; and
—Existing staff skill mix doesn't offer consistent, uniform, quality service across all offices.

Asset Management

Asset Management oversees and manages assets including 31,000 projects with approximately 5,400 ''troubled'' properties. It also administers nearly 30 different housing programs to ensure that low and moderate income residents have safe, affordable housing, to safeguard tax dollars, and to protect the FHA insurance fund. Asset managers monitor and service many properties, with an average workload of 55 projects per person. Typical tasks include property inspections, financial analysis, and reviewing grant and other applications.

The current delivery structure has four major weaknesses:
—Asset managers are overburdened with non-asset manager responsibilities, are poorly trained, and lack the experience to handle a broad range of troubled and non-troubled projects;
—Owners may exploit bankruptcy laws to avoid compliance;
—No efficient system exists to identify, assess, and respond to troubled properties; and
—Section 8 subsidy administration is inefficient and burdensome.

Reforms

Asset Development

The following reforms will be made:
—Multifamily Housing will consolidate 51 field offices into 17 program centers. These hubs will be supported by staff in program centers; staff will be on detail to various locations, moving across hubs and program centers. Shifting assignments allows staff to adapt resources and focus as needed to respond to changing markets;
—Implement a fast-track development process;
—Delegate certain underwriting responsibilities to mortgagees or contractors;
—Establish a quality assurance unit.

Benefits of Reform

Multifamily Housing will see these results from reform:
—Uniform, consistent processing;
—Sharply reduced processing time;
—Less underwriting risk and inconsistency by having fewer people make underwriting decisions;
—More responsibility and accountability for mortgagees;
—Clear lines of authority and responsibility, more accountability;
—Shared use of skilled staff across hubs;
—Flexibility to meet rapid market changes; and
—Fewer material weaknesses in managing and controlling staff resources.

Asset Management

We will usher in change and correct flaws within Asset Management with the following reforms:
—Create a Department-wide Enforcement Authority to handle the troubled properties of PIH and Office of Housing.
—Create a Department-wide Real Estate Assessment Center for PIH and Office of Housing.
—Housing will consolidate key functions in processing centers. Contractors and/or skilled HUD staff will perform such core functions as property disposition, insurance conversion, and Section 8 voucher processing. To align work with available skills, anticipating further staff reductions by the year 2000, Housing hubs will be located in 17 areas to best serve customers and support the 34 program centers;
—Increase consistency and cohesiveness in processing control;
—Reduce asset managers' non-troubled property workload to appropriate levels;
—Provide direct lines for staff reporting;
—Improve service quality and balance of staff skills;
—Expand the Insurance Conversion Servicing Center to handle co-insured portfolio refinancing; and
—Coordinate autonomous field offices.

Benefits of Reform

Multifamily Housing will reap the following benefits from acting on these reforms:
—Reduce non-core functions performed by asset managers;
—Provide timely, accurate financial and physical condition status of multifamily properties through the Assessment Center; and
—Dedicate resources to deal with all troubled properties in the Recovery and Enforcement Authority.

Single Family Housing

The Need for Change

Single Family Housing currently performs loan production, asset management, and property disposition with 2,080 employees in 81 locations across the country, in addition to 190 headquarters staff. One critical goal is to rid the agency of the administrative burden of a substantial inventory of

HUD-held mortgages. However, this goal, among others, is more difficult to achieve with the existing service delivery structure. Among its flaws:

—Delays and problems in insurance endorsement processing;
—Information systems that do not help staff effectively monitor compliance;
—Poorly controlled and monitored property disposition; and
—Staff reductions that prevent consistent delivery of quality services.

Reforms

Single Family Housing will consolidate all Single Family operations into three Homeownership Centers (HOCs). This reform will generate economies of scale, encourage better use of technology, and allow us to dedicate staff solely to customer assistance. To jump start the transition, we will either streamline or outsource Real Estate Owned (REO) activities and sell nearly all assigned notes.

When fully implemented, HOCs will perform functions which are now performed in individual field offices. Specifically, they will be staffed to perform the following core functions:

—Insurance endorsements
—Operational post-endorsement technical reviews
—Fee panel oversight
—Underwriting
—Servicing advice and guidance to mortgagees
—Contractor oversight/management
—Loss mitigation
—REO sales (carryover inventory)
—Marketing and outreach
—Quality control post-endorsement technical reviews
—Lender monitoring
—Sanctions
—Audits/investigations

Benefits of Reform

This consolidation and streamlining will achieve several objectives:

—HOCs will provide faster, more uniform, efficient service to clients, lenders, and borrowers;
—Risk assessment, loss mitigation, and quality assurance will all improve;
—Loan production will increase in targeted populations with better marketing and outreach;
—HOCs will cut the processing time for insurance endorsements from two weeks to one day;
—Service to lenders will improve through automated systems; and
—A state-of-the-art financial system will vastly improve HUD's underwriting and loss mitigation efforts.

Housing Comptroller: Asset Recovery Centers

The Need for Change

Currently, Title I asset recovery operations are performed by 108 employees in three Asset Recovery Centers. The existing delivery structure has two major weaknesses:

—Recovery processes are cumbersome and are poorly integrated with premium collection and claims examination; and
—Resource investment is not justified by the level of assets recovered.

Reforms

HUD will work with the Department of Treasury to transfer appropriate asset recovery activities to Treasury.

Benefits of Reform

By transferring asset recovery activities to the Treasury, HUD will reduce resources committed to this non-core function and can refocus staff on higher priority tasks. Treasury can better ensure timely and accurate debt collection, significantly increasing the amount of unpaid debts collected.

Housing Headquarters

The Need for Change

Housing headquarters develops policy and budgets, conducts Congressional and industry relations, plans and implements new products and services, and oversees lender compliance, among other tasks. It also provides field support. Three major weaknesses in headquarters' current operations have been identified:

—Field support is inadequate;
—Information systems are outdated and disparate, preventing staff from comparing data and flagging problems; and
—Procurement is cumbersome.

Reforms

Headquarters will streamline operations to better focus on such HUD-wide responsibilities as policy and budget development, troubleshooting, industry relations, and those that support field office service delivery. Its field support will focus on personnel, procurement/contracting, information technology, training and auditing, and technical assistance. Headquarters will also:

—Limit its role in compliance and execution to providing data resources, administrative support, and auditing;
—Design a 360 degree review system of headquarters by field staff;
—Accelerate reconciliation of Generally Accepted Accounting Principles with Federal Credit Reform accounting systems;
—Treat field office staff as customers, allowing field staff to devote their full attention to making programs work; and

Housing will also make full use of the new financial systems being developed in the Department-wide integrated financial system.

Benefits of Reform

Headquarters will create positive change by:

—Using less staff in targeted support of core field office functions;
—Helping field staff better serve customers;
—Streamlining program development, monitoring, enforcement, risk management and budgeting, through better information systems; and
—Expediting policy and program implementation through the Department's overall reform of procurement and contracting.

Summary of Housing Problems, Reforms and Benefits

Problems

- Limited accountability of internal managers, property owners, and stakeholders.
- Poor allocation of staff and resources.
- Lack of training asset managers.
- Little integration of computer systems that produce consistent data.
- Transition from retail to wholesale service delivery requires significant shifts in resources.
- Risk mitigation in multifamily portfolio is increasingly necessary.
- Insufficient balance between community needs and program objectives.

Reforms

- The Department will establish a cross-cutting Real Estate Assessment Center for reviewing physical inspections and financial statements of PIH housing authorities and FHA multifamily projects.

♦ The Department will create a cross-cutting Section 8 Financial Processing Center for Housing and PIH.
♦ The Department will create an enforcement center to manage troubled portfolios.
♦ Establish a Department-wide integrated financial system.
♦ Reallocate staff in shift from retail to wholesale.
♦ Retrain workforce to meet new challenges.
♦ Privatize Real Estate Owned functions.

♦ Develop streamlined contract and procurement process.

Benefits

♦ Fewer processing problems and delays in loan origination.
♦ Faster, more uniform service to clients, lenders, and borrowers.
♦ Improved underwriting and loss mitigation efforts.
♦ Increase in unpaid debt collection.
♦ Greater claims processing capacity.
♦ Ability to meet targeted staff reductions by FY 2000.
♦ Faster policy and program implementation through reduced procurement time.
♦ Greater accessibility to financial information for budgeting, reporting, risk management, and enforcement.
♦ Better control over resources and outcomes.

Office of Community Planning and Development

''National social problems will be solved the same place they are manifested—at the grass-roots level. National governments will be standard setters, supporters of local development, suppliers of resources, and facilitators or guardians of economic and political activity . . .''

Rosabeth Moss Kanter, *World Class*

Summary

Problems encountered by Community Planning and Development (CPD) include limited resources for managing competitive grants; limited staff for on-site monitoring; fragmented approaches to solving community problems; and an inability to completely track and respond to market trends.

CPD is in the process of correcting these weaknesses by converting competitive grants into performance-based grants; outsourcing discrete functions; using advanced mapping software to aid community planning; aligning resources within a new Economic Development and Empowerment Service; and downsizing its headquarters staff.

CPD has had many successes, including: increasing the number of homeless families and individuals helped to reach self-sufficiency from 20,000 to nearly 290,000; creating 1.4 million jobs; and serving nearly 1.7 million people through CDBG and Home programs. Yet CPD also sees the need to improve its performance. CPD has identified several areas where reforms are necessary. Key problem areas include:

—Resources are limited and on-site monitoring is inadequate

Limited staff and budgets prevent adequate on-site monitoring and oversight of high-risk activities.

—Grant award staff are overloaded

CPD approves over 1,300 competitive grants a year, but staff reductions of 23% since 1992 have prevented adequate monitoring of thousands of competitive grants.

—Insufficient resources to monitor the rapid increase in development projects

CPD has insufficient staff resources, both in number and expertise, to adequately monitor hundreds of economic development projects approved in the past several years.

—Solid data are unavailable

Timely, complete, and accurate data to measure program outputs are often lacking.

Reforms

Elements of new and continuing management reforms are:

—Combining planning and application reports into a single plan;
—Using comprehensive plan software that allows applications to display proposed projects as maps and submit data electronically;
—Upgrading information systems to the Communities 2020 system;
—Implementing the Integrated Disbursement and Information System, an automated reporting system showing ''real time'' achievements;
—Introducing the Grants Management System, which includes an annual comparative review of all entitlement grantees, showing the full spectrum—from ''best practices'' to high-risk projects and cities in need of technical assistance and monitoring.

CPD is assessing the following structural changes:

—Combining the Office of Block Grant Assistance and the Office of Affordable Housing into an Office of Community Development.
—The Office of Economic Development will be consolidated into the Economic Development and Empowerment Service. It will retain the economic development function and handle the brownfields program, if authorized and given to CPD. This combination will enhance efficiency and give communities the help they need to address problems holistically and will bring needed economic development expertise to CPD's largest program.
—Regulatory oversight and policy functions of the Office of Environment and Energy will move to the Office of General Counsel; other environmental functions will be contracted out.
—The Office of Executive Services and Office of Administration will be retained with reduced staff.
—The Office of Management would ensure that all offices have adequate technology to do their jobs.

Administration of the remaining 312 loan functions will be transferred to the Government National Mortgage Association.

Additional considerations:

—Assess how CPD can support the central coordination of the EZ/EC program for both existing and proposed zones and communities;
—Consider contracting out monitoring functions, if homeless assistance legislation is not approved to reduce competitive grants volume; and
—Develop an automated system to manage competitive grants, integrated with IDIS and the Grants Management System, and provide a seamless process for recipients. The system should identify high-risk recipients and projects for targeted monitoring.

Benefits of Reform

Benefits of enacting these reforms include:

—Serving CPD's mission by enabling communities to apply a more comprehensive approach to solving myriad urban problems;
—Reducing unnecessary paperwork;
—Helping citizens play a more meaningful role in the community development process by making proposed plans clearer and more accessible;
—Improving the speed, ease, and accuracy of reporting achievements and drawing down funds; and
—Improving monitoring and oversight by targeting scarce resources on high-risk projects and publicizing high-performing projects and cities.

Proposed Legislation

Proposed legislation has been or will be introduced to create a homeless assistance performance fund and streamline the HOME program.

Proposed legislation will provide a single performance fund distributed by formula for all homeless programs to: (1) Reduce staff time on grant approvals, since funds will be distributed by formula; (2) Approach homeless problems locally and comprehensively; (3) Ensure role of non-profits and other community organizations in shaping

and operating programs to help homeless persons reach self-sufficiency to the extent possible; and (4) Give cities responsibility for monitoring homeless problems in future block grants.

Proposed Legislation—Homeless Assistance and Management Reform Act

Convert 6 Separate Homeless Programs to Performance-based Formula Grant Program.

Permanent consolidation will eliminate the need for HUD to administer staff-intensive, multiple competitions for funds. The new program will allow communities through local planning boards to shape comprehensive ''continuum of care'' systems. This plan would lie within the overall consolidated plan for that community.

Summary of CPD Problems, Reforms and Benefits

Problems

- ♦ Limited resources for managing competitive grant programs
- ♦ Limited staff for on-site monitoring
- ♦ Information is not complete or timely
- ♦ Community problems are not addressed holistically
- ♦ Limited ability to handle increased number of economic development projects

Reforms

- ♦ Convert inflexible and labor-intensive competitive grant programs to performance-based grant programs
- ♦ Outsource technical assistance as necessary
- ♦ Monitor grantees failing program compliance through an Enforcement Authority
- ♦ Use advanced mapping software system (Communities 2020) that shows communities the impact of HUD funding and activities in their area
- ♦ Align resource needs and responsibilities within the newly established Economic Development and Empowerment Service

Benefits

- ♦ Communities can apply a more comprehensive approach to solving urban problems
- ♦ Unnecessary paperwork is eliminated
- ♦ Citizens will play a more meaningful role in the community development process
- ♦ Speed, ease, and accuracy in reporting
- ♦ Improved project oversight

Office of Fair Housing and Equal Opportunity

''*Reengineering is about Reinvention—not improvement, enhancement, or modification. Radical redesign means getting to the root of things: not making superficial changes or fiddling with what is already in place.*''

Michael Hammer and James Champy, *Reinventing the Corporation*

Summary

Fair Housing and Equal Opportunity faces challenges in fragmented responsibilities and lack of accountability; duplication of field oversight functions; inefficient separation of staff resources between enforcement and program/compliance; and inadequate use of technology.

To overcome these problems, FHEO will eliminate the separation between enforcement and program/compliance functions; cross-train staff; consolidate field oversight and policy functions; integrate fair housing principles throughout HUD's other program areas; and make greater use of other areas' technology.

The Need for Change

Since its establishment in 1969, FHEO has evolved according to changing statutes and program needs. This sporadic approach to building a business line has created a number of service delivery problems. The areas that most need to change are:

—Lack of clear responsibility and accountability for policy development, planning, program evaluation, control, and performance standards and measurement;
—48 local offices report to multiple sets of field oversight offices in headquarters;
—A split in field management between enforcement and program/compliance, resulting in a ''two FHEO'' phenomenon;
—A structure top-heavy with supervisors;
—Inadequate integration of fair housing policies into other HUD program areas;
—Redundant, inefficient paperwork and processes; and
—Outdated technology and data tracking systems.

Organizational inefficiency is most noticeable in field operations, where two separate FHEO staffs oversee investigations and programs. In headquarters, this organizational structure has resulted in six distinct offices and 14 divisions, directed by three Deputy Assistant Secretaries.

Reforms

—Eliminate the current division of civil rights enforcement and program responsibilities in headquarters and field offices so that FHEO operates more uniformly and cohesively.

A new position, Deputy Assistant Secretary for Enforcement and Programs, will combine the functions currently performed by the Deputy Assistant Secretary for Enforcement and Investigations and Deputy Assistant Secretary for Programs and Compliance, and will report to the newly created position of General Deputy Assistant Secretary, the chief operating official.

—New Field Organization

Field offices will be organized into ten program hub offices and program center offices. Each program hub office will provide civil rights complaint assessment/control services for its entire area. Each program hub's director will be accountable to the General Deputy Assistant Secretary for all FHEO functions, and will be the point of contact on all major policy and program issues regarding HUD's civil rights responsibilities in that area.

Program center offices will process complaints, review programs and compliance, and investigate complaints, among other tasks. Program center directors will work with other program directors to carry out community-based customer service.

Program center offices will have new, consolidated responsibility for all FHEO civil rights enforcement and program activity functions—investigations, compliance, and programs. Directors at the local level will deliver effective enforcement, compliance, and program results, and will assign staff to highest priorities.

—Use Staff More Efficiently

FHEO Civil Rights Analysts will investigate violations of civil rights laws, as well as perform program/compliance work, while directors balance workloads among different requirements and priorities with the full complement of staff available. Use of BPR reforms, including enhanced technology to increase efficiency, will be expanded.

—Consolidate field Oversight

Field oversight functions will be consolidated into one office under the General Deputy Assistant Secretary. The number of offices reporting to headquarters will drop from 48 to 10. The General Deputy Assistant Secretary will also direct FHEO's consolidated policy and program evaluation functions, gaining a better understanding of current issues and problems, and providing clearer guidance to field offices on litigation and policy initiatives.

—Streamline Headquarters Functions

- Headquarters will be streamlined and its functional areas reconfigured to reflect those in the field;
- One Deputy Assistant Secretary will be responsible for both enforcement and program functions; and
- All field oversight, policy formulation, program evaluation, and the development of program standards will be consolidated to eliminate duplication and to establish clear lines of accountability and responsibility.

—Integrate Fair Housing Into HUD's Other Program Areas

FHEO will continue to focus on:

- Technical assistance on civil rights requirements for recipients of HUD funds;
- Section 202/811 application reviews;
- Supporting fair housing on-site monitoring;
- Voluntary programs with housing industry groups; and
- Fair housing planning.

HUD will focus on mainstreaming fair housing government-wide and throughout the Department through:

—Streamline Existing Front-End Reviews

Other program areas will expand their current application procedures to include routine front-end reviews now performed by FHEO for the: Comprehensive Improvement Assistance Program; Family Self-Sufficiency; Comprehensive Grant Program; Multifamily Development Programs; Section 108 Loan Guarantees; and Annual Action Plans.

—Standard Information Collection

PIH and CPD will expand their standard data collection (e.g., IDIS) to include indicators of fair housing compliance by grantees.

—Integrate Fair Housing Into the Proposed Assessment Centers

FHEO will support a process to ensure that fair housing compliance is included in assessing public housing authorities.

—Section 3

Section 3 can be moved from FHEO to the Office of Small and Disadvantaged Business Utilization, to take advantage of greater expertise in economic development and procurement.

—Training of Community Resource Representatives

New Community Resource Representatives will be trained in fair housing laws, issues surrounding Section 8 recipients, and other thorny fair housing issues.

Benefits of Reform

—A unified FHEO
—More flexible staff who can handle both enforcement and program/compliance functions
—More effective field offices due to clearer guidance on policy initiatives
—Less duplication and paperwork
—More effective elimination and prevention of discriminatory practices
—More effective use of technology and other program areas' data.

Summary of FHEO Problems, Reforms and Benefits

Problems

—Fragmented responsibilities
—Lack of accountability
—Duplication of field oversight functions
—Confusing, complex lines of reporting
—Lack of clear communication
—Fragmented approach to compliance and enforcement
—Poor use of technology

Reforms

—Eliminate the split of enforcement and program/compliance functions in headquarters and the field
—Cross-train field staff
—Consolidate field oversight functions
—Restructure leadership functions at headquarters
—Integrate fair housing principles throughout HUD's other program areas
—Make use of other program areas' software and new technology to fill gaps in information

Benefits

—A unified FHEO
—More flexible staff who can handle both enforcement and program/compliance functions
—More effective field offices due to clearer guidance on litigation and policy initiatives
—Less duplication and paperwork
—More effective elimination and prevention of discriminatory practices
—Streamlined headquarters functions

Office of the Chief Financial Officer

''The major complaint about organizations is that they have become more complex than is necessary.''
Tom Peters, *In Search of Excellence*

Summary

The Chief Financial Officer is unable to provide cost-effective, efficient accounting services within the current decentralized structure and lacks the ability to link budgeting, strategic planning, and financial management, thwarting clear accountability.

To remedy these problems, the Office of the CFO will consolidate accounting operations from ten centers to one accounting center and will absorb budgeting operations into strategic planning and financial management operations within the office.

The Need for Change

—Consolidating Program and Accounting Operations

Performing accounting services in multiple locations with large numbers of staff is no longer cost effective. Better financial management and information systems make it possible to reduce staffing, streamline operations, and strengthen management controls.

—Consolidating Budget and CFO Operations

Budgeting, strategic planning, and financial management are critical to HUD's success. But these functions are currently independent, with little or no coordination. This has led to criticism from the GAO, IG, and NAPA. Effective management means we must weave budgeting, strategic planning, and financial management oversight together. This requires matching workload planning (estimates and allocations) through the use of GPRA performance measures, HUD's strategic plan, and a new management plan process.

—Implementing New HUD Management Integrity Plan

Program managers must be responsible for their programs' financial management. They must be held accountable for results and rewarded for excellent results. Managers will be provided with clear, reasonable expectations and the resources necessary to meet them. The CFO must be a partner with and advocate for program managers.

—Linking Budget, Performance Measures, and Program Delivery

GPRA recognizes the natural links between budget operations and program outputs and outcomes. At HUD, budget operations, program performance, and program delivery are fragmented and disjointed.

—Estimating Resources and Making Budget Allocations

The GAO and HUD's own Inspector General have criticized the Department for its weak and fragmented ability to estimate its resource needs and make budget allocations.

—Financial Systems Integration

Since 1989, HUD has reported under FMFIA that it does not have an efficient, effective, and integrated financial management system that can be relied on to provide timely, accurate, and complete financial information to management. Also, in February 1997 the GAO reported that HUD's financial management systems were ''poorly integrated, ineffective, and generally unreliable.'' In his confirmation hearing, Secretary Cuomo stated his top priority is to put HUD's management systems in order and to restore effective management and financial accountability at HUD.

Reforms

—The Office of the CFO will consolidate its programs and administrative accounting operations from ten field accounting divisions into one accounting center; all accounting operations will be performed at this center.
—Consolidate headquarters budget operations into the Office of the CFO to ensure budgeting is integrated with financial management oversight.
—Accountability is the cornerstone of HUD's new business culture. Effective systems of management controls are critical to the long-term success of the Department's mission, and outstanding performance in this area should be rewarded. Employees will be held accountable for carrying out responsibilities related to financial credibility. The new focus will be on positive reinforcement, rather than negative sanctions. For instance, managers who demonstrate outstanding performance or who contribute to HUD's financial management will be considered for Secretarial awards and recognition. Also, the CFO will partner with programs as the principal driver of financial management to ensure that programs achieve intended business results.
—Risk management is a major component of financial management. If it is to be integrated in the day-to-day operations of HUD's programs, risk management must be as simple as possible. It must focus on prevention, not process, and must balance risk and resources with reasonable controls and verification procedures. A new Office of Risk Management will be established to play a key role in changing managers' perspective of the review/audit function.
—Linking budget, performance measures, and program delivery will enable the Department to meet the requirements of the CFO Act, ensure the integration of financial systems and controls, and consolidate monitoring of all performance measures in the same organization. The CFO will lead the Department's GPRA implementation efforts.
—The newly merged budget office will implement a proposed Resource Estimation and Allocation Process (REAP) that will link resources to results as required by GPRA. The fiscal year 1999 call for budget estimates and legislative proposals will incorporate this new process.
—The Department will develop and implement an integrated financial management system that is accurate, reliable, and timely.

Summary of Chief Financial Officer Problems, Reforms and Benefits

Problems

- Program and administrative accounting services not sufficiently cost-effective
- Lack of coordinated budget operations, strategic planning, and financial management
- Lack of resources estimation and allocation capability
- Lack of accountability and internal controls
- Inaccurate, unreliable, and tardy financial management systems

Reforms

- Consolidate program and administrative accounting operations from ten accounting divisions to one accounting center
- Consolidate Budget and CFO Operations
- Implement new Management Integrity Plan
- Incorporate Resource Estimation and Allocation Process (REAP) into budget

Benefits

- Stronger internal management controls
- Easier access to information through the single accounting center saves time and increases reliability
- Greater financial management accountability since budgetary and financial responsibilities are centralized
- Improved resource estimation and allocation capability

Benefits of Reform

Staff cost savings and financial management improvements will accrue from these consolidations and streamlining efforts. Specific benefits include:

—Stronger internal management controls;
—Better access to consistent, uniform financial data;
—Linking budget, performance measures, and program delivery will enable the Department to meet the requirements of the CFO Act;
—Greater accountability through linked budget and financial management responsibilities;
—Improved resource estimation and allocation capability;
—Less duplication of resources and effort; and
—Clear lines of authority and responsibility.

Office of Administration

''Mobilizing an organization to adapt its behaviors in order to thrive in new business environments is critical. Without such change, any company today would falter.''

Ronald A. Heifetz and Donald L. Laurie, *Harvard Business Review*

Summary

In many ways, the Office of Administration faces a dual challenge. It must help the Department make sweeping changes, while at the same time reforming itself, streamlining and becoming as efficient as possible.

Implementing such massive change in a Department of this size impels the Office of Administration to be as flexible and performance-oriented as possible. Each of these areas will help: Human Resources, Information Technology, Training, Management and Planning, Administrative Services, and Procurement and Contracts. Supporting business lines with new staffing plans, technology assessments, training programs, and equipment planning are just a few of the many services the Office of Administration will offer.

The Departmental organization described in this plan will help the Office of Administration identify what services it can provide to meet the needs of its customers within HUD. While an earlier reorganization of the Office of Administration achieved significant staffing reductions, greater efficiency and the ability to better target our services will provide further opportunities for downsizing.

Once implemented, the HUD 2020 reform plan is designed to achieve support staff levels comparable to private sector personnel efficiencies. As part of the reform effort, the Office of Administration is examining and streamlining its own core functions and processes.

In the near future, the Office of Administration will:

• Manage client requests using our Automated Client Request System, state-of-the-art technology;
• Increase our use of satellite technology to train employees;
• Execute personnel actions through the Internet and HUD's own Intranet site, HUDweb;
• Create flexible workspaces, technology, and furniture in ''Workplaces of the Future'' to enhance teamwork and dynamic work environments; and
• Use visual and voice technology to manage remote staff.

The Office of Administration's highest priority is to support organizational changes that most impact HUD's ability to fulfill its mission. Changes within the Office of Administration will parallel those in business lines, as we identify the needs of a restructured HUD.

Creating a leaner, smarter, and more effective Department is the primary focus of the Office of Administration. The Office of Administration will plan, develop, and implement a realistic strategy for helping executives and managers carry out approved management reforms. Individual offices within the Office of Administration will provide the following assistance:

Human Resources will provide labor-management relations strategy; organization change and personnel processing services; staffing and classification support; support in performance management planning; and buyout, outplacement, and employee career transition assistance.

Information Technology will identify technology needs; realign technology investments and services; and provide contractor and staff support for major reforms.

Training Academy will carry the message of management reforms to employers and customers; assess current workforce skills against new requirements and adapt training programs; provide employee career counseling; and adapt current university partnerships to address new program and technical training needs (including procurement, contractor management, financial analysis, internal controls, and community and economic development).

Specific Training will also be conducted for Community Resource Representatives and Public Trust Officers. Because the Community Resource Representatives will epitomize the facilitation function in the new HUD, a special national recruitment open to new hires and existing HUD employees will be launched.

University Training will make certain that employees in both of these new categories are fully equipped with the latest knowledge and skills to carry out their important functions. HUD will arrange for high quality, university-based training emphasizing a broad overview of HUD programs, community development skills for the Community Resource Representatives and program monitoring for the Public Trust Officers. The university training will be interspersed with regular HUD work to enrich both experiences. The Department is prepared to make a major commitment to this training which is central to achieving the aims of the Management Reform Plan.

Management and Planning will support organizations as they develop and follow plans for reassessing their business processes; and provide attendant organizational development, team building, and culture change support.

Administrative Services will help client organizations develop plans to address space, equipment, and other administrative requirements; and realign current administrative resource plans with long-term management reforms.

Procurement and Contracts will work with affected organizations to assess procurement and contracting requirements; develop specific procurement plans; and support expedited assistance.

The Office of Administration will assign interdisciplinary teams, comprising experts in all administrative functions, from both headquarters and the field, to each area undergoing change to work through implementation details and ensure global logistical and policy coordination.

Procurement and Contracting will work with affected organizations to assess procurement and contracting requirements, develop specific procurement plans, and support expedited assistance. At the same time, it will work with NAPA to analyze and reconstruct a more efficient procurement process, as executed by both the Office of Procurement and Contracts and by the business lines.

ADMINISTRATIVE SUPPORT STRATEGY

[Office of Administration]

Reforms	Human resources	Information technology	Training
#1 Reorganize by function rather than program ''cylinders.	Identify space, equipment, and other administrative needs; develop and coordinate plans to speed organizational changes.	Develop process redesign and cultural change strategies.	Support plans for outsourcing and contracting; assist in A76 process; help expedite procurements. Assist as needed.
#2 Modernize and integrate HUD's outdated financial management systems with an efficient, state-of-the-art system.	Assist as needed	Provide contract support and assistance.	Advise project leaders and managers.
#3 Create an Enforcement Authority with one objective: to restore the public trust.	Provide same support services as #1.	Provide contract support, advice, and assistance.	Provide same support services as #1.
#4 Refocus and retrain HUD's workforce to carry out our revitalized mission.	Assist as needed	Provide same support services as #1.	Assist as needed.
#5 Establish new performance-based systems for HUD programs, operations, and employees.	Assist as needed	Advise on culture changes and team building strategies.	Assist as needed.
#6 Replace HUD's top-down bureaucracy with a new customer-friendly structure.	Consider alternative office and worker locations, consistent with management reforms.	Develop new organization development strategies to improve customer service.	Assist as needed.

ADMINISTRATIVE SUPPORT STRATEGY

[Office of Administration]

Reforms	Administrative services	Management and planning	Procurement and contracting
#1 Reorganize by function rather than program ''cylinders''.	Suggest most efficient strategies for organization changes, position management and classification, union negotiations, and staffing.	Adapt current technology plan to accommodate reforms. Support technology and information system changes.	Assess workforce skills and training needs; develop new training' revise existing training.
#2 Modernize and integrate HUD's outdated financial management systems with an efficient, state-of-the-art system.	Assist as needed	Adjust technology budgets to accommodate project costs; help project manager and contractor; provide guidance on architecture and other requirements.	Develop training for new systems.
#3 Create an Enforcement Authority with one objective: to restore the public trust.	Provide same support services As #1.	Provide same support services #1	Provide same support services as #1.
#4 Refocus and retrain HUD's workforce to carry out our revitalized mission.	Help managers develop new positions, qualification requirements and internal/external recruitment.	Ensure that the new workforce uses best available technology applications to achieve reforms.	Plan, design and conduct new training program, including university partnerships.
#5 Establish new performance-based systems for HUD programs, operations, and employees.	Development of new performance structures and incentives for improved results.	Develop information systems to support changes.	Incorporate performance concepts into management and other training programs.
#6 Replace HUD's top-down bureaucracy with a new customer-friendly structure.	Work with Deputy Secretary and principal staff on options to reconfigure HQ-field structure, operations and human resources.	Help staff improve use of information resources.	Help organizations develop customer service training programs.

Appendix A: Buyout Plan

An integral part of the HUD 2020 Management Reform Plan is streamlining and consolidating major functions and downsizing the overall workforce funded by the Salaries and Expenses Appropriation from approximately 10,500 to 7,500 FTEs by the end of fiscal year 2000. To achieve this employment level, the Department will need to reduce on-board staff by approximately 3,000 employees over a four-year period.

As we proceed with the implementation of the HUD Management Reform Plan, 600 to 1,000 buyouts will allow the Department to aggressively streamline and consolidate functions while limiting the need for involuntary employee separation that might otherwise be required. To accomplish this objective, specific program operations will be targeted for reductions, downsizing and consolidations. An effective, targeted buyout strategy will minimize disruptions to program areas and ease the career transition process for impacted employees. The following program operations will be targeted in priority order for staff reductions through the buyout program.

Buyout applications will be accepted in July 1997. Employees will be notified of approval or denial of a buyout opportunity from August-September, 1997. Employees will be allowed to separate with a buyout beginning in late August through the end of the fiscal year (September 30, 1997). The Secretary reserves the right to stop buyout offers at any point in the process.

—Priority Group 1

Office of Housing (headquarters and field operations): Single Family, Multifamily, Federal Housing Administration Comptroller, and Operations.

—Priority Group 2

Administrative functions, headquarters and field, in all program offices and in the Office of Administration, except the Office of Information Technology.

—Priority Group 3

Office of Chief Financial Officer (headquarters and field operations).

—Priority Group 4

Office of Public and Indian Housing (headquarters and field operations).

—Priority Group 5

Headquarters and field operations of the Office of General Counsel, Office of Fair Housing and Equal Opportunity, and the Office of Community Planning and Development.

—Priority Group 6

Other operations funded by the Salaries and Expenses Appropriation to include Office of Policy Development and Research, Office of Congressional and Intergovernmental Relations, Government National Mortgage Association, Office of Public Affairs, Office of Lead Hazard Control, Office of Departmental Equal Employment Opportunity and all offices under the Office of the Secretary.

Buyout Policy and Process

Most employees who meet the legal requirements of Section 663 of the Treasury, Postal Service and General Government Appropriations Act, 1997 (Pub. L. 104–208) are eligible to apply. However, employees must be serving under an appointment without time limitations and have been continuously employed for at least three years with HUD in order to be eligible for a buyout. Additionally, the following categories of employees will not be eligible to apply:

—An employee who, during the previous 24 months, received a recruiting or relocation bonus, or within 12 months of the separation date received a retention allowance;

—Employees relocated to other positions/offices (under HUD's relocation programs) where relocation costs were incurred and the buyout offer falls within one year of the effective date of the relocation. Exceptions can be granted if the employee reimburses HUD for all relocation costs;

—An employee already approved for a voluntary separation incentive payment under HUD's previous buyout program under the Federal Workforce Restructuring Act of 1994 who is completing an additional period of service for a delayed separation;

—An employee in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

—An employee who previously received any buyout payment by the federal government and has not repaid such payment;

—A re-employed annuitant;

—An employee who is or would be eligible for disability retirement;

—An employee with statutory reemployment rights of transfer to another organization;

—All employees serving under Schedule C, non-career Senior Executive Service, or Presidential appointments;

—All employees in the Office of Information Technology paid from the Working Capital Fund;

—All employees in the Office of Inspector General; and

—All employees in the Office of Federal Housing Enterprise Oversight.

The amount of each buyout will be calculated using the severance pay formula.

Employees approved for a buyout will be paid an amount equal to their severance pay or $25,000, whichever is less.

Employees interested in the buyout will be allowed to submit a written (pre-designed) application. Applications will be ranked in priority order according to the organization described above. Employees will be informed when and where applications may be obtained as early as possible following formal buyout announcement. The Office of Human Resources will be responsible for the management and operation of the buyout program.

Categories for Job Elimination

Based on the preceding targeted program operations and geographical locations, the following occupations and grade levels are targeted for buyouts in the following priority order according to program functions:

—Priority #1—Office of Housing—Headquarters and Field

Eligibility for buyouts in this group apply to all employees in all titles, series and grades in headquarters and in all field locations in all Housing operations. Examples of occupational series and titles in this organization include, but are not limited to:

GS–301 Systems Analyst, Program Advisor, Program Specialist, Management Information Specialist, Field Manager
GS–303 Staff Assistant, Clerk Typing, Program Assistant, Disbursements Assistant, Loan Assistant, Title Assistant/Clerk
GS–305 Mail Clerk, File Clerk
GS–318 Secretary (Typing)
GS–322 Clerk—Typist
GS–325 Office Enforcement Clerk
GS–326 Office Automation Clerk
GS–343 Management Analysis, Program Analysis
GS–501 Financial Operations Analyst, Accounting Advisor, Financial Review Compliance Specialist, Loan Servicing Specialist, Deputy Comptroller
GS–505 Housing Comptroller
GS–510 Staff Accountant, System Accountant, Operating Accountant
GS–525 Accounting Technician
GS–806 Materials Engineer
GS–808 Architect
GS–810 Structural Engineer
GS–828 Construction Analyst
GS–830 Mechanical Engineer
GS–990 Claims Examiner
GS–0110 Financial Economist
GS–1101 Default Loan Specialist, Debt Servicing Rep., Debt Management Specialist, Loan Technician, Single and Multifamily Housing Spec., Real Estate Owned Spec., Asset Manager, Mortg. Spec. Underwriter
GS–1160 Financial Analyst
GS–1165 Loan Specialist, Loan Assistant
GS–1170 Single Family and Multifamily Asset Manager, Realty Spec.
GS–1171 Appraiser
GS–1510 Actuary
GS–1531 Statistical Assistant

—Priority #2—Administrative Functions—Headquarters and Field

Eligibility for buyouts in this group apply to all employees at all grade levels in operations, management and administrative support functions in all Program Offices, and in all offices in the Office of Administration (except the HUD Training Academy and the Office of Procurement and Contracts). Occupational groups generally fall in the GS–200, 300 and 500 job classification series. Examples of occupational titles and series include, but are not limited to:

GS–201 Personnel Management Specialist
GS–203 Personnel Assistant/Clerk
GS–212 Personnel Staffing Specialist
GS–221 Position Classification Specialist
GS–230 Employee Relations Specialist
GS–235 Employee Development and Training
GS–301 Management and Organizational Development Specialist, Personnel Pay Specialist, Personnel Services Specialist, Program Management Specialist, Administrative Staff Assistant
GS—303 Personnel Pay Technician/Assistant, Personnel Support Services Assistant, Records Clerk
GS–318 Secretary-Typing
GS–322 Clerk-Typist
GS–326 Office Automation Assistant
GS–332 Computer Operator
GS–334 Computer Specialist
GS–335 Computer Clerk/Assistant
GS–340 Program Management Specialist
GS–341 Administrative Officer
GS–342 Support Services Specialist
GS–343 Management Analyst
GS–344 Management Assistant
GS–391 Telecommunications Specialist
GS–501 Financial Analyst, Accounting Advisor
GS–503 Comptroller Assistant
GS–505 Comptroller
GS–510 Accountant, Systems Accountant
GS–511 Auditor
GS–525 Accounting Technician
GS–540 Voucher Examiner
GS–544 Time and Leave Technician
GS–560 Budget Analyst
GS–561 Budget Assistant
GS–570 Financial Institution Examiner
GS–1160 Financial Analyst

—Priority #3—Office of the Chief Financial Officer—Headquarters and Field

Eligibility for buyouts in this group apply to all employees in all titles, series, and grades in all locations in headquarters and the field. Examples of occupational series and titles in this organization include, but are not limited to:

GS–303 Accounting Clerk
GS–318 Secretary
GS–326 Office Automation Clerk
GS–343 Management Analyst
GS–501 Financial Operations Analyst
GS–503 Comptroller Assistant
GS–510 Accounting Officer, Operating Accountant
GS–511 Internal Auditor
GS–525 Accounting Technician
GS–540 Voucher Examiner
GS–570 Accountant
GS–1160 Financial Analyst

—Priority #4—Public and Indian Housing—Headquarters and Field

Eligibility for buyouts in this group apply to all employees in all titles, series and grades in all geographical locations in headquarters and the field. Examples of occupational series and titles in this organization include, but are not limited to:

GS–301 Special Asst., Mgmt. Info. Spec., Prog. Support Spec.
GS–303 Staff Asst., Program Asst.
GS–304 Information Receptionist
GS–318 Secretary
GS–322 Clerk-Typist
GS–326 Office Automation Clerk
GS–335 Computer Clerk
GS–343 Program Analyst, Management Anal.
GS–344 Management Asst.
GS–503 Financial Asst.
GS–801 General Engineer
GS–807 Landscape Architect
GS–808 Architect
GS–810 Civil Engineer
GS–828 Construction Analyst
GS–1082 Writer-Editor
GS–1101 Desk Ofcr., Housing Spec., Revitalization Spec., Native American Program Spec.
GS–1160 Financial Analyst
GS–1163 Insurance Examiner
GS–1171 Appraiser
GS–1173 Housing Management Spec.
GS–1530 Statistician

—Priority #5—Other Priority Program Operations—Headquarters and Field

Eligibility for buyouts in this group apply to all employees in all titles, series and grades in all geographical locations in headquarters and the field based on the employee's retirement service computation date (SCD). Examples of occupational series and titles in this category include, but are not limited to:

GS–246 Industrial Relations Specialist
GS–301 Spec. Asst., CPD Rep., Field Mgmt. Ofcr.
GS–303 Program Asst., Staff Asst.
GS–305 Mail Clerk
GS–806 Materials Engineer
GS–810 Structural Engineer
GS–830 Mechanical Engineer
GS–905 Attorney Advisor
GS–950 Paralegal Specialist
GS–963 Legal Instruments Examiner
GS–986 Legal Technician
GS–0020 Community Planner
GS–0101 Social Science Analysts
GS–1101 Grants, Spec., Housing Spec., Asset Mgr., Rehab. Spec.
GS–1165 Loan Specialist
GS–1170 Realty Specialist
GS–1173 Housing Mgmt. Specialist
GS–1801 Compliance Specialist

—Priority #6—Other Program Operations

Eligibility for buyouts in this group apply to all employees in all titles, series and grades in all geographical locations in headquarters and the field based on the employee's retirement service computation date (SCD). Examples of occupational series and titles in this category include, but are not limited to:

GS–110 Economist

GS–260 EEO Specialist
GS–318 Secretary
GS–322 Clerk-typist
GS–326 Office Automation Clerk
GS–335 Computer Clerk/Asst.
GS–343 Management Analyst
GS–344 Management Assistant
GS–360 EEO Specialist
GS–361 EEO Assistant
GS–0028 Environmental Protect. Specialist
GS–1035 Public Affairs Specialist
GS–1102 Contracting Specialist
GS–1301 Environmental Policy Specialist

Appendix B: Annual Management Planning Strategy

''Some governments are not only trying to prevent problems, they are working to anticipate the future—to give themselves radar. This is extremely difficult in today's short-term political environment. But it is also extremely important, given the pace of change* * *''

David Osborne and Ted Gaebler,
Reinventing Government

HUD's new management planning strategy transforms the goals of HUD's Management Reform Plan into action. The HUD management plan process will directly link the Government Performance Results Act requirements for a strategic plan, program goals and objectives, performance measures, budget formulation, and the management process. This process will express how HUD measures performance, measuring outputs and outcomes of programs and operations. To guarantee that this plan meets local needs, HUD field staff will provide essential feedback. The new process will have the following steps:

1. Setting Priorities

The Secretary establishes major priorities for achieving the Department's mission.

2. Defining Goals and Objectives

The Deputy Secretary oversees the Assistant Secretaries, who develop specific goals and objectives to support the Secretary's priorities. The Chief Financial Officer is the process manager. In consultation with the Director of Budget and Assistant to the Deputy Secretary for Field Management, the Deputy Secretary coordinates the development of the Management Plan goals, objectives, performance measures, customer service standards, and management control plans. Policy and program guidance is then issued to the field to guide the development of preliminary field office-based Management Plans.

3. Scheduling Workload

The Management Plan will include preliminary workload schedules for various consolidated operations, including grant administration, physical and financial assessments, enforcement and recovery, rental assistance, funding, etc.

4. Creating Integrated Customer Service Plans

The Secretary's Representatives and Coordinators will plan and coordinate the development of proposed Field Office Management Plans, including integrated customer service plans. Program managers will work with the Secretary's Representatives and Coordinators on the integrated customer service plans and will also ensure that the plans respond to program workload requirements.

5. Internal Consultation

Secretary's Representatives and Coordinators will conduct sessions with the program managers to review the overall Management Plan priorities, goals, objectives, and policy guidelines.

6. External Consultation

The Secretary's Representatives and Coordinators and program managers will consult with HUD's major customers and partners (state, county, city, housing authorities, finance agencies, etc.).

7. Finalizing Management Plans

Consolidated and office-wide Management Plan proposals will be submitted by the Secretary's Representatives to the Deputy Secretary for review. The CFO will coordinate review, revision, and resource allocation requirements with the appropriate Assistant Secretary, budget, and field management officials. The Deputy Secretary will approve final Management Plans for implementation.

8. Implementing Management Plans

Management Plans will be carried out through an integrated service delivery process. The Secretary's Representatives, Coordinators, and Community Resource Representatives will be responsible for:

—Establishing an effective partnership and set of working relationships with customers;
—Helping state and local governments and related industry and nonprofit organizations make better use of HUD programs and services;
—Achieving housing and community and economic development goals efficiently and effectively.

Program managers and their staffs will:

—Carry out program administration (e.g., grants management, monitoring, technical assistance, policy interpretations and related oversight activities); and
—Provide technical support and assistance to the Secretary's Representatives and Coordinators.

9. Headquarters responsibilities

Headquarters program offices will be responsible for effectively and efficiently managing field programs and staff. They will ensure that program administration goals and objectives do not conflict with responsibilities of the Secretary's Representatives and Coordinators.

10. Performance appraisals

HUD is working with OPM to design a state-of-the-art performance-based appraisal system.

11. Information systems and reporting

The CFO develops and maintains an accurate and reliable Management Plan information system, accessible to headquarters and field managers. Monthly reports will be presented to the Management Committee with an executive summary of progress and problems in achieving major Management Plan goals. The Assistant to the Deputy Secretary for Field Management will develop a major component of this report, including quantitative and qualitative assessments of customer service results.

12. Annual process evaluation

The CFO, in coordination with principal staff, will conduct an annual evaluation of the Management Plan process in headquarters and the field. The CFO will report on major findings and recommendations for improvement to the Deputy Secretary. Improvement actions will be incorporated into the next draft.

Appendix C: HUD Salaries and Expenses and Full-Time Equivalents

HUD SALARIES AND EXPENSES AND FULL-TIME EQUIVALENTS

Programs	Actual 1996	Budget 1998	Target 2000
Housing	5,157	4,599	2,900
Public and Indian Housing	1,355	1,325	1,165
Ginnie Mae	63	72	72
Community Planning Development	844	820	770
Policy Development and Research	109	107	105
Fair Housing and Equal Opportunity	663	635	591
Dept. Equal Employment Opportunity	18	19	19
Department Management	105	105	105
Lead Hazard Control	24	24	24
Chief Financial Officer	381	300	220
General Counsel	498	465	369
Administration	988	965	590
Field Direction and Operational Support (Community Resource Representatives)	337	525	570
Total	10,542	9,961	7,500

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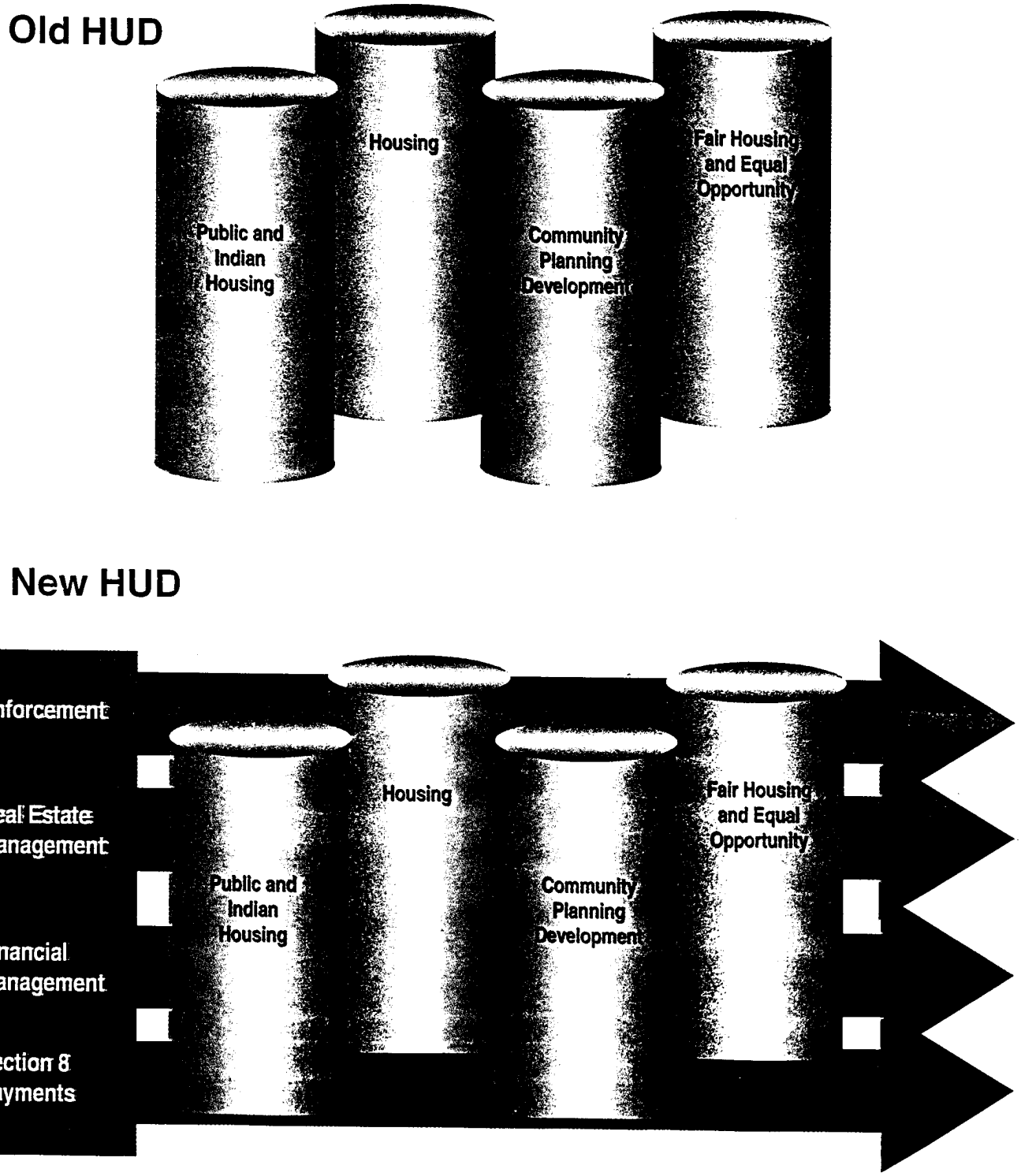
APPENDIX D: HUD 2020 STRUCTURAL REFORM



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Appendix E: Consolidated Centers

The following is a list of consolidated centers.

Department-wide
- Real Estate Assessment Center
- Enforcement Authority
- Economic Development and Empowerment Service
- Section 8 Financial Center for PIH and Housing

Office of Public and Indian Housing
- Troubled Agency Recovery Centers (TARCs)—(2)
- Special Applications Center
- Public and Indian Housing Grants Center

Office of Housing
- Single Family Homeownership Centers (HOCs)—(3)
- Multifamily Centers—(17)
- Title I Asset Recovery Center
- Multifamily Property Disposition Processing Center

Office of the Chief Financial Officer
- Accounting Center

Office of Administration
- Administrative Service Centers (ASC)—(3)
- Employee Service Center (ESC)

Appendix F: HUD Salary and Staff Reductions

HUD SALARIES AND EXPENSES: PROJECTED STAFF REDUCTION DURING DOWNSIZING PERIOD

	1997	1998	1999	2000	Total
Total Reduction Required	1,025	965	910	215	3,115
Staff On-Board, Start of FY	10,615	9,590	8,625	7,715	
How Reduction Can Be Achieved:					
Normal Attrition	325	290	260	215	1,090
Buyouts	600	400	.....	.....	1,000
Early outs	50	75	100	.....	225
Outplacements	50	200	300	.....	550
Temporaries	.....	.....	250	.....	250
Reductions-In-Force*	.....	.....	.....	.....	.....
Total Potential	1,025	965	910	215	3,115
Staff Reduction: Staff on Board, End of FY	9,590	8,625	7,715	7,500	

*Process to be planned in 1998 for use as necessary to meet targeted levels.

Assumptions:

Normal attrition: A 3.0% rate is used for normal attrition of on-board employees, traditionally less than 4%. (Note: this equates to an annual 1.5% FTE rate). This assumes a full hiring freeze until reduction goals are met.

Buyouts: Buyout projections are based on recent buyout experience and are consistent with our buyout plan under the current authority, which expires December 31, 1997.

Early outs: Early outs beyond FY 1997 assume continued OPM approval.

Outplacements: Special programs will be used to support placing employees outside the agency. These efforts can be intensified as necessary to achieve targeted reductions.

Separation of Temporaries: Although temporary employees will continue to support the transition, they can be separated as appropriate.

Reductions-in-Force: This process may be necessary in some areas to meet required staffing levels.

Dated: August 5, 1997.

Andrew Cuomo,

Secretary.

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Part III

Department of Agriculture

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions: Proposed Rule

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB03

Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations to delete the late and prevented planting provisions currently contained in many Crop Provisions, incorporate revised late and prevented planting provisions into the Common Crop Insurance Policy Basic Provisions, and add definitions and provisions that are common to most crops. The intended effect of this action is to provide policy changes that meet the needs of the insured, are easier to administer, and to delete repetitive provisions contained in various Crop Provisions.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business September 11, 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: Louise Narber, 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 12866

The Office of Management and Budget (OMB) has determined this rule to be significant, and therefore, this rule has been reviewed by OMB.

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the Kansas City address listed above. In summary, the analysis finds that the proposed rule makes several major changes in the implementation of prevented planting provisions. Specifically, the proposed rule: (1) eliminates substitute crop benefits, largely to reduce the likelihood of moral hazard; (2) increases prevented planting for cover crop or black dirt situations, providing better protection to producers who are truly unable to plant a crop for harvest; and (3) simplifies the payment method, making payments on an acre-by-acre basis in all cover crop/black dirt situations. These provisions are designed to improve the protection provided to producers in adverse prevented planting situations, and to simplify program operation.

Because this proposed rule is expected to be implemented in an actuarially sound manner, there are no associated excess losses that will be incurred by the Federal government in the aggregate. Two provisions—the increase in coverage in black dirt/cover crop situations provision and the ''separate payment'' provision—are expected to result in an increase in indemnities and, thus, an increase in rates. The elimination in substitute crop provisions results in reduced indemnities, and a rate decline in the aggregate. The net effect of these changes is likely to be small in terms of the rate impact, and will vary according to crop and location. Because of the small expected average rate impact, any changes in reimbursements to private companies for delivery or any underwriting gains are also expected to be small. The amendments made to these regulations will simplify program operations, benefit producers, FCIC, and reinsured companies, and conform with the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994.

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 Basic Provisions and Various Crop Insurance Provisions are described in the background.

The title of this information collection is ''Multiple Peril Crop Insurance.'' The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and an acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers that are eligible for Federal crop insurance.

The information requested is necessary for the insurance company 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.

The burden associated with the Basic Provisions and Various Crop Insurance Provisions is estimated at 19.5 minutes per response for each of the 2.2 responses from approximately 1,610,629 respondents each year for a total of 1,127,407 hours.

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, D.C. 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), Pub. L. 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 12612

It has been determined under section 6(a) of Executive Order 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 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. 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 12372

This program is not subject to the provisions of Executive Order 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 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have 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 action against FCIC 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 amend the Common Crop Insurance Regulations Basic Provisions (Basic Provisions) (7 CFR part 457) and the Crop Provisions (7 CFR 457.101–457.157) effective for the: 1998 and succeeding crop years for wheat, barley and oats in counties with a December 31 contract change date, flax, cotton, ELS cotton, sunflowers, sugar beets in counties with a November 30 contract change date, corn, grain sorghum, soybeans, raisins, fresh market tomatoes (guaranteed production plan), rice, and dry beans; 1999 and succeeding crop years for wheat, barley and oats in counties with a June 30 contract change date, rye, Texas citrus tree, Florida citrus fruit, sugar beets in counties with an April 30 contract change date, figs, pears, nursery, sugarcane, forage production, walnuts, almonds, safflowers, fresh market sweet corn, macadamia trees, cranberry, onion, grapes, fresh market tomatoes (dollar plan), peppers, forage seeding, peaches, and plums; and 2000 and succeeding crop years for Texas citrus fruit, Arizona—California citrus, and macadamia nuts. This rule proposes to delete the late and prevented planting provisions, certain definitions and other provisions that are applicable to most crops and are currently contained in the Crop Provisions and incorporate these definitions and provisions into the Basic Provisions to better meet the needs of the insured. Those Crop Provisions which will not be final until after this rule has been published as a proposed rule will be similarly revised when this rule is finalized. This rule also proposes to make substantive changes as follows:

1. 7 CFR 457.2 (b), (c), and (d)—Specify that FCIC may offer the catastrophic level of coverage directly to the insured through local Farm Service Agency (FSA) offices. Also specify that a person may not have more than one contract in force on the same crop, for the same crop year, in the same county except as specified in the Catastrophic Risk Protection Endorsement and 7 CFR part 400, subpart T, whether insured by FCIC through local FSA offices or insured by a company which is reinsured by FCIC. Also, clarify that if multiple contracts of insurance are shown to be inadvertent and without the fault of the insured, the contract with the earliest signature date on the application will be in effect.

2. 7 CFR 457.8 (Basic Provisions) are revised as follows:

a. Section 457.8(b) is revised by deleting the provisions that authorize the Manager of FCIC to extend any sales closing date.

b. The ''Agreement to Insure'' provision is amended to include provisions regarding conflicts between the Basic Provisions, Crop Provisions, Special Provisions, and Catastrophic Risk Protection Endorsement. Current provisions regarding conflicts between policy forms were contained in both the Basic and Crop provisions.

c. Section 1—Delete all paragraph designations to avoid confusion in case of any future revision. Delete the definitions of ''ASCS'' and ''ASCS Farm Serial Number'' and replace with ''FSA'' and ''FSA farm serial number.'' These changes are necessary to bring these regulations into conformance with the Department of Agriculture Reorganization Act of 1994. Delete the definition of ''Late Planting Agreement Option'' (LPAO) because the provisions for late planted crops are now incorporated into the Basic Provisions and those crops for which such coverage is not available will be designated in the Crop Provisions. Late planting will automatically be available and will not require a separate option. Delete the definition of ''reporting date'' because ''acreage reporting date'' is defined and this definition refers to the same date. Revise the definition of ''abandon'' to clarify that failure to continue providing sufficient care or failure to harvest in a timely manner is not considered abandonment if such failures are due to an insurable cause of loss. Revise the definition of ''acreage report'' and ''acreage reporting date'' to clarify that the final acreage reporting date may be determined in accordance with section 6 (Report of Acreage) of the Basic Provisions rather than the acreage reporting date contained in the Special Provisions. Define the term ''basic unit'' rather than ''unit'' to be consistent with the language contained in the current Crop Provisions. The definition of ''unit'' amended to ''basic unit'' is revised to remove provisions regarding the determination of share. These provisions will now be covered in section 10 (Share Insured). Delete duplicative provisions contained in the definition of ''contract.'' Clarify that the definition of ''contract'' is synonymous with ''policy.'' Revise the definition of ''county'' to include acreage in a field that extends into an adjoining county if the county boundary is not readily discernible. Revise the definition of ''insured'' to delete the reference subsection designation. Revise the definition of ''loss, notice of'' by adding ''whichever is earlier'' after the two specific times notice of loss must be given. Revise the definition of ''person'' to clarify that the United States government or any agency thereof is not considered a ''person.'' Revise the definition of ''policy'' to indicate that the Catastrophic Risk Protection Endorsement may also be applicable. Revise the definition of ''premium

billing date'' to indicate that the date is contained in the Special Provisions. Revise the definition of ''practical to replant'' to add marketing window as an additional factor that must be considered when determining whether or not it is practical to replant; remove the reference to the LPAO; and specify that the unavailability of seed or plants will not be considered a valid reason for failure to replant. Revise the definition of ''price election'' to specify that price elections will be contained in the Special Provisions. Revise the definition of ''share'' to remove provisions regarding how the share is determined. Add definitions for the terms ''Act,'' ''days,'' ''deductible,'' ''final planting date,'' ''FSA,'' ''FSA farm serial number,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''non-contiguous,'' ''Palmer Drought Severity Index,'' ''planted acreage,'' ''prevented planting,'' ''prevented planting, notice of,'' ''production guarantee (per acre),'' ''replanting,'' ''timely planted,'' ''USDA,'' ''void,'' and ''written agreement.''

d. Section 2—Reformat this section and add a provision in section 2(b) stating that an application is not acceptable unless it contains all material information, including all social security numbers and employer identification numbers, as applicable, coverage level, price election, etc. If a producer with a substantial beneficial interest in an insured crop refuses to provide a social security number or employer identification number, the share insurable under the policy will be reduced commensurately by that producer's share, unless the producer has been placed on the nonstandard classification system list in which case insurance will not be available to that entity.

e. Section 2(e)—Specify that a person who is ineligible for crop insurance because of a delinquent debt may become eligible if the person repays the debt, executes an agreement to repay the debt and makes all payments in accordance with the agreement, or has the debt discharged in bankruptcy. If the repayment, execution of the agreement, or discharge occurs after the sales closing date for the crop, the person is not eligible for crop insurance until the next crop year. This is to conform with the ineligible file regulations.

f. Section 3(b)—Remove the provisions that authorize the insurance provider to assign a coverage level if the producer does not elect one. These provisions are no longer necessary because an application will not be accepted if it is not complete.

g. Section 3(c)—Specify that if the producer filed a claim for any crop year, the amount of production used to complete the claim for indemnity will be the production report for that crop year unless otherwise specified by FCIC. Also, specify that production and acreage for the prior crop year must be reported for each proposed optional unit on or before the production reporting date.

h. Section 3(e)—Add a provision to indicate that an updated price election or amount of insurance may be announced not later than 15 days prior to the sales closing date to allow FCIC the flexibility to adjust these amounts to more accurately reflect market conditions.

i. Section 4—Add a provision allowing additional price elections to be announced after the contract change date to conform with section 3(e).

j. Section 6—Reformat this section and change the date by which an insured must submit an annual acreage report by allowing the insured until the latest applicable spring or fall acreage reporting date when multiple crops are insured in a county. However, if the Special Provisions designate separate planting periods, the insured must submit an acreage report on or before the acreage reporting date contained in the Special Provisions for the planting period. Specify that instead of the production guarantee or amount of insurance being reduced proportionately when the actual share, acreage, practice, type or other material information results in a lower premium than determined under the reported information, only the production guarantee or amount of insurance will be reduced to conform to the correct information. Specify that, if liability is denied for unreported units, the producer's share of any production from the unreported units will be allocated as production to count to the reported units in proportion to the liability on each reported unit. The production allocated in this manner will not be used to compute the producer's yield for actual production history (7 CFR part 400, subpart G). Also, add a provision to specify that if information reported by the producer is incorrect and results in an overstatement of liability, in the subsequent crop years that the producer is insured, the producer may be required to provide documentation to substantiate the report of acreage in those subsequent years, including but not limited to an acreage measurement service at the producer's expense.

k. Section 7—Clarify that any amount owed by the producer to the insurance provider related to any crop insured under the Act will be deducted from any replant payment, prevented planting payment or indemnity due the insured for any crop insured under the authority of the Act with the same insurance provider. Specify that the premium will be computed using the price election or amount of insurance the producer elects or the insurance provider assigns.

l. Section 8—Delete section 8(b)(2) since crops planted during the late planting period will be insured unless otherwise specified in the Crop Provisions and redesignate the following sections. Replace ''Special Provisions'' with ''policy provisions'' in redesignated section 8(b)(2). Replace ''unless we agree, in writing, to insure such crop'' with ''written agreement'' in redesignated section 8(b)(5).

m. Section 9(a)(1)—Specify that acreage will not be insurable if it has not been planted and harvested within one of the 3 previous calendar years, unless such acreage was not planted to comply with any other United States Department of Agriculture (USDA) program or because of crop rotation, (*e.g.*, corn, soybeans, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again), unless the crop provisions specifically allow insurance for such acreage.

n. Section 9(a)(2)—Specify that acreage that has been strip mined will be insurable only by written agreement, unless crops produced for food or fiber have been harvested from the acreage for at least 5 consecutive crop years after it was strip mined.

o. Section 9(a)(6)—A new section is added to clarify that acreage planted in any manner other than as specified in the policy provisions for the crop is not insurable unless otherwise specified by a written agreement, if applicable.

p. Section 10—Add provisions to clarify that 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; and a lease containing provisions for EITHER a minimum payment OR a crop share (e.g., a lease provides for a 50/50 share or 100 dollars, whichever is greater) will be considered a cash lease.

q. Section 11—Add provisions to clarify the date at which insurance attaches and redesignate the following provisions.

r. Section 13(d)—Delete section 13(d) and redesignate section 13(e) as 13(d). This provision required the insurance provider to measure the total acres in the unit for the crop that is replanted even if only a small portion of the acres were replanted. Without this provision

only the replanted acres need to be determined.

s. Section 14(a)—Add a new paragraph to clarify that producers must cooperate in the investigation or settlement of a claim.

t. Section 15(c)—Amend the provision to delete a reference to the FCI–78A form since it is no longer in use.

u. Section 16—Add a new section which incorporates the coverage for acreage that is planted after the final planting date previously included in the Crop Provisions. This section will amend the late planting provisions to: (1) Differentiate between the production guarantees or amounts of insurance for acreage planted to the insured crop during the late planting period and acreage planted to the insured crop after the late planting period; and (2) amend the reductions in production guarantees or amounts of insurance for acreage planted to the insured crop during the late planting period. The production guarantee or amount of insurance for acreage planted to the insured crop during the twenty-five day late planting period will be reduced one percent per day for each day the acreage is planted after the final planting date. The maximum reduction for acreage planted during the late planting period will be 25 percent. Current late planting provisions contained in the Crop Provisions reduce the production guarantee or amount of insurance for each acre for each day planted after the final planting date by one percent for the first through the tenth day and two percent for the eleventh through the twenty-fifth day, resulting in a maximum reduction of 40 percent. This change provides increased coverage for acreage planted in the last 15 days of the late planting period and therefore should maintain an incentive to plant the insured crop during the late planting period. A strong incentive to plant should reduce the number of prevented planting claims and related expenses.

v. Section 17—Add a new section to incorporate the prevented planting coverage previously included in the Crop Provisions. FCIC proposes to remove the substitute crop provisions contained in the current prevented planting provisions. These provisions allow insureds with limited or additional coverage to receive a prevented planting production guarantee for acreage planted to a substitute crop. Removal of these provisions will eliminate problems associated with determining the crop originally intended to be planted and increase incentives to plant in response to market signals.

w. Section 17(a)(2)—Require the insured to notify the insurance provider within 72 hours after the final planting date if the insured is prevented from planting by such date, regardless of whether or not the insured intends to plant any acreage of the insured crop after the final planting date. Under current prevented planting provisions, the first notice the insurance provider receives of prevented planting is when prevented planting acreage is listed on the acreage report. In some cases, this may be nearly two months after the final planting date due to the change in the acreage reporting date. This change provides the insurance provider a better opportunity to verify that the insured was prevented from planting due to an insured cause of loss.

x. Section 17(b)—Specify that the Crop Provisions will contain a prevented planting coverage level percentage that will automatically apply to the insured's crop policy if the insured does not elect an available prevented planting coverage level percentage on or before the sales closing date. The Actuarial Table will provide the additional prevented planting coverage elections available to the producer for an additional premium. FCIC proposes to offer producers with limited or additional coverage a 60 percent prevented planting coverage level (60 percent of the insured production guarantee for timely planted acreage) for coarse grains (corn, grain sorghum, and soybeans), small grains (barley, flax, oats, rye, and wheat), dry beans, and sunflower seed, with an option for the insured to increase the coverage to 65 or 70 percent; and a 45 percent prevented planting coverage level for cotton, ELS cotton, sugar beets, onions, and rice with an option for the insured to increase the coverage to 50 or 55 percent. Insureds who have a Catastrophic Risk Protection Endorsement will be limited to the lowest prevented planting coverage level percentage available for the crop. Placing prevented planting coverage level percentages in the Crop Provisions and Actuarial Table allows FCIC to establish prevented planting coverage levels that are appropriate on a crop-by-crop basis.

y. Section 17(e)(1)—Specify that the maximum number of acres eligible for a prevented planting payment will be: (1) For crops with production guarantees based on the actual production history (APH) or crops that do not require yield certification (except those for which the crop provisions require a processor contract), the greatest number of acres of the insured crop included in the APH data base or insured in any one of the 4 most recent crop years, excluding any acreage of the insured crop for which a prevented planting production guarantee was established and was planted to a substitute crop; and (2) For any crop for which the Crop Provisions require a contract to be executed with a processor, the number of acres required to be grown in the current crop year under the processor contract if such contract stipulates a specific number of acres from which all production is to be delivered. If the contract stipulates a specific amount of production to be delivered, the maximum eligible acreage will be determined by dividing the amount of production to be delivered under the processor contract by the approved yield, without recognition of reductions to transitional yields due to failure to certify production for a prior year, using the same unit of measure for both amounts. This section is also amended to allow an insured who did not plant any crop that is insurable in the county in the 4 most recent crop years, to request a written agreement to establish the maximum number of acres that will be eligible for prevented planting coverage.

z. Section 17(e)(2)—Specify the timing and contents of a request for a written agreement.

aa. Section 17(e)(3)—Specify that the total number of acres requested for all crops insured under the authority of the Federal Crop Insurance Act cannot exceed the number of acres of cropland in the insured's farming operation for the crop year.

bb. Section 17(e)(4)—Amend the provisions to allow the maximum eligible number of prevented planting acres for certain crops to be increased under certain conditions, if the number of acres in an insured's farming operation is greater than the number of acres farmed the previous year to avoid penalizing insureds who expand their farming operations.

cc. Section 17(e)(5)—Clarify that any acreage of the crop that is planted will be subtracted from eligible prevented planting acreage. Previous provisions provided that only insured crop acreage would be subtracted.

dd. Section 17(f)(1)—Clarify that prevented planting coverage will not be provided for any acreage that does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Current provisions specify that the 20/20 rule applies to the acreage in the unit, which could include both insurable and uninsurable acreage. This provision also specifies that the insurance provider will assume that any prevented planting acreage within a field that contains planted acreage

would have been planted to the same crop that is planted in the field, unless the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field and the insured provides proof of the intent to plant such acreage to another crop.

ee. Section 17(f)(4)—Clarify that prevented planting coverage will not be provided if the insured or any other person receives a prevented planting payment for any crop for the same unit in the same crop year, except in the case of double cropped acreage if the insured has coverage greater than that applicable to the catastrophic risk protection plan of insurance. Also, clarify that in order to qualify for prevented planting coverage for double-cropped acreage, the insured must have records of acreage and production to prove that the acreage was double-cropped in each of the last four years in which the insured crop was grown on the acreage.

ff. Section 17(f)(5)—Clarify that a cover crop may be hayed or grazed after the final planting date for the insured crop without affecting prevented planting eligibility. Current provisions do not specify the date after which the cover crop may be hayed or grazed. Also, amend the provisions to clarify that prevented planting coverage is not allowed for acreage that is prevented from being planted, if any crop from which the insured derives any benefit under any program administered by the USDA is planted and fails. This clarification is intended to prevent a producer from receiving a benefit for a failed crop or income from a harvested crop, and an additional benefit for any crop that is prevented from being planted, unless the insured has coverage greater than that applicable to the catastrophic risk protection plan of insurance and can prove a history of double cropping.

gg. Section 17(f)(6)—Add a provision specifying that prevented planting coverage will not be provided if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only).

hh. Section 17(f)(9)—Specify that prevented planting coverage will not be provided for any acreage for which the producer cannot provide proof that he or she had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the production guarantee or amount of insurance. Current provisions state ''. . . with the expectation of at least producing the production guarantee or amount of insurance.''

ii. Section 17(f)(10)—Clarify that prevented planting coverage will not be provided for any acreage based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented the insured from planting.

jj. Section 17(f)(11)—Specify that prevented planting coverage will not be provided on any acreage based on a price election, amount of insurance or production guarantee for a crop type that the producer did not plant in at least one of the four most recent years unless allowed by the policy provisions so that producers receive benefits commensurate with their actual planting practices.

kk. Section 17(g)—Amend the provisions to allow prevented planting payments on a per acre basis once the specified minimum number of acres has been prevented from being planted. Per acre payment recognizes a producer's loss on each acre that is prevented from being planted. Current provisions combine production guarantees for planted and prevented planting acreage and provides no payment when production from planted acreage exceeds this combined guarantee.

ll. Section 18—Add a new section 18 that provides the requirements for insurance coverage by written agreement previously included in the Crop Provisions. FCIC has a long-standing policy of permitting modification of certain provisions of the insurance contract by written agreement. This new section will cover the application for, and duration of, written agreements.

mm. Sections 17 (redesignated as section 20)—For FCIC policies, amend the reference to the appeals provisions to specify 7 CFR part 11 since FCIC does not currently have an informal appeals process. For reinsured policies, amend the provisions to specify that failure to agree with any factual determination made by the FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11. Also, clarify that any award determined by arbitration cannot exceed the amount of liability established or which should have been established under the policy.

nn. Section 20 (redesignated as section 23)—Remove the provision that authorizes FCIC to cancel a policy for violation of the conservation provisions of the Food Security Act of 1985 to conform to the Federal Agriculture Improvement and Reform Act of 1996. Add a provision to allow the insurance provider to retain up to 20 percent of the premium to defray expenses and handling since most violations will not be discovered until loss adjustment and the insurance provider will have already incurred costs associated with the delivery of the policy.

oo. Section 21 (redesignated as section 24)—For FCIC policies, revise to specify that any amount illegally or erroneously paid to the producer, or that is owed to the insurance provider and is delinquent, may be recovered by the insurance provider through offset or other collection action. Also specify that, if the insurance provider determines that it is necessary to refer the debt to government collection centers or the Department of Treasury Offset Program, the producer agrees to pay all of the expenses of collection.

pp. Section 24 (redesignated as section 27)—Clarify that the policy will be voided if the producer commits fraud or misrepresents a material fact. Such voidance will be effective with the beginning of the crop year in which such acts occurred. Voidance will have no effect on subsequent crop years unless a violation also occurred in that subsequent crop year or the producer is otherwise suspended, debarred or disqualified. The producer will be required to pay up to 20 percent of the premium owed to defray costs already incurred in the service of the policy.

qq. Section 25 (redesignated as section 28)—Revise by adding a provision that states that liability under the policy cannot be increased by a transfer of coverage. Also revise by adding a provision stating that the transferee must be eligible for crop insurance.

rr. Section 26 (redesignated as section 29)—Clarify that no cause of action will lie against FCIC arising from any assignment. Also specify that if the insured suffered a loss from an insurable cause and failed to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60 day period has expired.

ss. Add a new section 34 to incorporate the optional unit structure requirements previously included in the Crop Provisions.

3. Section 457.101 (Small Grains Crop Insurance Provisions); § 457.104 (Cotton Crop Insurance Provisions); § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions); § 457.110 (Fig Crop Insurance Provisions); and § 457.113 (Coarse Grains Crop Insurance Provisions)—Delete all references to the ''Common Crop Insurance Policy'' and replace them with ''Basic Provisions.''

4. Section 457.101 (Small Grains Crop Insurance Provisions); § 457.104 (Cotton Crop Insurance Provisions); § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions); § 457.106 (Texas Citrus Tree Crop Insurance Provisions); § 457.107 (Florida Citrus Fruit Crop Provisions); § 457.108 (Sunflower Seed Crop Insurance Provisions); § 457.109 (Sugar Beet Crop Insurance Provisions); § 457.110 (Fig Crop Insurance Provisions); § 457.111 (Pear Crop Insurance Provisions); § 457.113 (Coarse Grains Crop Insurance Provisions); § 457.114 (Nursery Crop Insurance Provisions); § 457.116 (Sugar Cane Crop Insurance Provisions); § 457.117 (Forage Production Crop Insurance Provisions); § 457.119 (Texas Citrus Fruit Crop Insurance Provisions); § 457.121 (Arizona-California Citrus Crop Insurance Provisions); § 457.122 (Walnut Crop Insurance Provisions); § 457.123 (Almond Crop Insurance Provisions); § 457.124 (Raisin Crop Insurance Provisions); § 457.125 (Safflower Crop Insurance Provisions); § 457.128 (Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions); § 457.129 (Fresh Market Sweet Corn Crop Insurance Provisions); § 457.130 (Macadamia Tree Crop Insurance Provisions); § 457.131 (Macadamia Nut Crop Insurance Provisions); § 457.132 (Cranberry Crop Insurance Provisions); § 457.135 (Onion Crop Insurance Provisions); § 457.138 (Grape Crop Insurance Provisions); § 457.139 (Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions); § 457.141 (Rice Crop Insurance Provisions); § 457.148 (Fresh Market Pepper Crop Insurance Provisions); § 457.150 (Dry Beans Crop Insurance Provisions); § 457.151 (Forage Seeding Crop Insurance Provisions); § 457.153 (Peach Crop Insurance Provisions) and § 457.157 (Plum Crop Insurance Provisions)—

(a) Delete definitions that are added to the Basic Provisions (§ 457.8) by this rule. This allows FCIC to remove duplicative provisions from the Crop Provisions.

(b) Delete or modify section 2 because the requirements for optional units have now been incorporated into section 34 of the Basic Provisions.

(c) Delete, modify, or add late and prevented planting provisions since these provisions are now included in sections 16 and 17 of the Basic Provisions.

(d) Revise section designations, as necessary, to conform to changes made in the Basic Provisions (§ 457.8), and removal of unit division provisions in some crop provisions.

(e) Delete the written agreement provisions because they are now incorporated into section 18 of the Basic Provisions.

(f) Make minor style and conforming changes.

5. Section 457.104 (Cotton Crop Insurance Provisions); § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions); § 457.108 (Sunflower Seed Crop Insurance Provisions); and § 457.113 (Coarse Grains Crop Insurance Provisions)—Revise the provisions in the ''Insurable Acreage'' section to specify that any acreage damaged to the extent that a majority of the producers in the area would not normally care for the crop must be replanted unless the insurance provider agrees that it is not practical to replant. The current provisions specify that damage must exist such that the remaining stand will not produce at least 90 percent of the production guarantee. This change removes the inequity caused by the current language when a landlord and tenant have different production guarantees on the same acreage due to different coverage levels that were selected, and standardizes the language among the various Crop Provisions.

6. A new provision is added in section 11 of § 457.104 (Cotton Crop Insurance Provisions) and section 12 of § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions) to indicate that the prevented planting production guarantee will be based on the approved yield for solid-planted acreage.

List of Subjects in 7 CFR Part 457

Crop insurance, Common crop insurance policy; Almonds; Arizona-California citrus; Coarse grains; Cotton; Cranberry; Dry beans; Extra long staple cotton; Figs; Florida citrus fruit; Forage production; Forage seeding; Fresh market pepper; Fresh market sweet corn; Fresh market tomato (Dollar plan); Fresh market tomato (Guaranteed production plan); Grape; Macadamia Nut; Macadamia Tree; Nursery; Onion; Peach; Pears; Plum crop insurance provisions; Raisin; Rice; Safflower; Small grains; Sugar beet; Sugar cane; Sunflower seed; Texas citrus fruit; Walnut.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR part 457, as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

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

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

2. Section 457.2 is amended by removing paragraph (e), redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g) respectively and revising paragraphs (b), (c), and (d) to read as follows:

§ 457.2 Availability of federal crop insurance.

* * * * *

(b) The insurance is offered through two methods. First, the Corporation may offer the contract for the catastrophic level of coverage contained in this part and part 402 directly to the insured through local offices of the Department of Agriculture. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation (FCIC). Second, companies reinsured by the Corporation may offer contracts containing the same terms and conditions as the contract set out in this part. These contracts are clearly identified as being reinsured by the Corporation.

(c) Except as specified in the Catastrophic Risk Protection Endorsement (part 402 of this chapter) and part 400, subpart T of this chapter, no person may have in force more than one contract on the same crop for the same crop year, in the same county, whether insured by the Corporation through local offices of the Department of Agriculture or insured by a company reinsured by the Corporation.

(d) Except as specified in paragraph (c) of this section if a person has more than one contract under the Act that provides coverage for the same loss on the same crop for the same crop year in the same county, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the multiple contracts of insurance were inadvertent and without the fault of the person. If the multiple contracts of insurance are shown to be inadvertent and without the fault of the insured, the contract with the earliest signature date on the application will be valid and all other contracts on that crop in the county for that crop year will be canceled. No liability for indemnity or premium will attach to the contracts so canceled.

* * * * *

3. Section 457.8 paragraph (b) is revised to read as follows:

§ 457.8 The application and policy.

(a) * * *

(b) The Corporation or the reinsured company may reject or discontinue the acceptance of applications in any county or of any individual application upon the Corporation's determination that the insurance risk is excessive. If the reinsured company rejects any application and such rejection is not required by the Corporation, the applicant must be referred to an agent authorized to sell the Corporation's policies of insurance.

4. Section 457.8 is amended by revising the policy to read as follows:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

[or Policy Issuing Company Name]

Common Crop Insurance Policy

(This is a continuous policy. Refer to section 2.)

FCIC Policies

This is an insurance policy issued by the Federal Crop Insurance Corporation (FCIC), a United States government agency. The provisions of the policy are published in the **Federal Register** and in chapter IV of title 7 of the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC.

Throughout this policy, ''you'' and ''your'' refer to the named insured shown on the accepted application and ''we,'' ''us,'' and ''our'' refer to the Federal Crop Insurance Corporation. 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.

Reinsured policies

This insurance policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy are published in the **Federal Register** and in the chapter IV of title 7 of the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC or 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 FCIC. No state guarantee fund will be liable for 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 insurance company providing insurance. 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 these Basic Provisions, the Crop Provisions, the Special Provisions, and the Catastrophic Risk Protection Endorsement, if applicable, the Special Provisions will control the Crop Provisions and these Basic Provisions; the Crop Provisions will control these Basic Provisions; and the Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

TERMS AND CONDITIONS

Basic Provisions

1. Definitions.

Abandon. Failure to continue providing sufficient care (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, unless such failures are due to an insurable cause.

Acreage report. A report required by paragraph 6 of these Basic Provisions that 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.

Acreage reporting date. The date contained in the Special Provisions or as provided in section 6 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.*).

Actuarial Table. The forms and related material for the crop year which are available for public inspection in your agent's office, and which show the amounts of insurance or production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable acreage, and other related information regarding crop insurance in the county.

Another use, notice of. The written notice required when you wish to put acreage to another use (see section 14).

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 for any reason, including but not limited to suspension, debarment, disqualification, placement on the ineligibility list, violation of the controlled substance provisions of the Food Security Act of 1985, etc., a new application must be filed.

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.

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 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis. (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 that combines the two cash leases and the land you own.) Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in section 34 of these Basic Provisions and in the applicable Crop Provisions. Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. No further unit division may be made after the acreage reporting date for any reason.

Cancellation date. The calendar date specified in each Crop Provision on which that Crop Provision will automatically renew unless canceled in writing by either you or us.

Claim for indemnity. A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 14).

Consent. Approval in writing by us allowing you to take a specific action.

Contract. (See ''policy'').

Contract change date. The calendar date by which we make any policy changes available for inspection in the agent's office (see section 4).

County. The county, parish, or other political subdivision of a state shown on your accepted application and includes acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

Coverage. The insurance provided by this policy, against insured loss of production or value, by unit as shown on your summary of coverage.

Coverage begins, date. The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit (see section 11 and the policy for specific provisions relating to prevented planting).

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 damaged to the extent that a loss is probable (see section 14).

Days. Calendar days.

Deductible. The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100%—65% = 35%).

Delinquent account. Any account you have with us in which premiums and 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 13).

End of insurance period, date of. The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 11).

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 production guarantee or amount of insurance per acre.

FSA. The Farm Service Agency, an agency of the USDA, or a successor agency.

FSA farm serial number. The number assigned to the farm by the local FSA office.

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 or amount of insurance, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

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.

Insured crop. The crop defined under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

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 or amount of insurance on the irrigated acreage planted to the insured crop.

Late planted. Acreage planted to the insured crop after the final planting date.

Late planting period. The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Special Provisions.

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, whichever is earlier (see section 14).

Negligence. The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

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.

Palmer Drought Severity Index. A meteorological index calculated by the National Weather Service to indicate prolonged and abnormal moisture deficiency or excess.

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. Person does not include the United States Government or any agency thereof.

Planted acreage. Land in which seed, plants, or trees have been placed 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.

Policy. The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the Actuarial Table for the insured crop, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

Practical to replant. Our determination, after loss or damage to the insured crop, based on all 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 after the end of the late planting period or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Unavailability of seed or plants will not be considered a valid reason for failure to replant.

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. The premium billing date is contained in the Special Provisions.

Prevented planting. Failure 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 by the end of the late planting period. You must have failed 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, notice of. Notice required within 72 hours of the final planting date if you are prevented from planting.

Price election. The amounts determined by FCIC and contained in the Special Provisions or an addendum thereto, to be used as a basis for computing the value per unit of production for the purposes of determining premium and indemnity under the policy.

Production guarantee (per acre). The number of pounds, bushels, tons, cartons, or other applicable units of measure determined by multiplying the approved actual production history (APH) yield per acre, calculated in accordance with 7 CFR part 400, subpart G, by the coverage level percentage you elect.

Production report. A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 3). The report contains previous years yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed crop and then replacing the seed or plants in the insured acreage.

Representative sample. Portions of the insured crop which are required to remain in the field for examination and review by our loss adjusters when making a crop appraisal, as specified in the Crop Provisions. In certain instances we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

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.

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 guarantee or amount of insurance coverage provided.

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'' above).

Termination date. The calendar date contained in the Crop Provisions upon which your policy ceases to exist for nonpayment of premium or any other amount due us under the policy.

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

USDA. United States Department of Agriculture.

Void. When the policy is considered not to have existed for a crop year as a result of concealment, fraud or misrepresentation (see section 27).

Written agreement. A document that alters designated terms of a policy and that is authorized under these Basic Provisions, the Crop Provisions, or the Special Provisions for the insured crop (see section 18).

2. Life of Policy, Cancellation, and Termination.

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy or by us.

(b) Applications that do not contain all social security numbers and employer identification numbers, as applicable, coverage level, price election, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop and who is not on the non-standard classification list refused to provide a social security number or employer identification number, the amount of coverage available under the policy will be reduced proportionately to that person's share of the crop. If the person refusing to supply a social security number or employer identification number is on the non-standard classification system list the insurance will not be available to that entity.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) All policies issued by us under the authority of the Act will terminate as of the coincidental or next termination date contained in these policies if any amount due us is not paid on or before the termination date for the crop on which the amount is due. Such unpaid debts will make you ineligible for any crop insurance provided under the Act until payment is made or you execute an agreement to repay the debt and all payments are made in accordance with the agreement, or your debt is discharged in your bankruptcy proceeding. If payment is made, you execute an agreement to repay the debt or are discharged in bankruptcy after the sales closing date for the crop, you will not be eligible for crop insurance until the next crop year. If we deduct an 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.

(f) 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.

(g) Your policy will terminate if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

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

(a) For each crop year the production guarantee or amount of insurance, coverage level, and price at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage. The information necessary to determine those factors will be contained in the Special Provisions or in the Actuarial Table.

(b) You may select only one coverage level offered by us for each insured crop. You may change the coverage level, price election, or amount of insurance for the following crop year by giving written notice to us not later than the sales closing date for the insured crop. Since the price election or amount of insurance may change each year, if you do not select a new price election or amount of insurance on or before the sales closing date, we will assign a price election or amount of insurance which bears the same relationship to the price election schedule as the price election or amount of insurance as was in effect for the preceding year. (For example: If you selected 100 percent of the market price for the previous crop year and you do not select a new price election for the current crop year, we will assign 100 percent of the market price for the current 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 production history for the purpose of determining your coverage for the current crop year. If you have filed a claim for any crop year, the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC. Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you did not provide the information stated above, the optional units will be combined into the basic unit.

(d) We may revise your production guarantee for any farm unit, and revise any indemnity paid based on that production guarantee, if we find that your production report under paragraph (c) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production.

(e) In addition to the maximum price election or amount of insurance available on the contract change date, we may provide an additional price election or amount of insurance no later than 15 days prior to the sales closing date. These additional amounts will not be less than the maximum amounts available on the contract change date. If you elect this additional amount on or before the sales closing date, any claim settlement and amount of premium will be based on this amount.

4. Contract Changes.

We may change the terms of your coverage under this policy from year to year. Any changes in policy provisions, price elections, amounts of insurance, premium rates, and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions except the price elections may be offered after the contract change date in accordance with section 3. You will be notified, in writing, of these changes not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

5. Liberalization.

If we adopt any revisions which would broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

6. Report of Acreage.

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops that have fall final planting dates (on or after August 15 but before December 31), you must submit an acreage report for all such crops on or before the latest applicable fall acreage reporting date for such crops; and

(2) If you insure multiple crops that have spring final planting dates (on or after December 31 but before August 15), you must submit an acreage report for all such crops on or before the latest applicable spring acreage reporting date for such crops.

(3) Notwithstanding the provisions in sections 6(a) (1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) 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 the acreage reporting date contained in the Special Provisions or the date determined in accordance with section 6(a)(2), or 5 days after the end of the late planting period for the insured crop.

(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) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop (insurable and not insurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted, including the date for late planted acreage.

(d) 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.

(e) 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.

(f) 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 to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated as production to count to the reported units in proportion to the liability on each reported unit if you file a claim for a loss. The production allocated in this manner will not be used to compute the yield for actual production history (see 7 CFR part 400, subpart G) for the purpose of determining your coverage for subsequent crop years.

(g) If the information reported by you on the acreage report for share, acreage, practice, type or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower premium than the actual premium determined to be due, the production guarantee or amount of insurance on the unit will be reduced to an amount that is consistent with the correct information. In the event that insurable acreage is under-reported for any unit, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; and

(2) Overstated liability, you may be required to provide documentation in subsequent crop years that support your report of acreage for those crop years including but not limited to an acreage measurement service at your own expense.

(h) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

7. Annual Premium.

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any replant payment, prevented planting payment, or indemnity due you for any crop insured with us under the authority of the Act. Any delinquent amount may be deducted from any amount owed to you by any United States Government agency or by us.

(c) The annual premium amount is determined by either:

(1) Multiplying the production guarantee per acre times the price election, times the premium rate, times the insured acreage, times your share at the time coverage begins, and times any premium adjustment percentages that may apply; or

(2) Multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share at the time coverage begins, and times any premium adjustment percentages that may apply.

(d) The premium will be computed using the price election or amount of insurance you elect or that we assign.

8. Insured Crop.

(a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates, production guarantees or amounts of insurance have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the policy 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 by a written agreement to insure such crop; or

(6) Used for wildlife protection or management.

9. Insurable Acreage.

(a) Acreage planted to the insured crop in which you have a share is insurable except for acreage:

(l) That has not been planted and harvested within one of the 3 previous calendar years, unless such acreage was not planted to comply with any other USDA program or because of crop rotation, (*e.g.*, corn, soybean, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again), or the crop provisions specifically allow insurance for such acreage;

(2) That has been strip mined unless otherwise approved by written agreement, or unless crops produced for food or fiber have been harvested from the acreage for at least five consecutive crop years after it was strip mined. Cover or forage crops will not qualify as a food or fiber crop for the purpose of this section.

(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 interplanted, unless allowed by the Crop Provisions;

(5) Which is otherwise restricted by the Crop Provisions or Special Provisions; or

(6) Planted in any manner other than as specified in the policy provisions for the crop unless a written agreement to such planting exists.

(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 ''non-irrigated,'' 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.

10. Share Insured.

(a) You may only insure your share (see 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.

(c) 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, insurance will cover only the crop 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.

(d) 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.

(e) Acreage rented for a percentage of the crop will be considered a crop share lease.

(f) 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. Acreage rented for cash will be considered a cash lease. A lease containing provisions for EITHER a minimum payment OR a crop share (e.g. lease provides for a 50/50 share or 100 dollars, whichever is greater) will be considered a cash lease.

11. Insurance Period.

(a) Except for prevented planting coverage (see section 17), coverage begins on each unit or part of a unit at the later of:

(1) The date we accept your application;

(2) The date the insured crop is planted; or

(3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.

(b) Coverage ends at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on a unit;

(4) The calendar date contained in the Crop Provisions for the end of the insurance period;

(5) Abandonment of the crop on the unit; or

(6) As otherwise specified in the Crop Provisions.

12. Causes of Loss.

The insurance provided is against only unavoidable loss of production directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) The failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop if applicable.

13. Replanting Payment.

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) No replanting payment will be paid if we determine it is not practical to replant.

14. Duties in the Event of Damage or Loss.

Your Duties—

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop; and

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions.

(4) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(i) Show us the damaged crop;

(ii) Allow us to remove samples of the insured crop; and

(iii) Provide us with records and documents we request and permit us to make copies.

(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 or value received for the insured crop on the unit and that any loss of production or value occurred during the insurance period and was directly caused by one or more of the insured causes specified in the Crop Provisions.

(f) All notices required in this paragraph 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 loss adjustment procedures established or approved by the Federal Crop Insurance Corporation.

15. Production Included in Determining Indemnities.

(a) The total production to be counted for a unit will include all production determined in accordance with the policy.

(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.

(c) If you elect to exclude hail and fire as insured causes of loss and the insured crop is damaged by hail or fire, appraisals will be made as described in the applicable Form FCI–78 ''Request To Exclude Hail and Fire'' or a form approved by the Federal Crop Insurance Corporation that contains the same terms.

16. Late Planting.

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The production guarantee or amount of insurance for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) The production guarantee or amount of insurance for each acre of the insured crop that is planted to the insured crop after the late planting period (or after the final planting date for crops that do not have a late planting period) will be the same as the production guarantee or amount of insurance that is provided for acreage of the insured crop that is prevented from being planted (see section 17). Such acreage must have been prevented from being planted by an insurable cause occurring within the insurance period for prevented planting coverage.

(c) The premium amount for insurable acreage planted to the insured crop after the final planting date will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage planted after the final planting date 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).

17. Prevented Planting.

(a) Unless limited by the Crop Provisions, a prevented planting payment may be made to you for eligible acreage you were prevented from planting if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after 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 or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence; and

(2) You notify us within 72 hours after the final planting date if you are prevented from planting by such date, whether or not you intend to plant any acreage of the insured crop after the final planting date. In addition to this notice, you must include any acreage of the insured crop that was prevented from being planted on your acreage report.

(b) The Actuarial Table contains the levels of prevented planting coverage that you may elect for the crop on or before the sales closing date. If you do not elect one of the available coverages by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions. If you have a Catastrophic Risk Protection Endorsement, you will receive the lowest level of prevented planting coverage available for the crop.

(c) The premium amount for acreage that is prevented from being planted will be the

same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted 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).

(d) Drought or failure of the irrigation water supply will not be considered to be an insurable cause of loss for the purposes of prevented planting unless, on the final planting date:

(1) For non-irrigated acreage, the area that is prevented from being planted is classified by the Palmer Drought Severity Index as being in a severe or extreme drought; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The base eligible acres for each insured crop will be determined in accordance with the following table.

Type of crop	Base eligible acres (if you have produced any crop for which insurance was available in any of the 4 most recent crop years)	Base eligible acres (if you have not produced any crop for which insurance is available in any of the 4 most recent crop years)
(i) (A) The crop's insurance guarantee is based on APH or the crop does not require yield certification and the crop is not required to be contracted with a processor to be insured.	(B) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop).	(C) The number of acres approved by written agreement in accordance with the provisions in this section and section 18.
(ii) (A) The crop must be contracted with a processor to be insured and the contract specifies a number of acres contracted for the crop year.	(B) The number of acres of the crop specified in the processor contract.	(C) The number of acres of the crop specified in the processor contract.
(iii) (A) The crop must be contracted with a processor to be insured and the processor contract specifies a quantity of production that will be accepted.	(B) The result of dividing the quantity of production stated in the processor contract by your approved yield (For the purposes of establishing the base number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for a prior year will not be used.).	(C) The result of dividing the quantity of production stated in the processor contract by your approved yield (For the purposes of establishing the base number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for a prior year will not be used.).

(2) All requests for written agreement under this section must be submitted to us on or before the sales closing date and include, by crop, the number of acres of all crops for which insurance is offered under the authority of the Act that you intend to plant in the county.

(3) The total number of acres requested for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year.

(4) The number of acres determined in section 17(e)(1)(i)(B) may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us on or before the sales closing date for the insured crop that you have purchased or leased additional land, that acreage will be released from any USDA program which prohibits harvest of a crop, or that the additional acreage has not been cropped in any of the four most recent crop years. Such acreage must have been purchased, leased, released from the USDA program, or intended to be brought into production in time to plant it for the current crop year.

(5) The result of section 17(e)(1) or 17(e)(4), whichever is applicable, will be reduced by subtracting the number of acres of the crop that are timely and late planted.

(f) Regardless of the number of eligible acres determined in section 17(e), prevented planting coverage will not be provided for any acreage:

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less (We will assume that any prevented planting acreage within a field that contains planted acreage would have been planted to the same crop that is planted in the field, unless the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field and you can prove that you intended to plant such acreage to another crop);

(2) For which the Actuarial Table does not designate a premium rate unless a written agreement designates such premium rate;

(3) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year, unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is planted and harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only);

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That is in excess of the number of acres eligible for a prevented planting payment or the number of eligible acres physically available for planting;

(9) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the production guarantee or amount of insurance;

(10) Based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting; or

(11) Based on a price election, amount of insurance or production guarantee for a crop type that you did not plant in at least one of the four most recent years. Types for which separate price elections, amounts of insurance, or production guarantees are available must be included in your APH database in at least one of the most recent four years, or, crops that do not require yield certification (crops for which the insurance

guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years.

(g) The prevented planting payment for any eligible acreage within a unit will be determined by:

(1) Multiplying the liability per acre for timely planted acreage of the insured crop (the amount of insurance per acre or the production guarantee per acre multiplied by the price election for the crop, or type if applicable) by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 17(g)(1) by the number of eligible prevented planting acres in the unit; and

(3) Multiplying the result of section 17(g)(2) by your share.

18. 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 18(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 crop 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.

19. Crops as Payment.

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

For FCIC policies

20. Appeals.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with appeal provisions published at 7 CFR part 11.

For reinsured policies

20. Arbitration.

(a) If you and we fail to agree on any factual determination, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration can exceed the amount of liability established or which should have been established under the policy.

21. 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 the units by us;

(3) Combination of the units; or

(4) 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 authority of the Act or by continuing insurance for which you previously applied, 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, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records which we request from third parties.

22. 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 paragraph 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, and you have not excluded coverage for fire from this policy, we will be liable for loss due to fire only 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 from fire is determined to exceed the indemnity paid or payable under such other insurance.

(3) For the purpose of subsection (b) of this section the amount of loss from fire will be the difference between the fair market value of the production of the insured crop on the unit involved before the fire and after the fire, as determined from appraisals made by us.

23. 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 specifically 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 provisions (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate 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 or to be paid by you.

For FCIC Policies

24. Amounts Due Us.

(a) Any amount illegally or erroneously paid to you or that is owed to us but is delinquent may be recovered by us through offset by deducting it from any loan or payment due you under any Act of Congress or program administered by any United States Government Agency, or by other collection action.

(b) Interest will accrue at the rate of 1¼ percent simple interest per calendar month, or any part thereof, on any unpaid premium amount due us. With respect to any premiums owed, interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(c) 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 paragraph 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.

(d) Penalties and interest will be charged in accordance with 31 U.S.C. 3717 and 4 CFR part 102. The penalty for accounts more than 90 days delinquent is an additional 6 percent per annum.

(e) Interest on any amount due us found to have been received by you because of fraud, misrepresentation or presentation by you of a false claim will start on the date you received the amount with the additional 6 percent penalty beginning on the 31st day after the notice of amount due is issued to you. This interest is in addition to any other amount found to be due under any other federal criminal or civil statute.

(f) If we determine that it is necessary to contract with a collection agency, refer the debt to government collection

centers, the Department of Treasury Offset Program, or to employ an attorney to assist in collection, you agree to pay all the expenses of collection.

(g) All amounts paid will be applied first to the payment of the expenses of collection second to the reduction of any penalties which may have been assessed, then to reduction of accrued interest, then to reduction of the principal balance.

For Reinsured Policies

24. Amounts Due Us.

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month on any unpaid amount due us. For the purpose of premium amounts due us, the 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 paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see subsection (d) of this section) if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

25. Legal Action Against Us.

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).

(c) 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.

26. 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.

27. Concealment, Misrepresentation or Fraud.

(a) This policy will be voided in the event that you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act. This policy will also be voided if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy.

(b) Even though the policy is void, you may still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.

(c) Voidance of this policy will result in you having to reimburse all indemnities paid during the crop year in which the violation occurred.

(d) Voidance will be effective with the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section also occurred in such crop years or you are disqualified or suspended or debarred under 7 CFR part 400, subpart R.

28. 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. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transferee must be eligible for crop insurance.

29. 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. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60 day period has expired. We will make a good faith effort to honor the terms of this assignment but no action will lie against us for failure to do so.

30. 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.

31. Applicability of State and Local Statutes.

If the provisions of this policy conflict with statutes of the State or locality in which this policy is issued, the policy provisions will prevail. State and local laws and regulations in conflict with federal statutes, this policy, and the applicable regulations do not apply to this policy.

32. 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.

33. 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. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.

34. Unit Division.

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

(1) 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;

(2) All optional units you select for the crop year are identified on the acreage report for that crop year;

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

(4) You have records of marketed or 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 optional unit must be kept separate until loss adjustment is completed by us; and

(b) Each optional unit must meet one or more of the following, unless otherwise specified in the Crop Provisions or allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In

areas which have not been surveyed using the systems identified above or another system approved by us, and in areas where boundaries are not readily discernable, each optional unit must be located in a separate FSA farm serial number; and

(2) 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 and 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 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. 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 all requirements of this section and the Crop Provisions are met.

(c) Optional units are not available for crops insured under a Catastrophic Risk Protection Endorsement.

(d) If you do not comply fully with the provisions in this section, 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 by us 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.

* * * * *

5. Section 457.101 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.101 Small grains crop insurance provisions.

The small grains crop insurance provisions for the 1998 and succeeding crop years in counties with a contract change date of December 31, and for the 1999 and succeeding crop years in counties with a contract change date of June 30, are as follows:

* * * * *

6. In § 457.101, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''days,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''practical to replant,'' ''production guarantee,'' ''replanting,'' and ''timely planted'' and revise the definitions of ''planted acreage'' and ''prevented planting'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), except for flax, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth. Flax seed must initially be planted in rows to be considered planted, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

Prevented planting—(In lieu of the definition contained in the Basic Provisions (§ 457.8)) Failure to plant the insured crop with proper equipment by the latest final planting date designated in the Special Provisions for the insured crop in the county or by the end of the late planting period. You must have failed 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.

* * * * *

7. In Section 457.101, remove the words ''Common Crop Insurance Policy'' and add in their place, the words ''Basic Provisions'' in the following places:

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

b. Section 4 Contract Changes;

c. Section 6 Insured Crop paragraphs (b)(1) and (b)(2);

d. Section 7 Insurance Period introductory text;

e. Section 8 Causes of Loss, introductory text;

f. Section 9 Replanting Payments, paragraphs (a)(1) and (c); and

g. Section 10 Duties in the Event of Damage or Loss.

8. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

In addition to the requirements of section 34.(b) of the Basic Provisions (§ 457.8), for wheat only, in addition to, or instead of, optional units by section, section equivalent or FSA farm serial number and by irrigated and non-irrigated practices, optional units may be established if each optional unit contains only initially planted winter wheat or initially planted spring wheat. Optional units may be established in this manner only in counties having both fall and spring final planting dates as designated in the Special Provisions.

9. In Section 6. Insured Crop, paragraph (b)(1) is revised to read as follows:

6. Insured Crop.

(a) * * *

(b) * * *

(1) May report all planted acreage when you report your acreage for the crop year and specify any acreage to be destroyed as uninsurable acreage. (By doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not destroy such acreage, you will be subject to the under-reporting provisions contained in section 6 of the Basic Provisions (§ 457.8)); or

* * * * *

10. In Section 7. Insurance Period, paragraphs (a)(1)(i), (a)(1)(ii), and (a)(2)(i) are revised to read as follows:

7. Insurance Period.

* * * * *

(a) * * *

(1) * * *

(i) The acreage must be planted on or before the final planting date designated in the Special Provisions for the insured crop except as allowed in section 12 of these crop provisions and section 16 of the Basic Provisions (§ 457.8).

(ii) Any acreage of the insured crop damaged before the final planting date, to the extent that growers in the area would not normally further care for the crop, must be replanted unless we agree that replanting is not practical.

(2) * * *

(i) The acreage must be planted on or before the final planting date designated in the Special Provisions for the type (winter or spring) except as allowed in section 12 of these crop provisions and section 16 of the Basic Provisions (§ 457.8).

* * * * *

11. In Section 12. Late Planting and Prevented Planting is revised to read as follows:

12. Late Planting.

A late planting period is not applicable to fall-planted wheat. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions also contain a final planting date for spring wheat will not be insured. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions contain only a fall final planting date will not be insured unless you were prevented from planting the winter wheat by the fall final planting date. Such acreage will be insurable, and the production guarantee and premium for the acreage will be determined in accordance with sections 16 (b) and (c) of the Basic Provisions (§ 457.8).

12. Section 13 is added to read as follows:

13. Prevented Planting.

(a) In addition to the provisions contained in section 17 of the Basic Provisions (§ 457.8), in counties for which the Special Provisions designate a spring final planting date, your prevented planting production guarantee will be based on your approved yield for spring-planted acreage of the insured crop.

(b) Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have

limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

13. Section 457.104 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.104 Cotton crop insurance provisions.

The cotton crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

14. In § 457.104, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''days,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''practical to replant,'' ''prevented planting,'' ''replanting,'' ''timely planted,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), cotton must be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

* * * * *

15. In § 457.104, remove the words ''Common Crop Insurance Policy'' and add in their place, the words ''Basic Provisions'' in the following places:

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

b. Section 4 Contract Changes;

c. Section 5 Cancellation and Termination Dates, introductory text;

d. Section 6 Insured Crop, introductory text;

e. Section 7 Insurable Acreage, introductory text;

f. Section 8 Insurance Period, paragraphs (a) and (b);

g. Section 9 Causes of Loss, introductory text; and

h. Section 10 Duties in the Event of Damage or Loss, paragraph (a).

* * * * *

16. Section 2. Unit Division is removed.

§ 457.104, Sections 3 through 13 [Redesignated as sections 2 through 12]

17. In § 457.104, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

18. Redesignated Section 6(b) is revised to read as follows:

6. Insurable Acreage.

* * * * *

(a) * * *

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

* * * * *

19. Redesignated Section 7(a) is revised to read as follows:

7. Insurance Period.

(a) In lieu of Section 11(b)(2) of the Basic Provisions (§ 457.8) (Harvest of the unit), insurance will end upon the removal of the cotton from the field.

* * * * *

20. Redesignated Section 10(c)(1)(i)(E) is amended by changing the section reference therein from 10 to 9.

* * * * *

21. Redesignated Section 10(c)(1)(iii) is amended by changing the section reference therein from 11.(d) to 10(d).

* * * * *

22. Redesignated Section 11 is revised to read as follows:

11. Prevented Planting.

(a) In addition to the provisions contained in section 17 of the Basic Provisions (§ 457.8), your prevented planting production guarantee will be based on your approved yield for solid planted acreage.

(b) Your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

* * * * *

23. Redesignated Section 12 is removed.

24. Section 457.105 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.105 Extra long staple cotton crop insurance provisions.

The extra long staple cotton crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

25. In § 457.105, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''days,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''practical to replant,'' ''prevented planting,'' ''timely planted,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), cotton must be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

* * * * *

26. In § 457.105, remove the words ''Common Crop Insurance Policy'' and add in their place, the words ''Basic Provisions'' in the following places:

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

b. Section 4 Contract Changes;

c. Section 5 Cancellation and Termination Dates;

d. Section 6 Insured Crop, introductory text;

e. Section 7 Insurable Acreage, introductory text;

f. Section 8 Insurance Period, paragraphs (a) and (b);

g. Section 9 Causes of Loss, introductory text; and

h. Section 10 Duties in the Event of Damage or Loss, paragraph (a).

27. Section 2. Unit Division is removed.

§ 457.105, Sections 3 through 13 [Redesignated as sections 2 through 12]

28. In § 457.105, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

29. Redesignated Section 6(b) is revised to read as follows:

6. Insurable Acreage.

* * * * *

(a) * * *

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

* * * * *

30. Redesignated Section 7(a) is revised to read as follows:

7. Insurance Period.

(a) In lieu of Section 11(b)(2) of the Basic Provisions (§ 457.8) (Harvest of the unit), insurance will end upon the removal of the cotton from the field.

* * * * *

31. Redesignated Section 10(c)(1)(i)(E) is amended by changing the section reference therein from 10 to 9.

* * * * *

32. Redesignated Section 10(c)(1)(iii)(A) is amended by changing the section reference therein from 11.(d) and (e) to 10(d) and (e).

* * * * *

33. Redesignated Section 10(c)(1)(iii)(B) is amended by changing the section reference therein from 11.(f) to 10(f).

* * * * *

34. Redesignated Section 10(e) is amended by changing the section reference therein from 11(d) to 10(d).

35. Redesignated Section 11 is revised to read as follows:

11. Late Planting.

A late planting period is not applicable to ELS cotton. Any ELS cotton that is planted after the final planting date will not be insured unless you were prevented from planting it by the final planting date. Such acreage will be insurable, and the production guarantee and premium for the acreage will be determined in accordance with sections 16(b) and (c) of the Basic Provisions (§ 457.8).

36. Redesignated Section 12 is revised to read as follows:

12. Prevented Planting.

(a) In addition to the provisions contained in section 17 of the Basic Provisions (§ 457.8), your prevented planting production guarantee will be based on your approved yield for solid planted acreage.

(b) Your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

37. Section 457.106 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.106 Texas citrus tree crop insurance provisions.

The Texas citrus tree crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

38. In § 457.106, 1. Definitions, remove the definitions of ''days,'' ''deductible,'' ''FSA,'' ''non-contiguous land,'' and ''written agreement.''

39. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8), that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the following, unless otherwise allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(2) Instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number optional units may be established if each optional unit is located on non-contiguous land.

40. Section 13 is revised to read as follows:

13. Late and prevented planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

41. Section 457.107 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.107 Florida citrus fruit crop insurance provisions.

The Florida citrus fruit crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

42. In § 457.107, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''non-contiguous land,'' and ''written agreement.''

43. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the following, unless otherwise allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(2) Instead of establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be established if each optional unit is located on non-contiguous land.

44. Section 6(d) is amended by changing the section reference therein from 6(f) to 6.

45. Section 11 is revised to read as follows:

11. Late and prevented planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

46. Section 457.108 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.108 Sunflower seed crop insurance provisions.

The sunflower seed crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

47. In § 457.108, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''days,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''practical to replant,'' ''prevented planting,'' ''production guarantee,'' ''replanting,'' ''timely planted,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), sunflower seed must initially be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

48. Section 2. Unit Division is removed.

§ 457.108, Sections 3 through 13 [Redesignated as Sections 2 through 12]

49. In § 457.108, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

50. Redesignated Section 4 is amended by changing the section reference therein from 2(f) to 2.

51. Redesignated Section 6(b) is revised to read as follows:

6. Insurable Acreage.

* * * * *

(a) * * *

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of growers in the area would not normally further care for the crop, must be replanted unless we agree that replanting is not practical.

52. Redesignated Section 9(a) is revised to read as follows:

9. Replanting Payments.

(a) In accordance with Section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment for sunflower seed is allowed if the sunflowers are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least ninety percent (90%) of the production guarantee for the acreage and it is practical to replant.

* * * * *

53. Redesignated Section 9(b) is amended by changing the section reference therein from 10.(c) to 9(c).

54. Redesignated Section 11(c)(1)(iii) is amended by changing the section reference therein from 12.(d) to 11(d).

55. Redesignated Section 11(d)(4) is amended by changing the section reference therein from 12.(d)(2) and (3) to 11(d)(2) and (3).

56. Redesignated Section 12 is revised to read as follows:

12. Prevented Planting.

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

57. Section 457.109 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.109 Sugar beet crop insurance provisions.

The sugar beet crop insurance provisions for the 1998 and succeeding crop years in counties with a contract change date of November 30, and for the 1999 and succeeding crop years in counties with a contract change date of April 30, are as follows:

* * * * *

58. In § 457.109, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''prevented planting,'' ''replanting,'' ''timely planted,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), sugar beets must initially be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

59. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

In addition to the requirements of section 34 of the Basic Provisions (§ 457.8), basic units may be divided into optional units only if you have a sugar beet processor contract that requires the processor to accept all production from a number of acres specified in the sugar beet processor contract. Acreage insured to fulfill a sugar beet processor contract which provides that the processor will accept a designated amount of production or a combination of acreage and production will not be eligible for optional units.

60. Section 14 is revised to read as follows:

14. Late Planting.

The late planting provisions contained in section 16 of the Basic Provisions (§ 457.8), are not applicable in California counties with a July 15 cancellation date.

61. Section 15 is revised to read as follows:

15. Prevented Planting.

(a) The prevented planting provisions contained in section 17 of the Basic Provisions (§ 457.8), are not applicable in California counties with a July 15 cancellation date.

(b) Except in those counties indicated in section 15(a), your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

62. Section 457.110 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.110 Fig crop insurance provisions.

The fig crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

63. In § 457.110, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''good farming practices,'' ''irrigated practices,'' ''non-contiguous land,'' and ''production guarantee.''

64. In § 457.110, remove the words ''Common Crop Insurance Policy'' and add in their place, the words ''Basic Provisions'' in the following places:

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

b. Section 4 Contract Changes;

c. Section 8 Insurance Period, introductory text; and

d. Section 9 Causes of Loss, paragraphs (a) and (b).

* * * * *

65. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

66. Section 11 is added to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

67. Section 457.111 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.111 Pear crop insurance provisions.

The pear crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

68. In § 457.111, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices, ''irrigated practice,'' ''non-contiguous,'' ''production guarantee (per acre),'' and ''written agreement.''

69. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the

following, unless otherwise allowed by written agreement:

(a) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(b) Instead of establishing optional units by section, section equivalent, or FSA farm serial number optional units may be established if each optional unit is located on non-contiguous land.

(c) In addition to, or instead of, establishing optional units by section, section equivalent, FSA farm serial number, or on non-contiguous land, optional units may be established by varietal group when provided for in the Special Provisions.

70. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

71. Section 457.113 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.113 Coarse grains crop insurance provisions.

The coarse grains crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

72. In § 457.113, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''days,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''practical to replant,'' ''prevented planting,'' ''replanting,'' ''timely planted,'' and ''written agreement'' and revise the definitions of ''planted acreage'' and ''production guarantee'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), coarse grains must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation), unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

Production guarantee (per acre)—In lieu to the definition contained in the Basic Provisions (§ 457.8), the number of bushels (tons for corn insured as silage) determined by multiplying the approved actual production history (APH) yield per acre, calculated in accordance with 7 CFR part 400, subpart G, by the coverage level percentage you elect.

* * * * *

73. In § 457.113, remove the words ''Common Crop Insurance Policy'' and add in their place, the words ''Basic Provisions'' in the following places: a. Section 3 Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities, paragraph (a);

b. Section 4 Contract Changes;

c. Section 5 Cancellation and Termination Dates;

d. Section 6 Insured Crop, paragraph (a);

e. Section 7 Insurable Acreage;

f. Section 8 Insurance Period, introductory text;

g. Section 9 Causes of Loss, introductory text;

h. Section 10 Replanting Payments, paragraph (a); and

i. Section 11 Duties in the Event of Damage or Loss, paragraphs (a), (b)(1), and (b)(2).

* * * * *

74. Section 2. Unit Division is removed.

§ 457.113, Sections 3 through 13 [Redesignated as Sections 2 through 12]

75. In § 457.113, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

76. Redesignated Section 4 is amended by changing the section reference therein from 2.(f) to 2.

77. Redesignated Section 5(a)(3)(i) is amended by changing the section reference therein from 6.(b)(1) to 5(b)(1).

78. Redesignated Section 5(b) is amended by changing the section reference therein from 6.(a) to 5(a).

79. Redesignated Section 5(b)(1) is amended by changing the section reference therein from 6.(c) to 5(c).

80. Redesignated Sections 5(d) and (e) are amended by changing the section references therein from 6.(a) to 5(a).

81. Redesignated Section 6 is revised to read as follows:

6. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), any acreage of the insured crop damaged before the final planting date, to the extent that a majority of growers in the area would not normally further care for the crop, must be replanted unless we agree that replanting is not practical.

82. Redesignated Section 9(a) is revised to read as follows:

9. Replanting Payments.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), replanting payments for coarse grains are allowed if the coarse grains are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least ninety percent (90%) of the production guarantee for the acreage and it is practical to replant.

83. Redesignated Sections 11(b)(2)(iv) and 11(c) are amended by changing the section references therein from 12.(d) to 11(d).

84. Redesignated Section 11(c)(1)(iii) is amended by changing the section reference therein from 12.(e) to 11(e).

85. Redesignated Section 11(d)(2) is amended by changing the section reference therein from 12.(c)(1) to 11(c)(1).

86. Redesignated Section 11(e) is amended by changing the section reference therein from 12.(f) to 11(f).

87. Redesignated Section 11(e)(4) is amended by changing the section reference therein from 12.(e)(2) and (3) to 11(e)(2) and (3).

88. Redesignated Section 12 is revised to read as follows:

12. Prevented Planting.

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

89. Section 457.114 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.114 Nursery crop insurance provisions.

The nursery crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

90. In § 457.114, 1. Definitions, remove alphabetic paragraph designations and the definition of ''written agreement'' and revise the definition of ''irrigated practice'' to read as follows:

1. Definitions.

* * * * *

Irrigated practice—(In lieu of the definition contained in the Basic Provisions (§ 457.8).) 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 maintain the amount of insurance on the nursery plant inventory.

* * * * *

91. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

In lieu of the definition of ''basic unit'' and section 34 of the Basic Provisions (§ 457.8), a unit consists of all growing locations in the county within a five mile radius of the named insured locations designated on your nursery plant inventory summary. Any growing location more than five miles from any other growing location, but within the county, may be designated as a separate basic unit or be included in the closest unit listed on your nursery plant inventory summary.

92. Section 13 is added to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

93. Section 457.116 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.116 Sugar cane crop insurance provisions.

The sugar cane crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

94. In § 457.116, 1. Definitions, remove alphabetic paragraph designations and the definitions of ''CFSA,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''production guarantee,'' and ''written agreement.''

95. Section 2. Unit Division is removed.

§ 457.116, Sections 3 through 11 [Redesignated as sections 2 through 10]

96. In § 457.116, Sections 3 through 11 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.

97. Redesignated Section 4 is amended by changing the section reference therein from 2.(f) to 2.

98. Redesignated Section 7(a)(2) is amended by changing the section reference therein from 8.(a)(3) to 7(a)(3).

99. Redesignated Section 10(c)(1)(v) is amended by changing the section reference therein from 10.(a)(2) to 9(a)(2).

100. Section 11 is added to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

101. Section 457.117 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.117 Forage production crop insurance provisions.

The forage production crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

102. In § 457.117, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''production guarantee (per acre),'' and ''written agreement.''

103. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

The optional unit provisions in section 34 of the Basic Provisions (§ 457.8) are not applicable.

104. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

105. Section 457.119 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.119 Texas citrus fruit crop insurance provisions.

The Texas citrus fruit crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

106. In § 457.119, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous land'' and ''written agreement.''

107. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the following, unless otherwise allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(2) Instead of establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be established if each optional unit is located on non-contiguous land.

108. Section 13 is revised to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

109. Section 457.121 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.121 Arizona-California citrus crop insurance provisions.

The Arizona-California citrus crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

110. In § 457.121, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous land,'' ''production guarantee (per acre),'' and ''written agreement.''

111. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

112. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

113. Section 457.122 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.122 Walnut crop insurance provisions.

The walnut crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

114. In § 457.122, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous land,'' and ''written agreement.''

115. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

116. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

117. Section 457.123 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.123 Almond crop insurance provisions.

The almond crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

118. In § 457.123, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous land,'' and ''written agreement.''

119. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

120. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

121. Section 457.124 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.124 Raisin crop insurance provisions.

The raisin crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

122. In § 457.124, 1. Definitions, remove the definitions of ''days,'' ''non-contiguous land,'' and ''written agreement.''

123. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit as defined in section 1 of the Basic Provisions (§ 457.8), will be divided into additional basic units by grape variety.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

124. Section 14 is revised to read as follows:

14. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

125. Section 457.125 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.125 Safflower crop insurance provisions.

The safflower crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

126. In § 457.125, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''practical to replant,'' ''production guarantee (per acre),'' ''replanting,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), safflowers must initially be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

127. Section 2. Unit Division is removed.

§ 457.125, Sections 3 through 13 [Redesignated as Sections 2 through section 12.]

128. In § 457.125, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

129. Redesignated Section 11(b)(2) is amended by changing the section reference therein from 12(b)(1) to 11(b)(1).

130. Redesignated Section 11(b)(3) is amended by changing the section reference therein from 12(b)(2) to 11(b)(2).

131. Redesignated Section (11)(b)(4) is amended by changing the section reference therein from 12(c) to 11(c).

132. Redesignated Section 11(b)(5) is amended by changing the section reference therein from 12(b)(4) to 11(b)(4).

133. Redesignated Section 11(b)(6) is amended by changing the section references therein from 12(b)(5) to 11(b)(5) and 12(b)(3) to 11(b)(3).

134. Redesignated Section 11(b)(7) is amended by changing the section reference therein from 12(b)(6) to 11(b)(6).

135. Redesignated Section 11(c)(1)(iii) is amended by changing the section reference therein from Section 12(d) to Section 11(d).

136. Redesignated Section 11(d)(4) is amended by changing the section reference therein from 12(d)(2) and (3) to 11(d)(2) and (3).

137. Redesignated Section 12 is amended to read as follows:

12. Prevented Planting.

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

* * * * *

§ 457.128 Guaranteed production plan of fresh market tomato.

138. Section 457.128 is amended by removing the paragraph preceding Definitions.

139. In § 457.128, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''irrigated practice,'' ''production guarantee (per acre),'' ''replanting,'' and ''written agreement.''

140. Section 2. Unit Division is amended to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period, if separate planting periods are provided for in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number, unless otherwise allowed by written agreement.

141. Section 14 is amended to read as follows:

14. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

142. Section 457.129 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.129 Fresh market sweet corn crop insurance provisions.

The fresh market sweet corn crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

143. In § 457.129, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''replanting,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), sweet corn seed must be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

144. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions (§ 457.8), that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

145. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

146. Section 457.130 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.130 Macadamia tree crop insurance provisions.

The macadamia tree crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

147. In § 457.130, 1. Definitions, remove the definitions of ''days,'' ''non-contiguous,'' and ''written agreement.''

148. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Unless otherwise allowed by written agreement, optional units may be established only if each optional unit:

(a) Contains at least 80 acres of insurable age macadamia trees; or

(b) Is located on non-contiguous land.

149. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

150. Section 457.131 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.131 Macadamia nut crop insurance provisions.

The macadamia nut crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

151. In § 457.131, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous,'' and ''written agreement.''

152. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Unless otherwise allowed by written agreement, optional units may be established only if each optional unit:

(a) Contains at least 80 acres of bearing macadamia trees; or

(b) Is located on non-contiguous land.

153. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

154. Section 457.132 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.132 Cranberry crop insurance provisions.

The cranberry crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

155. In § 457.132, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous land,'' ''production guarantee (per acre),'' and ''written agreement.''

156. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

157. Section 11 is revised to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

158. Section 457.135 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.135 Onion crop insurance provisions.

The onion crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

159. In § 457.135, 1. Definitions, remove the definitions of ''crop year,'' ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''practical to replant,'' ''prevented planting,'' ''replanting,'' ''timely planted,'' and ''written agreement.''

160. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number are not applicable. Optional units must meet one or more of the following, as applicable, unless otherwise provided by written agreement:

(a) Optional units may be based on irrigated acreage or non-irrigated acreage as provided in the unit division provisions contained in the Basic Provisions (§ 457.8); or

(b) In addition to, or instead of, establishing optional units by irrigated

acreage or non-irrigated acreage, optional units may be established by type, if the specific type is designated in the Special Provisions.

161. Section 14 is revised to read as follows:

14. Prevented Planting.

Your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

162. Section 15 is removed.

163. Section 457.138 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.138 Grape crop insurance provisions.

The grape crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

164. In § 457.138, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous,'' ''production guarantee (per acre)'' ''USDA,'' and ''written agreement.''

165. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) In California only, a basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each variety that you insure.

(b) In California only, provisions in the Basic Provisions (§ 457.8), that provide for optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

(c) In all states except California, in addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated acreage as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), a separate optional unit may be established if each optional unit:

(1) Is located on non-contiguous land; or

(2) Consists of a separate varietal group when separate varietal groups are specified in the Special Provisions.

166. Section 13 is revised to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

167. Section 457.139 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.139 Fresh market tomato (dollar plan) crop insurance provisions.

The fresh market tomato (dollar plan) crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

168. In § 457.139, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''replanting,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), tomato seed must initially be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

169. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

170. Section 15 is revised to read as follows:

15. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

§ 457.141 Rice crop insurance provisions.

171. Section 457.141 is amended by removing the paragraph preceding Definitions.

172. In Section 457.141, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''practical to replant,'' ''prevented planting,'' ''production guarantee (per acre),'' ''replanting,'' ''timely planted,'' and ''written agreement.''

* * * * *

173. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

174. Section 13 is revised to read as follows:

13. Prevented Planting.

Your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

175. Section 14 is removed.

176. Section 457.148 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.148 Fresh market pepper crop insurance provisions.

The fresh market pepper crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

177. In § 457.148, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''replanting,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), peppers must initially be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

178. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

179. Section 15 is revised to read as follows:

15. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

180. Section 457.150 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.150 Dry bean crop insurance provisions.

The dry bean crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

181. In § 457.150, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''late planted,'' ''late planting period,'' ''prevented planting,'' ''replanting,'' ''timely planted,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), beans must initially be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

182. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) In addition to section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) all acreage of contract seed beans qualifies as a separate basic unit. For production based seed bean processor contracts, the unit will consist of all the acreage needed to produce the amount of production under contract, based on the actual production history of the acreage. For acreage based seed bean processor contracts, the unit will consist of all acreage specified in the contract.

(b) In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated acreage as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), a separate optional unit may be established for each bean type shown in the Special Provisions.

(c) Contract seed beans may qualify for optional units only if the seed bean processor contract specifies the number of acres under contract. Contract seed beans produced under a seed bean processor contract that specifies only an amount of production or a combination of acreage and production, are not eligible for optional units.

183. Section 7(c)(3) is revised to read as follows:

7. Insured Crop.

* * * * *

(c) * * *

(3) Both parties (you and us) enter into a written agreement allowing insurance on the type in accordance with section 18 of the Basic Provisions (§ 457.8).

* * * * *

184. Section 14 is revised to read as follows:

14. Prevented Planting.

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400 subpart T, and pay an additional premium, you may increase your prevented planting coverage to the levels specified in the Actuarial Table.

185. Section 15 is removed.

186. Section 457.151 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.151 Forage seeding crop insurance provisions.

The forage seeding crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

187. In § 457.151, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''final planting date,'' ''interplanted,'' ''irrigated practice,'' ''practical to replant,'' and ''written agreement'' and revise the definition of ''planted acreage'' to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the provisions in section 1 of the Basic Provisions (§ 457.8), land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted, unless otherwise provided by the Special Provisions, Actuarial Table, or written agreement.

* * * * *

188. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by spring planted and fall planted acreage.

189. Section 13 is revised to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

190. Section 457.153 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.153 Peach crop insurance provisions.

The peach crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

191. In § 457.153, 1. Definitions, remove the definitions of ''days,'' ''FSA,'' ''good farming practices,'' ''irrigated practice,'' ''production guarantee (per acre),'' and ''written agreement.''

192. Section 2. Unit Division is removed.

§ 457.153, Sections 3 through 12 [Redesignated as sections 2 through 11]

193. In § 457.153 Sections 3 through 12 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.

194. Redesignated Section 10(b)(2) is amended by changing the section reference therein from 11(b)(1) to 10(b)(1).

195. Redesignated Section 10(b)(3) is amended by changing the section reference therein from 11(b)(2) to 10(b)(2).

196. Redesignated Section 10(b)(4) is amended by changing the section reference therein from 11(c) to 10(c).

197. Redesignated Section 10(b)(5) is amended by changing the section reference therein from 11(b)(4) to 10(b)(4).

198. Redesignated Section 10(b)(6) is amended by changing the section references therein from 11(b)(5) to 10(b)(5) and 11(b)(3) to 10(b)(3).

199. Redesignated Section 10(b)(7) is amended by changing the section reference therein from 11(b)(6) to 10(b)(6).

200. Redesignated Section 10(c)(1)(i)(B) is amended by changing the section reference therein from section 10 to section 9.

201. Redesignated Section 10(c)(3)(i)(B) is amended by changing the section reference therein from 11(c)(3)(i)(A) to 10(c)(3)(i)(A).

202. Redesignated Section 10(c)(3)(ii)(B) is amended by changing the section reference therein from 11(c)(3)(ii)(A) to 10(c)(3)(ii)(A).

203. Redesignated Section 11 is revised to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

* * * * *

204. Section 457.157 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.157 Plum crop insurance provisions.

The plum crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

205. In § 457.157, 1. Definitions, remove the definitions of ''days,'' ''good farming practices,'' ''irrigated practice,'' ''non-contiguous,'' ''production guarantee (per acre)'' and ''written agreement.''

206. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units must meet one or more of the following, as applicable, unless otherwise provided by the Special Provisions, Actuarial Table, or written agreement:

(a) Optional units may be established if each optional unit is located on non-contiguous land.

(b) In addition to, or instead of, establishing optional units for non-contiguous land, optional units may be established by varietal group when provided for in the Special Provisions.

207. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

Signed in Washington, DC, on August 7, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–21303 Filed 8–8–97; 12:46 pm]

BILLING CODE 3410–08–P

Federal Register

Tuesday
August 12, 1997

Part IV

Office of Management and Budget

Line Item Veto Act; Cancellation of Items: Balanced Budget Act of 1997 and Taxpayer Relief Act of 1997; Notices

OFFICE OF MANAGEMENT AND BUDGET

Cancellation Pursuant to Line Item Veto Act; Balanced Budget Act of 1997

August 11, 1997.

Dear Mr. President: In accordance with the Line Item Veto Act, I hereby cancel one item of new direct spending, as specified in the attached report, contained in the ''Balanced Budget Act of 1997'' (Public Law 105–33; H.R. 2015). I have determined that this cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachment, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton.

The Honorable Albert Gore, Jr.,
President of the Senate,
Washington, D.C. 20510.

August 11, 1997

Dear Mr. Speaker: In accordance with the Line Item Veto Act, I hereby cancel one item of new direct spending, as specified in the attached report, contained in the ''Balanced Budget Act of 1997'' (Public Law 105–33; H.R. 2015). I have determined that this cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachment, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton.

The Honorable Newt Gingrich,
Speaker of the House of Representatives,
Washington, D.C. 20515.

BILLING CODE 3110–01–M

Cancellation No. 97-3

CANCELLATION OF ITEM OF NEW DIRECT SPENDING
Report Pursuant to the Line Item Veto Act, P.L. 104-130

Bill Citation: "Balanced Budget Act of 1997" (H.R. 2015)

1(A). Item of New Direct Spending: Section 4722(c). Subsection (c), "Waiver of Certain Provider Tax Provisions", of Section 4722, "Treatment of State Taxes Imposed on Certain Hospitals", is canceled in its entirety. The remainder of Section 4722 is not canceled.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: In the past, Federal Medicaid spending increased dramatically because some States used disproportionate share hospital payments and related special financing mechanisms such as levying taxes on health care providers to effectively lower their share of Medicaid spending. Lowering a State's share of Medicaid spending allows the State to generate additional revenues that can potentially be used for non-Medicaid purposes. In 1991, Congress limited the growth in Medicaid spending by enacting legislation to restrict the ability of States to use certain types of provider taxes as their share of Medicaid spending. See Section 1903(w) of the Social Security Act, 42 U.S.C. 1396b(w). Congress required that provider taxes be uniform and broad-based in order to qualify as a State's "matching" funds. The canceled item would have deemed taxes, fees, or assessments that were collected by the State of New York from a health care provider before June 1, 1997, and for which a waiver has been applied for, to be permissible health care related taxes in compliance with the requirements of Medicaid law. The canceled item, which would have constituted new direct spending, would have given preferential treatment to only one State (New York), by allowing that State to continue relying upon impermissible provider taxes to finance its Medicaid program. This preferential treatment would have increased Medicaid costs, would have treated New York differently from all other States, and would have established a costly precedent for other States to request comparable treatment. The legislative history and purposes of this provision were considered, but did not outweigh the foregoing reasons for cancellation.

1(D). Estimated Fiscal, Economic, and Budgetary Effect of Cancellation: As a result of the cancellation, Federal outlays will not increase, as specified below. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

Cancellation No. 97-3 (p.2)

Outlay Changes (in billions of dollars) [1]

FY1998	FY1999	FY2000	FY2001	FY2002	Total
-$0.2	0	0	0	0	-$0.2

1(F). Adjustments to Discretionary Spending Limits: Not applicable

2(A). Agency: Department of Health and Human Services
2(A). Bureau: Health Care Financing Administration
2(A). Governmental Function (Account): Medicaid (Grants to States for Medicaid)

2(B). States and Congressional Districts Affected: New York and all Congressional Districts in New York.
2(C). Total Number of Cancellations (inclusive) in Current Session in each State and District identified above: One.

[1] Based on CBO estimates. Final Administration scoring may vary.

[FR Doc. 97–21621 Filed 8–11–97; 5:08 pm]
BILLING CODE 3110–01–C

OFFICE OF MANAGEMENT AND BUDGET

Cancellation Pursuant to Line Item Veto Act; Taxpayer Relief Act of 1997

August 11, 1997.

Dear Mr. President: In accordance with the Line Item Veto Act, I hereby cancel two limited tax benefits, as specified in the attached reports, contained in the ''Taxpayer Relief Act of 1997'' (Public Law 105–34; H.R. 2014). I have determined that each of these cancellations will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton.

The Honorable Albert Gore, Jr.,
President of the Senate,
Washington, D.C. 20510.

August 11, 1997

Dear Mr. Speaker: In accordance with the Line Item Veto Act, I hereby cancel two limited tax benefits, as specified in the attached reports, contained in the ''Taxpayer Relief Act of 1997'' (Public Law 105–34; H.R. 2014). I have determined that each of these cancellations will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton.

The Honorable Newt Gingrich,
Speaker of the House of Representatives,
Washington, D.C. 20515.

BILLING CODE 3110–01–M

Cancellation No. 97-1

CANCELLATION OF LIMITED TAX BENEFIT
Report Pursuant to the Line Item Veto Act, P.L. 104-130

Bill Citation: "Taxpayer Relief Act of 1997" (H.R. 2014)

1(A). Limited Tax Benefit: Section 1175. This item is identified as a limited tax benefit at Section 1701(54) of the bill. Section 1175, "Exemption for Active Financing Income", is canceled in its entirety.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: Prior to 1987, income earned in connection with the active conduct of foreign financial services businesses, including interest, dividends and certain gains, generally was exempt from current U.S. tax. However, the Tax Reform Act of 1986 eliminated or curtailed this benefit based on serious concerns regarding the mobility of such income and the ease with which financial services entities could shift income to tax-haven jurisdictions. See P.L. 99-514, section 1221(a)(1). The canceled item would have enacted a new exemption for such income for a single year (1998), and would not have addressed adequately the concerns that led to the repeal of the prior exemption in 1986. The one-year restoration of an exemption for this income would have decreased Federal receipts, would have allowed the tax-haven abuses that previously existed, and would have provided preferential tax treatment to a limited group of taxpayers. The legislative history and purposes of this provision were considered, but did not outweigh the foregoing reasons for cancellation.

1(D). Estimated Fiscal, Budgetary, and Economic Effect of Cancellation: As a result of the cancellation, Federal receipts will not decrease by an estimated $317 million over 5 years. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

1(F). Adjustments to Discretionary Spending Limits: Not applicable.

Cancellation No. 97-2

CANCELLATION OF LIMITED TAX BENEFIT
Report Pursuant to the Line Item Veto Act, P.L. 104-130

Bill Citation: "Taxpayer Relief Act of 1997" (H.R. 2014)

1(A). Limited Tax Benefit: Section 968. This item is identified as a limited tax benefit at Section 1701(30) of the bill. Section 968, "Nonrecognition of Gain on Sale of Stock to Certain Farmers' Cooperatives", is canceled in its entirety.

1(B). Determinations: This cancellation will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest.

1(C), (E). Reasons for Cancellation; Facts, Circumstances, and Considerations Relating to or Bearing upon the Cancellation; and Estimated Effect of Cancellation on Objects, Purposes, and Programs: The canceled item would have allowed deferral of gain recognition on the sale of certain corporate stock of farm-product refiners and processors to an eligible farmers' cooperative, thereby providing an exception to the general rule that gain is recognized when stock is sold. Under current law, gain deferral is permitted on the sale of qualified securities of a corporation to an employee stock ownership plan (ESOP) or an eligible worker-owned cooperative; however, these provisions of current law contain appropriate restrictions that would not have applied to transactions covered by the canceled item, notably restrictions that the seller's stock must not be traded on a securities market and that the seller must not be a corporation. While the Administration wants to encourage value-added farming through the purchase by farmers' cooperatives of refiners or processors of agricultural goods, the cancellation of this provision is nonetheless compelled by two narrow but important considerations. First, the canceled item would have created opportunities for complete avoidance of tax on the gain from a sale of a refiner or processor because it lacks the safeguards that apply to sales of stock to ESOPs. Second, this provision failed to target its benefits to small-and-medium-size cooperatives. The canceled item would not have benefitted farmers generally, would have decreased Federal receipts, would have created opportunities for abusive tax planning, and would have provided preferential tax treatment to a limited group of taxpayers. The legislative history and purposes of this provision were considered, but did not outweigh the foregoing reasons for cancellation.

1(D). Estimated Fiscal, Budgetary, and Economic Effect of Cancellation: As a result of the cancellation, Federal receipts will not decrease by an estimated $98 million over 5 years and $155 million over 10 years. This will have a commensurate effect on the Federal budget deficit and, to that extent, will have a beneficial effect on the economy.

1(F). Adjustments to Discretionary Spending Limits: Not applicable.

[FR Doc. 97–21622 Filed 8–11–97; 5:08 pm]
BILLING CODE 3110–01–C

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Tuesday, August 12, 1997

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Federal Crop Insurance Corporation

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    - National priorities list update; comments due by 8-18-97; published 7-17-97

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

S. 670/P.L. 105–38

To amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States. (Aug. 8, 1997; 111 Stat. 1115)

Last List August 11, 1997